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DEPARTMENT OF ENERGY

10 CFR Part 821

[DOE-HQ-2025-0175]

RIN 1901-AB73

Implementing Voluntary Agreements Under the Defense Production Act

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (“DOE”) is adopting the interim final rule published on August 25, 2025, as final, without change. This final rule establishes the procedures for developing and carrying out voluntary agreements and plans of action under the Defense Production Act. The Defense Production Act provides a defense from antitrust laws with respect to any action taken to develop or carry out any voluntary agreement or plan of action when certain criteria are met.

DATES: This final rule is effective on July 17, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Sarah McPhee Charrez, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, telephone: 202-586-1092, email: DPAconsortium@nuclear.energy.gov.

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I. Authority and Background

On August 25, 2025, the Department of Energy (“DOE”) published an interim final rule to codify procedures for developing and carrying out voluntary agreements pursuant to section 708 of the Defense Production Act of 1950 (“DPA”), Public Law 81-774 (Sept. 8, 1950) (codified at 50 U.S.C. 4558). See 90 FR 41279. That notice solicited public comment regarding the contents of the rule. As DOE explained in the August 2025 notice, section 708(c)(1) of the DPA provides that upon finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, the President may consult with representatives of industry, business, financing, agriculture, labor, and other interests in order to provide for the making by such persons, with the approval of the President, of voluntary agreements and plans of action to help provide for the national defense. See 50 U.S.C. 4558(c)(1). As explained and discussed in greater detail in that August 2025 notice, the President effectively made such a finding through Executive Order (“E.O.”) 14302 (Reinvigorating the Nuclear Industrial Base), 90 FR 22595 (May 29, 2025). (See 90 FR 41279).

To address the current national security risks to the energy supply of the United States, E.O. 14302 ordered DOE to utilize the authority provided to the President under section 708(c)(1) of the DPA, which was delegated to the Secretary of Energy pursuant to E.O. 13603 (National Defense Resources Preparedness), 77 FR 16651 (March 22, 2012). See E.O. 14302, Sec. 3(e), 90 FR 22596 (ordering the Secretary of Energy to utilize the President’s authority under section 708(c)(1) of the DPA) and E.O. 13603, Sec. 403, 77 FR 16656 (authorizing the Secretary of Energy to adopt rules pursuant to section 708 of the DPA “that incorporate standards and procedures by which voluntary agreements and plans of action may be developed and carried out.”). Section

708 of the DPA provides that an agency may develop and carry out voluntary agreements with industry to provide for the national defense or its preparedness programs. Industry participants in any voluntary agreement or plan of action under the DPA are provided with immunity for any civil or criminal action brought under the antitrust laws of the United States or any similar state law. See 50 U.S.C. 4558(j). This antitrust immunity is limited to actions taken to develop or carry out a voluntary agreement or plan of action, in order to effectuate the purpose identified in the voluntary agreement or plan of action. *Id.* Any antitrust immunity conferred on the participants in a voluntary agreement or plan of action does not apply to any act or omission occurring after the termination of the voluntary agreement or plan of action. *Id.*

Consistent with E.O. 14302, DOE promulgated procedures implementing section 708 of the DPA, to initiate the voluntary agreement process for the domestic nuclear energy industry as ordered in E.O. 14302. The rule details, among other things, the overall scope of voluntary agreements [and plans of actions], the applicability of anti-trust protections for entities operating under a voluntary agreement [and/or plan of action], the procedures for the maintenance and availability of certain materials, meeting attendance provisions, and the make-up of voluntary agreement and plan of action participants. DOE issued the interim final rule pursuant to the authority granted to it under section 708(c)(1) of the DPA and E.O. 14302 and delegated to the Secretary of Energy through E.O. 13603 and solicited public comment.

II. Basis for the Rule

The interim final rule that DOE issued is based on the statutory authority granted to the President and delegated to the Secretary of Energy to seek voluntary agreements and develop plans of action with domestic nuclear energy companies to address the direct threat to the national defense or preparedness programs of the United States as it relates to the nuclear industrial base. This action follows the provisions of section 708 of the DPA and E.O. 13603 and E.O. 14302.

E.O. 14302 instructed DOE to utilize the authority provided to the President under section 708(c)(1) of the DPA (and

delegated to the Secretary of Energy through E.O. 13603) to seek voluntary agreements with domestic nuclear energy companies and to prioritize agreements with those companies that have achieved objective milestones for the cooperative procurement of LEU and HALEU. *See* 90 FR 22596. Section 708(e)(1) of the DPA requires the Secretary of Energy to promulgate rules in accordance with the Administrative Procedure Act (“APA”), incorporating standards and procedures by which voluntary agreements and plans of action may be developed and carried out. *See* 50 U.S.C. 4558(e)(1). Section 708(e) also sets forth the rulemaking process for DOE to generally follow, including the application of a 30-day

delay between the publication of a final rule and the rule’s effective date. *See* 50 U.S.C. 4558(e)(2)(B). However, section 709 of the DPA permits the waiver of the notice and comment requirements where urgent and compelling circumstances make providing an opportunity for notice and comment of not less than 30 days before the promulgation of a final rule impracticable. *See* 50 U.S.C. 4559(b)(1). In the interim final rule, DOE explained that it was availing itself of the provisions under section 709 of the DPA while remaining consistent with section 708 to ensure that the public has a meaningful opportunity to provide comments. *See* 90 FR 41281. Accordingly, DOE issued the interim

final rule, and delayed its effective date until September 24, 2025. DOE is now responding to public comments, and providing notice that the interim final rule will remain effective without change.

III. Comments on the Interim Final Rule

DOE received several comments on the interim final rule. These comments were generally supportive of DOE’s action. In some cases, commenters provided specific suggestions for DOE to adopt to modify certain aspects of the rule. The commenters are summarized in the following table:

Commenters	Type of commenter
Global Shield Institute (“Global Shield”)	Advocacy group.
Anonymous	Unknown.
Donivan Porterfield	Individual.
First American Nuclear Company (“FANCO”)	Manufacturer.
The Tennessee Department of Environment and Conservation and the Tennessee Department of Economic and Community Development (“State of Tennessee”).	State.
Conservative Political Action Coalition Foundation (“CPAC”) Center for Regulatory Freedom (“CRF”)	Interest group.
The National Association of State Energy Officials (“NASEO”)	State association.

Global Shield Institute (Global Shield)

Global Shield supported the rule, noting that “DOE’s clarification of its transparent procedures, antitrust safeguards, and public record requirements will expedite coordinated private-public action when national defense or preparedness demands it” but it expressed concerns that “overburdensome bureaucratic and legal requirements may constrain its use when needed for national defense and security.” (Global Shield at 1) Pointing to the voluntary agreement-related activities carried out by the Federal Emergency Management Agency in handling medical supply shortages brought about by COVID–19, Global Shield asserted that it was unclear if any substantive changes were made with respect to pandemic planning as a result of that agreement. (Global Shield at 1) Global Shield also asserted that since the section 708 authority is procedurally cumbersome, it urged DOE to document any challenges encountered in establishing or implementing the voluntary agreement so that those items may be addressed through future executive or legislative action. (Global Shield at 2)

Global Shield asserted that the successful implementation of a voluntary agreement by DOE for the nuclear industrial base could lead to similar agreements in other sectors. (Global Shield at 2) It also highlighted

two pending pieces of legislation that would attempt to make certain changes in how aspects of section 708 would be implemented. (Global Shield at 2–3)

DOE Response to Global Shield

DOE appreciates the support offered by Global Shield and notes that it has and will continue to work in conjunction with the Department of Justice and the Federal Trade Commission in a manner consistent with the requirements of section 708 to minimize any potential difficulties that may arise. DOE will also continue to monitor the legislation identified by Global Shield and will offer any appropriate technical assistance to Congress if such assistance is sought.

Commenter—Anonymous

Anonymous offered several specific critiques of the rule. (Anonymous at 1) These critiques involved the following:

1. The rule should clearly delineate the threshold criteria DOE will use to determine when invoking the DPA’s antitrust protections is “necessary”. This is to avoid vague standards that could lead to overuse or inconsistent application.

DOE Response: The antitrust protections afforded by section 708 apply to either the development or carrying out of a voluntary agreement or plan of action. *See* 50 U.S.C. 4558(j). In DOE’s view, these conditions

sufficiently delineate the criteria for section 708’s antitrust protections to apply.

2. The procedures do not appear to require forecasting cost-benefit or risk-impact analyses. DOE should specify how it will evaluate economic, competitive, and supply chain impacts before approving such agreements.

DOE Response: The rule offers a procedural framework based on the steps specified by statute that DOE will follow when implementing voluntary agreements or plans of action. These activities will be dictated by the specific circumstances presented and DOE will evaluate those circumstances as appropriate when determining whether to approve a particular voluntary agreement or plan of action.

3. DOE should clarify whether the Plans of Action would extend to procurement preferences, coordinated investment, or technology transfers, and establish guardrails to avoid unintended market distortions.

DOE Response: DOE notes the rule provides a procedural framework by which DOE and industry may reach voluntary agreements requiring an exemption from antitrust restrictions. The plans of action that may result from a given voluntary action will depend on the substantive terms reached among the participants and DOE. To the extent appropriate, those plans of action will extend to those objectives directed by

E.O. 14302 consistent with the provisions under section 708 of the DPA. The guardrails established within section 708 include among other things, a finding of necessity as well as the monitoring of agreements and plans of action by the Attorney General and the Federal Trade Commission to assure participants are acting in accordance with the terms of the plan; and the protection and fostering of competition and the prevention of anticompetitive practices and effects. *See* 50 U.S.C. 4558(g).

4. The rule should commit to publishing redacted versions of agreements, periodic performance reports, and termination rationales to ensure accountability while protecting sensitive information.

DOE Response: DOE will follow the regulations set forth at 10 CFR part 821 with respect to information disclosures. Among other things, 10 CFR part 821 provides for the maintenance of records, as well as public access to records and meetings.

5. DOE should include a process to evaluate and mitigate disproportionate effects on small and disadvantaged businesses.

DOE Response: DOE will continue to evaluate and consider options that maximize the participation of small business concerns in accordance with the DPA.

6. DOE should outline how it will monitor compliance, prevent misuse of antitrust exemptions, and ensure that agreements remain time-limited, narrowly tailored, and subject to independent audit or review.

DOE Response: DOE has outlined these steps in the regulations set forth at 10 CFR part 821. The regulations provide for proposals to develop agreements. The proposal must include statements as to the purpose of the agreement or plan of action, the factual basis for making the finding required in section 708(c)(1) of the DPA, the proposed participants in the agreement or plan of action, and any coordination with other Federal agencies accomplished in connection with the proposal. The regulations also provide for the effectiveness and terms of the agreement, participant conduct, the maintenance of records, and public access to records and meetings. These elements will be used to monitor compliance, prevent misuse of antitrust exemptions, and ensure that agreements remain time-limited, narrowly tailored, and available as appropriate.

7. DOE should address how it will coordinate with other agencies to ensure consistency and prevent conflicting guidance when multiple agencies

exercise DPA authorities simultaneously.

DOE Response: DOE addressed this issue in the regulations set forth at 10 CFR part 821. The regulations delineate the coordination with other Federal agencies, and findings required by DOE, the Attorney General, and the Federal Trade Commission. And, as noted in the interim final rule, DOE is not the first federal agency to promulgate rules implementing section 708 of the DPA. *See* 90 FR 41280. DOE coordinated its efforts with other agencies to ensure consistency when it developed its regulations. Otherwise, DOE does not anticipate that other agencies will exercise DPA authorities that may affect the activities contemplated under 10 CFR part 821, as there are no other agencies overseeing the nuclear industry that have implemented the Section 708 provisions. Nevertheless, in the event that coordination with other agencies is needed, beyond the Department of Justice and Federal Trade Commission, DOE will engage with those agencies as needed to ensure the smooth implementation of any voluntary agreements and plans of action that are under consideration.

Commenter—Donivan Porterfield

Donivan Porterfield supported using the DPA to accomplish the goals of the various recently published Executive Orders regarding nuclear energy (EOs 14299 through 14302). The commenter noted that the goals set out in these orders will require collaborative planning that the DPA's mechanisms under Title 7 of the DPA can provide, (Commenter at 1), and urged that DOE refrain from limiting public access to meetings and records. (Commenter at 2)

DOE Response to Donivan Porterfield

DOE appreciates the comment and recognizes the significant role for collaboration among participating entities. As appropriate, DOE will encourage these collaborative efforts. Regarding public access to meetings and records held under section 708, DOE will follow the regulations set forth at 10 CFR part 821 with respect to information disclosures as the regulations provide for the maintenance of records, as well as public access to records and meetings as appropriate.

FANCO

First American Nuclear Company ("FANCO") also supported the rule and stated that, as the designer of "a lead bismuth-cooled fast reactor capable of utilizing a diverse array of nuclear fuel types" and as a company with substantial engineering experience in

reactor design, fuel cycle development, advanced materials, and safety analysis, it supported the Administration's energy dominance agenda and DOE's efforts to advance nuclear energy and supply chain capabilities essential to the nation's strategic strength. (FANCO at 1) The company also signaled its eagerness at collaborating with DOE and others in support of the intended objectives of the DPA initiatives. (FANCO at 1)

DOE Response to FANCO

DOE appreciates FANCO's comments and interest in collaborating as part of DOE's section 708 efforts.

State of Tennessee

The State of Tennessee, through its Department of Environment and Conservation and the Department of Economic and Community Development also provided comments. The State explained that the DPA should be used to ensure that Federal actions under the DPA harness the environmental and economic benefits of brownfield redevelopment and to support projects facilitating the growth of the nuclear industry. (State at 1) In its view, using the DPA presents a significant opportunity for expanding the State's nuclear industry, particularly by supporting the development of small modular reactors and the associated nuclear fuel supply chain. It cited a variety of factors for its view, including the presence of its existing infrastructure, industry concentration, and State-level support. (State at 2) To this end, the State offered several recommendations for DOE to consider:

1. Use the DPA for a brownfield project, which may be possible if a site is being redeveloped by a defense contractor or an energy-related facility. (State at 2)

2. The State asserted that the DPA can provide financial incentives (e.g., loans and purchase commitments) but that those incentives may be insufficient to cover environmental clean-up costs. Consequently, it suggested that Tennessee has State and local level tools in the form of tax structures, grants, investments and initiatives to support economic growth and the development of resilient energy infrastructure in the state. (State at 2–3)

3. The State further suggested that using the DPA successfully for a brownfield project would require extensive federal, state, and local government coordination and it recommended that DOE coordinate with state and local agencies to prioritize nuclear supply chain industries on brownfields. (State at 3)

4. The State asserted that DPA funding under Title III can help critical gaps in the nuclear supply chain, which is important for small modular reactors since they are designed for factory fabrication and require a robust domestic manufacturing base. The State added that its existing industrial and manufacturing sectors could be leveraged to produce components for these reactors. (State at 3)

5. Using the DPA can incentivize the growth of the nuclear industry and lead to more higher-paying jobs and the expansion of related educational and training programs in Tennessee. The State cited its focus on workforce development for the nuclear sector combined with the DPA's goal to strengthen the domestic industrial base as being factors to creating this growth. (State at 3)

DOE Response to the State of Tennessee

DOE appreciates the comments from the State of Tennessee. Any voluntary agreements and accompanying plans of action that are developed will be based on the specific circumstances and proposal(s) presented amongst the participating entities and DOE. To the extent that the areas of interest noted by the State of Tennessee can be harmonized with potential section 708 activities, DOE will address those areas as applicable.

CRF

CRF supported the implementation of section 708 of the DPA to bolster domestic nuclear energy production and recommended that DOE provide additional regulatory guidance concerning potentially ambiguous provisions. (CRF at 2) It stressed that the DPA emphasizes the importance of "programs for military and energy production or construction" as contributing to the national defense, as such programs are mentioned first in the definition and most closely relate to the intent of the DPA. (CRF at 3) CRF stated that the invocation of section 708 in the current context directly serves national security interests by bolstering the nation's capacity to produce nuclear energy, which will provide a more stable and reliable energy supply with which to support the U.S. military and its endeavors. CRF also contrasted DOE's proposed implementation of section 708 with prior implementations of voluntary agreements under the DPA. (CRF at 3)

CRF suggested that DOE should clarify the term "reasonably representative" to "specify what exactly would make a voluntary agreement

'reasonably representative' of that industry." (CRF at 4)

CRF also suggested that DOE clarify the appropriate actions permitted to take place when developing a voluntary agreement or plan of action to ensure that participating entities are not inadvertently penalized in the future for failing to understand which specific activities taken to develop a voluntary agreement or plan of action are outside of the scope of the DPA's antitrust law protections. It suggested that DOE clarify which activities are acceptable under the DPA when taken to develop a voluntary agreement or plan of action. (CRF at 4)

CRF also suggested that the DPA's statutory requirement mandating yearly reports of voluntary agreements in effect be elaborated on in the CFR to mandate that these reports be made publicly available to promote transparency. (CRF at 2) In its view, CRF added that the yearly reports required under section 708(l) be made public. (CRF at 5) It argued that the public disclosure of voluntary agreements will promote transparency and provide a public record of the extent to which such agreements are successful in carrying out the provisions of the DPA. (CRF at 5)

CRF noted that the importance of Artificial Intelligence ("AI") data centers and the role of nuclear energy as the only technology capable of meeting the energy requirements of these centers, has national security implications. (CRF at 5–6) In its view, the DPA is an essential step in supporting the legal and practical framework to sustain AI's rise and that both AI and nuclear energy are inseparably linked. (CRF at 7) It argued that if the U.S. falters in energy, it will falter in AI, and the cost will be geopolitical decline. (CRF at 7)

CRF also offered a pointed critique regarding past administrations on nuclear energy policy issues. (CRF at 7–8) CRF asserted that the interim final rule begins the process of addressing past missteps by recognizing the critical nature of nuclear energy through the rule's application of the DPA to reinvigorate nuclear energy. (CRF at 8) CRF urged DOE to learn from the past and to chart a new course in which nuclear energy serves as the foundation of U.S. energy independence and prosperity. (CRF at 9)

DOE Response to CRF

DOE notes that 10 CFR part 821 uses the term "reasonably representative" in the context of describing those participants that will be part of each voluntary agreement. As CRF noted,

DOE is adhering to the original language of the DPA. DOE has purposefully declined limiting this term to any specific proportion of participants within a given industry. Instead, in DOE's view, what constitutes "reasonably representative" is a case-by-case determination that considers the purpose and scope of each underlying proposal and the relevant industry. Additionally, with respect to yearly reports, DOE notes that the regulations set forth at 10 CFR part 821 provide for the maintenance of records, as well as public access to records and meetings subject to certain exemptions from disclosure. Finally, with respect to actions to develop, DOE notes the regulations set forth at 10 CFR part 821 provide for the conduct of interested persons (e.g., advisory committee participation, written data submission, and presentation of views on proposed voluntary agreements) as well as the conduct of participants (e.g., discuss problems, determine policies, recommend actions, and make decisions necessary to carry out the agreement). DOE appreciates the suggestions from CRF but is declining to make any further changes to the current regulatory text at this time. Should DOE discover, through experience, that certain aspects of its framework require further adjustment, then it will revisit potential options for revising its regulations at that time.

NASEO

NASEO suggested that DOE define the term "domestic nuclear energy companies" for purposes of entering into voluntary agreements to help avoid unintentionally limiting the rule's applicability to new technologies or companies working to build the supply chain. (NASEO at 2) NASEO also made some broad, general suggestions, asserting that DOE and industry should engage interested State Energy Offices and NASEO throughout the process to identify potential areas of coordination and to align with existing and future state nuclear fuel supply chain activities. It noted that the "Advanced Nuclear First Mover Initiative" is working to establish an advanced nuclear orderbook strategy and is exploring how state actions can help ensure domestic availability of fuel and other supply chain needs. (NASEO at 1–2) NASEO also suggested that voluntary agreements between industry and DOE should require industry to coordinate with State Energy Offices and other relevant state government entities, asserting that such actions will be valuable when thinking about state, regional, and national supply chain networks; workforce development

programs and training; and acquiring funding and financing for mining and milling, conversion, enrichment, deconversion, fabrication, recycling and reprocessing and other activities. (NASEO at 2)

NASEO also cited two examples of state-industry engagement on advanced nuclear projects, including: (a) the Wyoming Energy Authority (State Energy Office), which leads an Energy Matching Funds program to support various projects (e.g., microreactor assessment study and a demonstration project aimed at improving in-situ uranium mining processes); and (b) Tennessee's Nuclear Fund, which has provided grants to support projects coming into the state. With respect to the latter, NASEO cited to the State's support for the Oklo reactor and fuel recycling facility, BWXT's centrifuge assemblies manufacturing facility, and the construction of Orano's uranium enrichment facility. (NASEO at 2)

DOE Response to NASEO

The term "domestic nuclear energy companies" is established by E.O. 14302, but is otherwise undefined. However, the DPA defines the terms "domestic industrial base" and "domestic source." See 50 U.S.C. 4552(6)–(7). Accordingly, 10 CFR part 821 should be read in conjunction with its originating executive order, and the DPA, to avoid unintentionally limiting the rule's applicability to new technologies or companies. Otherwise, DOE appreciates NASEO's feedback, and welcomes NASEO's continued participation.

IV. Section by Section Analysis of the Final Rule

A. General Provisions

Section 821.1 of the final rule sets out general provisions regarding the applicability of the rule, the role of the Secretary (or the appropriated delegated DOE official), the conditions for the commencement of agreements, operation of advisory committees, and the petition process for the rule. This section also contains defined terms.

B. Prerequisites for Agreements and Plans of Action

Section 821.2 of the final rule details the prerequisites that are required before activities in developing voluntary agreements and plans of action may be engaged in, including a finding by the President that conditions exist which may pose a direct threat to the national defense or its preparedness programs. This section also details the conditions

that must be satisfied as well as delegations that may occur.

C. Developing Voluntary Agreements and Plans of Action

Section 821.3 details the process for developing voluntary agreements and plans of action. Conditions for developing proposed agreements and plans of action along with the details for the conducting of meetings held for developing these agreements and plans of action are also explained. Record maintenance requirements are also established and the conditions for the effectiveness of agreements or the extension of agreements are defined in this section.

D. Carrying Out Voluntary Agreements

Section 821.4 establishes the standards and procedures for carrying out an approved voluntary agreement. These procedures include provisions regarding the conduct of meetings and record maintenance requirements.

E. Termination or Modifying Voluntary Agreements

Section 821.5 sets out provisions regarding the termination or modification of voluntary agreements. The provision notes that the consequences upon the termination or modification of a voluntary agreement, including the impact of any antitrust immunity conferred upon individual participants to the original agreement or related plan of action. Parties may terminate their participation in an agreement by providing written notification to the Secretary.

F. Public Access to Records and Meetings

Section 821.6 provides that records of meetings, including transcripts, are generally publicly available unless their contents are subject to the exemptions under 5 U.S.C. 552(b)(1), (3), or (4). The provision also permits interested persons to attend meetings held to develop or carry out a voluntary agreement but specifies that attendance may be restricted under 5 U.S.C. 552(b)(1), (3), or (4) or 5 U.S.C. 552b(c).

VI. Procedural Requirements

A. Executive Order 12866

E.O. 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with

obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Section 6(a) of E.O. 12866 also requires agencies to submit "significant regulatory actions" to the Office of Information and Regulatory Affairs ("OIRA") for review. OIRA, an entity within the Office of Management and Budget ("OMB"), has determined that this regulatory action does not constitute a "significant regulatory action" under E.O. 12866 and has not reviewed this action.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment. As previously stated, section 709 expressly exempts any regulation issued under the DPA from the administrative procedures of the APA. See 50 U.S.C. 4559(a) (explicitly exempting sections 551 through 559 of title 5 from any regulation issued under the DPA). Additionally, section 709 allows for the waiver of the notice and comment requirements, and DOE found that urgent and compelling circumstances made compliance with notice and comment requirements impracticable. Accordingly, no regulatory flexibility analysis has been prepared for this final rule. See 5 U.S.C. 601(2), 603(a).

C. National Environmental Policy Act

NEPA does not require agencies to prepare a NEPA analysis before establishing or updating agency procedures. Agency procedures for implementing the voluntary agreement and plans of action provisions under section 708 of the DPA are not subject to NEPA. DOE has also issued regulations that are currently in effect that note certain types of actions that are excepted from NEPA review. Under

those regulations, 10 CFR part 1021, appendix A, includes an exception for procedural rulemakings from NEPA review. *See* 90 FR 29676 (July 3, 2025). That exception, Exception A6, applies to rulemakings that are strictly procedural, such as rulemakings establishing procedures for technical and pricing proposals and establishing contract clauses and contracting practices for the purchase of goods and services. DOE has determined that this interim final rule falls within the scope of A6 and is not subject to review under NEPA. Therefore, DOE does not intend to conduct a NEPA analysis of this final rule.

D. Executive Order 13132

E.O. 13132 “Federalism”, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt state law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this final rule and has determined that it does not preempt State law beyond what is already provided for under Federal law and does 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. No further action is required by E.O. 13132.

E. Executive Order 13175

Under E.O. 13175, “Consultation and Coordination with Indian Tribal Governments,” 65 FR 67249 (Nov. 6, 2000), DOE may not issue a discretionary rule that has Tribal implications or that imposes substantial direct compliance costs on Indian Tribal governments. DOE has determined that this final rule will not have such effects and has concluded that E.O. 13175 does not apply to this final rule.

F. Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action

under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This final rule does not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

G. Unfunded Mandates Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and Tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include a regulation that would impose upon State, local, or Tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments, in the aggregate, or the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of the title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or Tribal governments, or the private sector, of \$100 million or more in any one year (adjusted annually for inflation). 2 U.S.C. 1532(a) and (b). Section 204 of that title requires each agency that proposed a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and Tribal governments. 2 U.S.C. 1534. This final rule contains no intergovernmental mandate and does not result in the expenditure by State, local, and Tribal governments, in aggregate, or by the private sector of \$100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act

This final rule does not impose any new information collection burden that would require additional review or approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

I. Executive Orders 14154, 14192, and 14302

DOE has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and E.O. 14302, “Reinvigorating the Nuclear Industrial Base.” This final rule is a necessary prerequisite to implement any voluntary agreement or plan of action required to address the domestic energy crisis identified in E.O. 14302.

Accordingly, DOE has developed this regulatory action as a “statutorily required rulemaking,” pursuant to E.O. 14192, Unleashing Prosperity Through Deregulation.

J. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress and to the Comptroller General a report on this final rule. The report will state that it has been determined that this final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 821

Administrative practice and procedure; Advisory committees; Antitrust; Classified information; Confidential business information; Emergency preparedness; Freedom of information; Industrial facilities; Nuclear energy; Nuclear materials; Nuclear power plants and reactors; Organization and functions; Reporting and recordkeeping requirements; Security measures.

Signing Authority

This document of the Department of Energy was signed on May 13, 2026, by Theodore J. Garrish, Assistant Secretary for Nuclear 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 July 15, 2026.

Treena V. Garrett,

Federal Register Liaison Officer, U.S.
Department of Energy.

PART 821—IMPLEMENTING VOLUNTARY AGREEMENTS UNDER THE DEFENSE PRODUCTION ACT

■ Accordingly, the interim final rule that amended chapter III of title 10 of the Code of Federal Regulations by adding part 821, which was published in the **Federal Register** at 90 FR 41279 on August 25, 2025, is adopted as final without change.

[FR Doc. 2026–14461 Filed 7–16–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–3436; Project Identifier MCAI–2024–00314–R; Amendment 39–23408; AD 2026–14–07]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited Helicopters

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bell Textron Canada Limited (Bell) Model 407 helicopters. This AD was prompted by a report of a fractured pilot cyclic stick tube and subsequent findings of other pilot cyclic stick tubes with fatigue cracking. This AD requires repetitively inspecting the pilot cyclic stick tube assembly for a crack and, depending on the results, repairing or replacing the pilot cyclic stick tube assembly. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 21, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 21, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–3436; or in person at

Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–91, West Building Fifth Floor, Room W58–213, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

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

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–3436.

FOR FURTHER INFORMATION CONTACT:

Alexis Whitaker, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7309; email: alexis.j.whitaker@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bell Model 407 helicopters. The NPRM was published in the **Federal Register** on November 18, 2025 (90 FR 51602). The NPRM was prompted by AD CF–2024–18, dated May 29, 2024 (Transport Canada AD CF–2024–18) (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada. The MCAI states that Bell received a report that a pilot cyclic stick tube assembly having part number (P/N) 206–001–342–101 fractured at the lower end of the tube near the upper slotted area where it is held in place in the pivot assembly. Examination of the fractured pilot cyclic stick tube and subsequent findings of other cracked pilot cyclic stick tubes revealed fatigue cracking. Further investigation identified the root cause of the pilot cyclic stick tube cracking as the

application of excessive force to the cyclic stick during the freedom of movement of the controls and cyclic centering light operation check as part of the interior and prestart check, which resulted in elevated stress at the slotted area and was aggravated by the high stress concentration design feature of the upper slotted area.

In the NPRM, the FAA proposed to require repetitively inspecting the pilot cyclic stick tube assembly for cracking and, depending on the results, repairing or replacing the pilot cyclic stick tube assembly. The FAA is issuing this AD to detect and correct a crack in the pilot cyclic stick tube which, if not addressed, could lead to an in-flight failure of the pilot cyclic stick tube and consequent loss of control of the helicopter.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2025–3436.

Discussion of Final Airworthiness Directive

Comments

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

Request To Issue an NPRM or Justify Forgoing Notice and Comment

The Citizens Rulemaking Alliance requested that the FAA either convert this action to an NPRM or provide its justification for finding good cause to bypass notice and comment procedures, extend the effective date to at least 30 days after publication, commit in the preamble to responding to comments, and adjust the AD accordingly within a defined short timeframe. Alternatively, the commenter requested that the AD record be supplemented to provide a more specific explanation tied to the particular failure mode why an NPRM was impracticable. The commenter asserted the FAA has not adequately justified use of the good cause exemption to bypass notice and comment and the 30-day delayed effective date.

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

Request To Comply With the Paperwork Reduction Act (PRA)

The Citizens Rulemaking Alliance requested that the FAA revise the proposed AD to comply with the PRA

if reporting is required or suspend any reporting provisions until PRA requirements are satisfied. If reporting is not required, the commenter requested the FAA clarify that in the AD.

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

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

The Citizens Rulemaking Alliance stated that the FAA’s current practices for IBR frequently fail to meet the legal and regulatory standards for reasonable availability. The commenter called on the FAA to guarantee that all IBR materials are easily and freely accessible to the public and affected parties for both commenting and compliance purposes. The commenter also requested that this access be documented in the rulemaking record.

The FAA notes that this AD incorporates by reference Transport Canada AD CF–2024–18, not the manufacturer service information referenced in that Transport Canada AD. The FAA posted Transport Canada AD CF–2024–18 to the AD docket when the NPRM was published in the **Federal Register**. The material referenced in Transport Canada AD CF–2024–18 may only be posted before the final rule’s publication if it is already publicly available or if there is written consent from the owner of that material. Additionally, the FAA provided notice in the NPRM that the material referenced in Transport Canada AD CF–2024–18 will be available in the AD docket after this AD is published. Therefore, the FAA did not change this AD as a result of this comment.

Request To Consider Impact on Small Entities and Compliance Costs

The Citizens Rulemaking Alliance requested that the FAA expand the proposed economic analysis to consider the impacts on small-entities and to offer explicit alternatives where

justified. The commenter argued that the FAA’s standard labor rate of \$85 per work-hour underestimates total labor costs and downtime experienced by operators and maintenance providers. The commenter instead suggested a labor rate between \$110 and \$140 per work-hour, in addition to accounting for costs related to ferry flights, lost revenue, and parts scarcity.

Compliance Costs

The FAA has determined that the current labor rate of \$85 per hour remains accurate for this AD. The FAA evaluates this rate periodically, based on U.S. Bureau of Labor Statistic data found at data.bls.gov/oes, and will change the rate when appropriate. The FAA used a blended wage rate to estimate the labor rate for this AD, where the FAA assumes 60 percent weight for aircraft mechanics (at a fully burdened mean wage rate of \$69.85 per hour) and 40 percent for general and operations managers (at a fully burdened mean wage rate of \$108.15 per hour). To calculate the blended wage rate, the FAA multiplied each wage rate by its corresponding weight and added up the products to obtain a wage rate of \$85.17, which the FAA rounded down to \$85.

The FAA also recognizes that, in doing the actions required by an AD, operators might incur indirect or incidental costs in addition to the direct costs. The cost analysis in an AD typically describes only the direct costs of the specific actions required by an AD, which does not include indirect or incidental costs such as downtime, loss of revenue, planning, or time necessitated by other administrative actions since those costs might vary significantly among operators. In the Cost of Compliance section of the proposed AD, the FAA disclosed the estimated number of work hours, the number of helicopters affected on the U.S. registry (updated in this final rule), and an estimated parts cost. Since the FAA has assessed and disclosed the total known costs of the AD requirements in the Costs of Compliance section of the proposed AD, and the commenter did not provide additional cost data for the FAA to consider in its cost analysis, it is not necessary to provide additional cost information for this AD.

Small Entities to Which This AD Applies

The FAA has considered the AD’s impact on small businesses and

provides the following factual basis for its Regulatory Flexibility Act (RFA) certification.

The Regulatory Flexibility Act of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504, Sept. 27, 2010), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The FAA used the definition of small entities in the RFA for this analysis. The RFA defines small entities as small businesses, small governmental jurisdictions, or small organizations. In 5 U.S.C. 601(3), the RFA defines “small business” to have the same meaning as “small business concern” under section 3 of the Small Business Act. The Small Business Act authorizes the Small Business Administration (SBA) to define “small business” by issuing regulations.

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

To identify small entities, the FAA first identified the primary NAICS of the entity or parent company, and then used data from different sources (*e.g.*, company annual reports, Bureau of Transportation Statistics) to determine whether the entity meets the applicable size standard. This AD will affect approximately 299 domestic entities, of which the FAA identified approximately 91 as small entities. The table below presents the industries of the small entities, the average annual revenue, and the AD’s estimated low-case and high-case cost burden relative to that average annual revenue.

ESTIMATED NUMBER OF SMALL ENTITIES BY INDUSTRY AND COST SIGNIFICANCE

NAICS code	Description	Affected small entities	Average annual revenue ¹ (\$)	Average per-entity impact (cost/revenue)	
				Low-case (%)	High-case (%)
111998	All Other Miscellaneous Crop Farming.	1	368,190	0.18	0.55
112990	All Other Animal Production	3	510,257	0.16	0.58
115210	Support Activities for Animal Production.	1	7,270,000	0.01	0.03
211120	Crude Petroleum Extraction	1	37,500,000	0.00	0.01
236115	New Single-family Housing Construction (Except For-Sale Builders).	1	16,690,000	0.00	0.01
237120	Oil and Gas Pipeline and Related Structures Construction.	1	10,780,000	0.01	0.02
237210	Land Subdivision	1	2,340,000	0.03	0.09
237310	Highway, Street, and Bridge Construction.	2	27,810,000	0.00	0.01
238160	Roofing Contractors	1	2,850,000	0.01	0.07
332994	Small Arms, Ordnance, and Ordnance Accessories Manufacturing.	1	10,030,000	0.00	0.02
333241	Food Product Machinery Manufacturing.	1	23,510,000	0.00	0.01
336413	Other Aircraft Part and Auxiliary Equipment Manufacturing.	1	3,050,000	0.01	0.07
336612	Boat Building	1	13,210,000	0.00	0.02
423520	Coal and Other Mineral and Ore Merchant Wholesalers.	1	2,680,000	0.01	0.08
423690	Other Electronic Parts and Equipment Merchant Wholesalers.	1	9,870,000	0.00	0.02
423860	Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers.	1	1,050,000	0.19	0.58
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals).	1	68,740,000	0.00	0.00
425120	Wholesale Trade Agents and Brokers.	1	86,250	0.79	2.35
441110	New Car Dealers	1	1,950,000	0.01	0.10
445320	Beer, Wine, and Liquor Retailers ..	1	1,460,000	0.01	0.14
481211	Nonscheduled Chartered Passenger Air Transportation.	9	4,472,556	0.17	0.55
481212	Nonscheduled Chartered Freight Air Transportation.	1	4,470,000	0.02	0.05
481219	Other Nonscheduled Air Transportation.	27	4,046,684	0.15	0.59
482111	Line Haul Railroads	1	120,380,000	0.00	0.00
483111	Deep Sea Freight Transport	1	85,390,000	0.00	0.00
487990	Scenic and Sightseeing Transportation, Other.	5	1,410,280	0.31	0.91
488190	Other Support Activities for Air Transportation.	1	4,590,000	0.01	0.04
523999	Miscellaneous Financial Investment Activities.	1	1,020,000	0.07	0.20
531210	Offices of Real Estate Agents and Brokers.	1	7,770,000	0.00	0.03
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing.	5	6,707,156	0.08	0.37
541330	Engineering Services	1	10,250,000	0.00	0.04
541715	Other Aircraft Parts and Auxiliary Equipment.	1	308,970	0.22	0.66
551112	Offices of Other Holding Companies.	1	319,540	0.06	0.63
561110	Office Administrative Services	2	995,205	0.06	0.52
611512	Flight Training	6	815,272	0.15	0.63
611620	Sports and Recreation Instruction	1	1,070,000	0.08	0.38
621910	Ambulance Services	4	11,147,500	0.11	0.44

¹ Source: Dun & Bradstreet, D&B Hoovers, retrieved April 28, 2026, app.hoovers.dnb.com; ZoomInfo, ZoomInfo Technologie Inc., retrieved April 28, 2026, zoominfo.com.

Small Entity Impacts

While the FAA has determined that this final rule affects a substantial number of small entities, the compliance costs of the AD relative to each small entity’s annual revenue is minimal in both the low- and high-case scenarios. In the high-case scenario, the AD’s cost as a percentage of annual revenue imposes a mean impact of 0.46 percent. Therefore, as provided in section 605(b), the FAA certifies that this AD will not result in a significant economic impact on a substantial number of small entities.

The FAA did not change this AD as a result of this comment.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Transport Canada AD CF–2024–18, which specifies procedures for revising the applicable Bell 407 rotorcraft flight manual (RFM) Normal Procedures section to limit the allowable freedom of movement during

interior and prestart checks for certain serial-numbered helicopters (Group 1 helicopters). Transport Canada AD CF–2024–18 also specifies procedures for inspecting the pilot cyclic stick tube assembly for cracks and replacing or repairing and reidentifying any cracked pilot cyclic stick tube assembly for certain other serial-numbered helicopters (Group 2 helicopters). If, as a result of an inspection, a pilot cyclic stick tube assembly is repaired rather than replaced, Transport Canada AD CF–2024–18 further specifies procedures for repetitive inspections of the repaired pilot cyclic stick tube assembly and replacement within 24 months after the repair. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Differences Between This AD and the MCAI

The MCAI only applies to helicopter serial numbers 53000 through 53900, 53911 through 53999, 54000 through 54166, 54300 through 54800, 54805 through 54999, 56300 through 56305, and 56311 through 56315, whereas this AD applies to all serial numbered Model 407 helicopters with cyclic stick tube assembly P/N 206–001–342–101 or P/N 206–001–342–101FM installed.

The MCAI specifies procedures for revising the applicable Bell 407 RFM Normal Procedures section for certain serial-numbered helicopters to limit the allowable freedom of movement during interior and prestart checks, whereas this AD does not because the full sweep for freedom of movement is necessary to clear icing and detect any jamming or binding during the pre-start check.

This AD also adds a repetitive inspection for pilot cyclic stick tube assemblies that have accumulated 3,600 or more hours time-in-service, at intervals not to exceed every 300 hours time-in-service or 6 months, whichever occurs first. This is from a determination that a pilot cyclic control stick could experience high loading during hydraulic-off training and other emergency procedure situations. This inspection is not part of the MCAI.

Interim Action

The FAA considers that this AD is to be an interim action. If final action is later identified, the FAA might consider further rulemaking.

Costs of Compliance

The FAA estimates that this AD affects 972 helicopters of U.S. registry, of which 651 helicopters would have or will accumulate 3,600 hours time-in-service within the 2-year analysis period. The FAA estimates the following costs to comply with this AD.

The FAA estimates operators of all helicopters will incur an initial inspection cost of \$340, and operators of a helicopter with over 3,600 hours time-in-service will also incur a recurrent inspection cost of \$340. Repetitive inspections will occur once per inspection cycle, which is either every 6 months or every 300 hours time-in-service. The FAA assumes that the inspection cycle is 6 months for each helicopter. Based upon the results of an inspection, operators could incur three conditional repair costs. The FAA cannot estimate the number of conditional repairs each operator would need to undertake. The table below presents the estimated costs for required inspections and any conditional repair and replacement costs.

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product
Required: Inspect pilot cyclic stick tube assembly	Up to 4 work-hours × \$85 per hour = \$340	\$0	\$340
Conditional: Repair pilot cyclic stick tube assembly	6 work-hours × \$85 per hour = \$510	0	510
Conditional: Repetitively inspect pilot cyclic stick tube assembly.	2 work-hours (per inspection) × \$85 per hour = \$170	0	170
Conditional: Replace pilot cyclic stick tube assembly ..	2 work-hours × \$85 per hour = \$170	1,544	1,714

The FAA used a 2-year analysis period for estimating the costs of this AD. Because the FAA cannot estimate the number of helicopters which would need repair or replacement, the FAA has created a low-case and high-case cost scenario. In the low-case scenario,

helicopters would only incur inspections costs. In the high-case scenario, all helicopters would have to replace their pilot cyclic sticks based upon the results of their initial inspection.

In the low-case scenario, all 972 helicopters would incur an initial inspection cost of \$340, and all helicopters with over 3,600 hours time-in-service (651 helicopters) would undergo 3 repetitive inspections of \$340 each. In the high-case scenario, all 972

helicopters would incur an initial inspection cost of \$340 and an initial pilot cyclic repair cost of \$510. All 972 helicopters would then undergo 3 repetitive inspections of \$510 (the sum

of the required \$340 inspection cost and \$170 conditional inspection cost). In year 2 of the analysis period, all helicopters would incur a \$1,714 cost to replace their pilot cyclic tube. The

tables below present the costs associated with the low- and high-case scenarios and a summary of the total costs of this AD.

LOW-CASE INSPECTION COST

Year	Affected helicopters	Initial inspections	Recurrent inspections	Inspection cost	Repair/replacement cost	Total cost
1	972	972	651	\$551,820	\$0	\$551,820
2	651	0	1,302	442,680	0	442,680
Total		972	1,953	994,500	0	994,500

HIGH-CASE INSPECTION AND REPAIR COST

Year	Affected helicopters	Initial inspections	Recurrent inspections	Inspection cost	Repair/replacement cost	Total cost
1	972	972	972	\$826,200	\$495,720	\$1,321,920
2	972	0	1,944	991,440	1,666,008	2,657,448
Total		972	2,916	1,817,640	2,161,728	3,979,368

SUMMARY OF COSTS

Industry costs	Present value			Annualized	
	Undiscounted	7%	3%	7%	3%
Low-Case Cost	\$994,500	\$902,373	\$953,016	\$499,095	\$498,056
High-Case Cost	3,979,368	3,556,557	3,788,317	1,967,103	1,979,816

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–14–07 Bell Textron Canada Limited:
Amendment 39–23408; Docket No. FAA–2025–3436; Project Identifier MCAI–2024–00314–R.

(a) Effective Date

This airworthiness directive (AD) is effective August 21, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 407 helicopters, certificated in any category, with a pilot cyclic stick tube assembly part number (P/N) 206–001–342–101 or P/N 206–001–342–101FM installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 6710, Main rotor control.

(e) Unsafe Condition

This AD was prompted by a report of a fractured pilot cyclic stick tube and subsequent findings of other pilot cyclic stick tubes with fatigue cracking. The FAA is issuing this AD to detect and correct a crack in the pilot cyclic stick tube which, if not addressed, could lead to an in-flight failure of the pilot cyclic stick tube and consequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2024–18, dated May 29, 2024 (Transport Canada AD CF–2024–18).

(2) For a pilot cyclic stick tube assembly that has accumulated 3,600 or more hours time-in-service if, after complying with paragraph (g)(1) of this AD, no cracks are identified, thereafter, at intervals not to exceed 300 hours time-in-service or 6 months, whichever occurs first, perform a detailed inspection of the pilot cyclic stick tube assembly in accordance with Part II paragraph A. of Transport Canada AD CF–2024–18.

(h) Exceptions to Transport Canada AD CF–2024–18

(1) Where Transport Canada AD CF–2024–18 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2024–18 requires compliance in terms of air time, this AD requires using hours time-in-service.

(3) This AD does not adopt Part I, Rotorcraft Flight Manual (RFM) Revision-Applicable to Group 1 Helicopters, of Transport Canada AD CF–2024–18.

(4) Where Transport Canada AD CF–2024–18 states “Part II-Inspection and Replacement or Repair of Cyclic Stick Tube Assembly-Applicable to Group 2 Helicopters”, this AD requires replacing that text with “Part II-Inspection and Replacement or Repair of Cyclic Stick Tube Assembly-All Helicopters”.

(i) No Reporting Requirement

Although the material referenced in Transport Canada AD CF–2024–18 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Additional Information

For more information about this AD, contact Alexis Whitaker, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite

410, Westbury, NY 11590; phone: (516) 228–7309; email: alexis.j.whitaker@faa.gov.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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) Transport Canada AD CF–2024–18, dated May 29, 2024.

(ii) [Reserved].

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

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on July 9, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–14481 Filed 7–16–26; 8:45 am]

BILLING CODE 4910–13–P

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

[Docket No. FAA–2026–7216; Project Identifier MCAI–2026–00693–A; Amendment 39–23409; AD 2026–14–08]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Diamond Aircraft Industries GmbH (DAI) Model DA 42, DA 42 NG, and DA 42 M–NG airplanes. This AD was prompted by occurrences of uncommanded rudder deflection caused by a cracked nose landing gear (NLG)

hydraulic actuator rod end, which could lead to failure of the NLG actuator and interference with the rudder control system, forcing the rudder into left-hand deflection. This AD requires revising the existing airplane flight manual (AFM) for your airplane to provide the flight crew with revised operating limitations, repetitively inspecting certain NLG hydraulic actuator rod ends for cracks, deformation, corrosion, damage, and free movement of the spherical bearing, and depending on the results of any inspection, replacing the affected NLG hydraulic actuator rod end with a serviceable part. This AD also prohibits the installation of an affected NLG hydraulic actuator rod end unless certain conditions are met. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 20, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 20, 2026.

The FAA must receive comments on this AD by August 31, 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–2026–7216; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Diamond Aircraft material identified in this AD, contact DAI, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; email: office@diamond-air.at; website: diamondaircraft.com/.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1100 Main, Kansas City, MO 64105. For information

on the availability of this material at the FAA, call (817) 222-5110. It is also available at *regulations.gov* under Docket No. FAA-2026-7216.

FOR FURTHER INFORMATION CONTACT:

Zakaria Abdi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946-4141; email: zakaria.f.abdi@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-2026-7216; Project Identifier MCAI-2026-00693-A” 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 Zakaria Abdi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD 2026-0125-E, dated June 29, 2026 (EASA Emergency AD 2026-0125-E). EASA Emergency AD 2026-0125-E states that occurrences of uncommanded rudder deflection were reported due to a cracked NLG hydraulic actuator rod end. Investigation revealed that a crack in the NLG hydraulic actuator rod end could lead to failure of the NLG actuator and interference with the rudder control system, forcing the rudder into left-hand deflection. The affected parts are installed on DAI Model DA 42, DA-42 M, DA 42 NG, and DA 42 M-NG airplanes. This condition, if not detected and corrected, could lead to restricted rudder travel in the landing gear retracted configuration and result in reduced control of the airplane. EASA later revised EASA Emergency AD 2026-0125 with EASA AD 2026-0125R1, dated June 30, 2026 (EASA AD 2026-0125R1) (also referred to as the MCAI) to revise the applicability of certain actions. The MCAI requires revising the existing AFM for your airplane to provide the flight crew with revised operating limitations, repetitively inspecting certain NLG hydraulic actuator rod ends for cracks, corrosion, deformation, damage, and free movement of the spherical bearing, and depending on the results of any inspection, replacing the affected NLG hydraulic actuator rod end with a serviceable part. The MCAI also prohibits the installation of an affected NLG hydraulic actuator rod end unless certain conditions are met.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2026-7216.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Diamond Aircraft Mandatory Service Bulletin (MSB) 42-154 and MSB 42NG-101, dated June 29, 2026 (issued as one document), published with Diamond Aircraft Work Instruction WI-MSB 42-154 and WI-MSB 42NG-101, dated June 29, 2026 (issued as one document). This material specifies procedures for inspecting certain NLG hydraulic actuator rod ends for cracks, deformation, corrosion, damage, and free movement of the spherical bearing. This material also specifies replacing any NLG hydraulic actuator rod end found with cracks, corrosion, deformation, damage, or lack of free movement of the spherical

bearing with a serviceable part. This material also includes a reporting requirement of the results of the first inspection. In addition, the material specifies sending any damaged parts to DAI. 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 and material referenced above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires revising the Limitations section of the existing AFM for your airplane to provide the flight crew with revised operating limitations, repetitively inspecting certain NLG hydraulic actuator rod ends for cracks, deformation, corrosion, damage, and free movement of the spherical bearing, and, depending on the results of the inspection, replacing the affected NLG hydraulic actuator rod end with a serviceable part. This AD also prohibits the installation of an affected NLG hydraulic actuator rod end unless certain conditions are met.

The owner/operator (pilot) holding at least a private pilot certificate may revise the existing AFM and must enter compliance with the applicable paragraph of this AD into the airplane maintenance records in accordance with 14 CFR 43.9(a) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439. This action can be performed equally well by a pilot or a mechanic. This is an exception to the FAA's standard maintenance regulations.

Differences Between This AD and the MCAI and Referenced Material

The MCAI applies to DAI Model 42 M airplanes, but this AD does not include this model because it does not have an FAA type certificate.

The referenced material specifies to return damaged parts to the manufacturer. However, this AD does not require this action.

Interim Action

The FAA considers that this AD is an interim action. If final action is later identified, the FAA might consider further rulemaking.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this

AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because the FAA has determined that a cracked NLG hydraulic actuator rod end could lead to failure of the NLG actuator and interference with the rudder control system. This can result in restricted rudder travel in the landing gear retracted configuration and reduced control of the airplane. Because this condition can occur without warning and vary from airplane to airplane, the FAA is requiring an immediate flight operating restriction for those airplanes that have 1,000 hours total time-in-service and a compliance time for inspections for some airplanes as low as 5 flight cycles. These compliance times are shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 267 airplanes of U.S. registry.
The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect the NLG actuator rod end.	4 work-hours × \$85 per hour = \$340 per inspection cycle.	\$0	\$340 per inspection cycle	\$90,780 per inspection cycle
Revise the AFM	1 work-hour × \$85 per hour = \$85.	0	\$85	\$22,695
Report inspection results (first inspection only).	1 work-hour × \$85 per hour = \$85.	0	\$85	\$22,695

The FAA estimates the following costs to do any necessary replacements

that would be required based on the results of the inspection. The agency has

no way of determining the number of airplanes that might need replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace NLG hydraulic actuator rod end	1 work-hour × \$85 per hour = \$85	\$126	\$211
Replace the entire NLG hydraulic actuator	6 work-hours × \$85 per hour = \$510	4,161	4,671

*Only one replacement action would be required.

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

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information

collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation

Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.
Authority for This Rulemaking
Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs describes in more detail the scope of the Agency’s authority.
The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–14–08 Diamond Aircraft Industries

GmbH: Amendment 39–23409; Docket No. FAA–2026–7216; Project Identifier MCAI–2026–00693–A.

(a) Effective Date

This airworthiness directive (AD) is effective July 20, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Diamond Aircraft Industries GmbH (DAI) Model DA 42, DA 42 M–NG, and DA 42 NG airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Codee 3233, Landing Gear Actuator.

(e) Unsafe Condition

This AD was prompted by occurrences of uncommanded rudder deflection caused by a cracked nose landing gear (NLG) hydraulic actuator rod end. The FAA is issuing this AD to prevent cracked rod ends from leading to the failure of the NLG actuator and interference with the rudder control system.

The unsafe condition, if not addressed, could result in restricted rudder travel in the landing gear retracted configuration and result in reduced control of the airplane.

(f) Compliance

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

(g) Definitions

For the purpose of this AD, the following definitions apply:

(1) An “affected part” is an NLG hydraulic actuator rod end having part number (P/N) X11–0006–SMRCD10IRMR.7403 or P/N X11–0006–GARSW–10RR.

(2) A “serviceable part” is an affected part that is new (never previously installed on an airplane) or that, before installation, has been inspected and corrected as required by paragraphs (h)(2) and (3) of this AD.

(3) A “flight cycle” is defined as one takeoff and one landing. Each additional takeoff and landing associated with a touch-and-go, or a go-around, is accounted for as an additional take-off and landing.

(h) Required Actions

(1) Before accumulating 1,000 hours total time-in-service (TTIS) on the airplane or before further flight after the effective date of this AD, whichever occurs later, incorporate the information in figure 1 of this AD into the Limitations section of your existing airplane flight manual (AFM). Incorporating a copy of this AD into the Limitations Section of your AFM is an acceptable method for this action.

Figure 1 to Paragraph (h)(1)—AFM Limitation

Do not accomplish intended Go-around with landing gear operation and intended Touch and Go.

Note: Intended Go-around and Touch and Go includes Go-around and Touch and Go accomplished for training purpose, and any Go-around and Touch and Go not required to cope with unforeseeable operational circumstances

(i) This operating limitation may be removed after the first inspection required by paragraph (h)(2) of this AD has been accomplished. The first inspection required by paragraph (h)(2) of this AD may be done in lieu of this operating limitation provided it is done within the compliance times specified in paragraph (h)(1) of this AD.

(ii) The owner/operator (pilot) holding at least a private pilot certificate may revise the

existing AFM for your airplane and must enter compliance with the applicable paragraph of this AD into the airplane maintenance records in accordance with 14 CFR 43.9(a) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(2) Within the compliance times specified in table 1 to paragraph (h)(2) of this AD and thereafter at intervals not to exceed 4,000

flight cycles, inspect the affected part for cracks, deformation, corrosion, damage, and free movement of the spherical bearing in accordance with Section III of Diamond Aircraft Work Instruction WI–MSB 42–154 and WI–MSB 42NG–101, dated June 29, 2026 (issued as one document), published with Diamond Aircraft Mandatory Service Bulletin MSB 42–154 and MSB 42NG–101, dated June 29, 2026 (issued as one document).

TABLE 1 PARAGRAPH (h)(2)—INITIAL INSPECTION COMPLIANCE TIME

Aircraft hours TTIS accumulated on the effective date of this AD	Compliance time
More than 4,000	Within 5 flight cycles after the effective date of this AD.
4,000 or less and more than 1,000	Within 50 flight cycles after the effective date of this AD.
Up to and including 1,000	Within 2,000 flight cycles after the effective date of this AD.

TABLE 1 PARAGRAPH (h)(2)—INITIAL INSPECTION COMPLIANCE TIME—Continued

Aircraft hours TTIS accumulated on the effective date of this AD	Compliance time
Aircraft having an original airworthiness certificate issued on or after the effective date of this AD.	Within 4,000 flight cycles since issuance of the original airworthiness certificate.

(3) If, during any inspection as required by paragraph (h)(2) of this AD, any crack, deformation, corrosion, damage, or lack of free movement of the spherical bearing is found, before further flight, replace the affected part with a serviceable part as specified in Section III of Diamond Aircraft Work Instruction WI-MSB 42-154 and WI-MSB 42NG-101, dated June 29, 2026 (issued as one document), published with Diamond Aircraft Mandatory Service Bulletin MSB 42-154 and MSB 42NG-101, dated June 29, 2026 (issued as one document). Replacing the NLG hydraulic actuator with an NLG hydraulic actuator that is equipped with a serviceable part is an acceptable method to comply with this requirement.

(4) Within 14 days after performing any inspection required by paragraph (h)(2) of this AD or within 14 days after the effective date of this AD, whichever occurs later, report the inspection results (including no findings, for the first inspection only), using the Execution Report in Diamond Aircraft Mandatory Service Bulletin MSB 42-154 and MSB 42NG-101, dated June 29, 2026 (issued as one document)), published with Diamond Aircraft Work Instruction WI-MSB 42-154 and WI-MSB 42NG-101, dated June 29, 2026 (issued as one document).

(i) Parts Installation Limitation

As of the effective date of this AD, do not install an affected part on any airplane unless it is a serviceable part as defined in paragraph (g)(2) of this AD.

(j) No Return of Parts

Where Diamond Aircraft Work Instruction WI-MSB 42-154 and WI-MSB 42NG-101, dated June 29, 2026 (issued as one document), published with Diamond Aircraft Mandatory Service Bulletin MSB 42-154 and MSB 42NG-101, dated June 29, 2026 (issued as one document), specifies to return damaged parts to DAI, this AD does not require this action.

(k) 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 local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (l) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Additional Information

For more information about this AD, contact Zakaria Abdi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946-4141; email: zakaria.f.abdi@faa.gov.

(m) Material Incorporated by Reference

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

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

(i) Diamond Aircraft Mandatory Service Bulletin MSB 42-154 and MSB 42NG-101, dated June 29, 2026 (issued as one document), published with Diamond Aircraft Work Instruction WI-MSB 42-154 and WI-MSB 42NG-101, dated June 29, 2026 (issued as one document).

(ii) [Reserved]

(3) For Diamond Aircraft material identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A-2700 Wiener Neustadt, Austria; phone: +43 2622 26700; email: office@diamond-air.at; website: diamondaircraft.com/.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1100 Main, Kansas City, MO 64105. For information on the availability of this material at the FAA, call (817) 222-5110.

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

Issued on July 13, 2026.

Steven W. Thompson,

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

[FR Doc. 2026-14511 Filed 7-15-26; 4:15 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-2717; Project Identifier AD-2025-01668-E; Amendment 39-23404; AD 2026-14-03]

RIN 2120-AA64

Airworthiness Directives; General Electric Company Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain General Electric Company (GE) Model GENx-1B64, GENx-1B64/P1, GENx-1B64/P2, GENx-1B67, GENx-1B67/P1, GENx-1B67/P2, GENx-1B70, GENx-1B70/75/P1, GENx-1B70/75/P2, GENx-1B70/P1, GENx-1B70/P2, GENx-1B70C/P1, GENx-1B70C/P2, GENx-1B74/75/P1, GENx-1B74/75/P2, GENx-1B76/P2, GENx-1B76A/P2, GENx-2B67, GENx-2B67B, and GENx-2B67/P engines. This AD was prompted by a report of a fuel leak caused by a defective fuel tube hose connecting the main fuel-oil heat exchanger. This AD requires removal of all affected fuel tube hoses from service and replacement with parts eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 21, 2026.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 21, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2026-2717; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For GE material identified in this AD, contact GE, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552-3272; email: aviation.fleetsupport@ge.com; website: ge.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at regulations.gov under Docket No. FAA-2026-2717.

FOR FURTHER INFORMATION CONTACT:

Itanza Young, Aviation Safety Engineer,

FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (206) 482-6306; email: itanza.n.young@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain GE Model GENx-1B64, GENx-1B64/P1, GENx-1B64/P2, GENx-1B67, GENx-1B67/P1, GENx-1B67/P2, GENx-1B70, GENx-1B70/75/P1, GENx-1B70/75/P2, GENx-1B70/P1, GENx-1B70/P2, GENx-1B70C/P1, GENx-1B70C/P2, GENx-1B74/75/P1, GENx-1B74/75/P2, GENx-1B76/P2, GENx-1B76A/P2, GENx-2B67, GENx-2B67B, and GENx-2B67/P engines. The NPRM was published in the **Federal Register** on March 19, 2026 (91 FR 13238). The NPRM was prompted by a report where a Boeing 787-8 Model airplane powered by GE Model GENx-1B70/P2 engines experienced a fuel imbalance caused by a fuel leak from a fuel tube hose that connects the main fuel-oil heat exchanger. A manufacturer investigation revealed that a suspected manufacturing defect in the hose assembly caused the fuel tube hose to crack and leak, and the defect was associated with certain hose preform manufacturing lot numbers that were used to manufacture multiple fuel tube hose assemblies installed on both GENx-1B and GENx-2B engines. As a result, GE published service material with instructions for identifying and removing all affected fuel tube hoses by preform manufacturing lot number. In the NPRM, the FAA proposed to require removal of all affected fuel tube hoses from service and replacement with parts eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from seven commenters. The commenters were the Air Line Pilots Association, International (ALPA), Air Tahiti Nui, All Nippon Airways (ANA), American Airlines (AAL), The Boeing Company (Boeing), Cargolux (CLX), and United Airlines (United). ALPA, Boeing, and United supported the NPRM without change. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Clarify Definition of Engine Shop Visit

AAL, ANA, and CLX requested that the FAA clarify the scope of maintenance that is required to satisfy

the definition of an engine shop visit in paragraph (g)(2) of the proposed AD. AAL requested clarification on whether an engine shop visit includes any engine removal and re-installation for maintenance purposes. Both AAL and ANA requested that the FAA revise the definition of engine shop visit to include the applicable level of work/work scope, and ANA specifically requested that the NPRM be revised to adopt the work scope level definitions established in the GE Workscope Planning Guide to ensure industry-wide consistency. CLX questioned whether the "induction of an engine into the shop for maintenance" should be interpreted strictly as a major shop visit involving module splits, or if it also includes other shop entry events such as off-wing preservation, post-lease inspections, or convenience-related activities.

The FAA agrees that clarification is necessary and has updated paragraph (g)(2) of this AD to define an "engine shop visit" as the induction of an engine into the shop for any maintenance. The FAA disagrees with the request to define an engine shop visit based on the GE Workscope Planning Guide because it does not provide a single, standardized definition of an engine shop visit. Instead, the GE Workscope Planning Guide provides multiple types of shop visits and shop visit reasons, which can vary depending on the scope of work performed.

Request To Add a Repetitive Inspection Requirement

AAL requested that the FAA revise the NPRM to require inspection for affected fuel tube hoses at every engine shop visit. AAL stated that the NPRM does not propose to require operators to inspect spare fuel tube hose stock identified in table 1 to paragraph (c) of the proposed AD. AAL also questioned whether newly installed hoses must meet the NPRM's "eligible for installation" definition, and whether using spare stock with lot numbers 684141 or 677536 could inadvertently undo compliance with GE GENx-1B Service Bulletin 73-0116 R00, dated November 4, 2025.

The FAA disagrees with the request to require repeat inspections at every engine shop visit. The intent of this AD is to require the removal from service of fuel tube hoses identified in Table 1 to paragraph (c) of this AD with preform manufacturing lot numbers 684141 or 677536, as these parts are not airworthy and should not be installed or reinstalled on any engine. Therefore, compliance with this service material would not be inadvertently undone, as

it requires the purging of all shelf stock parts with an affected lot number from inventory. In addition, even if a spare part was installed, the AD would then become effective because that part is in the applicability and if an engine shop visit had already occurred after the effective date of the AD, removal would be immediately required in order to not be in violation of 14 CFR 39.7: "Anyone who operates a product that does not meet the requirements of an applicable airworthiness directive is in violation of this section." The FAA did not change this AD as a result of this comment.

Request To Revise Reference to Affected Lot Numbers

Air Tahiti Nui requested that the FAA revise paragraphs (g)(1) and (h)(2) of the proposed AD to reference the affected preform manufacturing lot numbers as "lot number 684141 and/or 677536" rather than "lot number 684141 or 677536" in order to match the GE service material recommendations with the recommendations of the NPRM.

The FAA disagrees with the request because any fuel tube hose bearing either of the identified lot numbers must be removed, regardless of whether both lot numbers are present. The FAA did not change this AD as a result of this comment.

Request To Provide Credit for Accomplishing Previous Actions

AAL requested that the FAA revise the NPRM to provide credit for accomplishing the actions specified in paragraph (h) of the proposed AD if they were done prior to the issuance of the NPRM and in accordance with GE GENx-1B Service Bulletin 73-0116 R00, dated November 4, 2025. AAL stated that because GE GENx-1B Service Bulletin 73-0116 R00, dated November 4, 2025, is already released, there will be many engines that have already accomplished the required actions of the NPRM prior to its effective date.

The FAA disagrees with the request because paragraph (f) of this AD states to accomplish the required actions within the compliance times specified, "unless already done." Therefore, if operators have accomplished the actions required for compliance with this AD before the effective date of this AD, no further action is necessary. The FAA did not change this AD as a result of this comment.

Request To Cross-Reference Required Actions With Service Material

ANA requested that the FAA revise paragraph (h) of the proposed AD to identify how each required action in the NPRM corresponds to the

accomplishment instructions of the service material. ANA stated that this cross-reference will ensure that the steps taken during compliance with the service material will perfectly align with the legal requirements of the NPRM, thereby ensuring complete and accurate regulatory compliance.

The FAA disagrees with the request because the intent of this AD is to prevent cracking and fuel leakage in affected fuel tube hoses by requiring removal and replacement of the affected parts. The current AD language accomplishes this intent without requiring reference to specific actions within the service material. The FAA did not change this AD as a result of this comment.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed GE GENx-1B Service Bulletin (SB) 73-0116 R00, dated November 4, 2025 (GE GENx-1B SB 73-0116 R00); and GE GENx-2B SB 73-0108 R00, dated November 4, 2025

(GE GENx-2B SB 73-0108 R00). This material specifies procedures for identification of the preform manufacturing lot numbers of the affected fuel cooled oil cooler (FCOC) fuel return hose manifold, FCOC fuel cooling inlet tube hose, heat exchanger fuel tube hose, and heat exchanger inlet fuel tube hose. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 13 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS				
Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace FCOC fuel return hose manifold (11 GE Model GENx-1B engines).	8 work-hours × \$85 per hour = \$680	\$1,521	\$2,201	\$24,211
Replace FCOC fuel cooling inlet tube hose (11 GE Model GENx-1B engines).	8 work-hours × \$85 per hour = \$680	1,695	2,375	26,125
Replace heat exchanger fuel tube hose (2 GE Model GENx-2B engines).	8 work-hours × \$85 per hour = \$680	1,090	1,770	3,540
Replace heat exchanger inlet fuel tube hose (2 GE Model GENx-2B engines).	8 work-hours × \$85 per hour = \$680	1,313	1,993	3,986

Authority for This Rulemaking

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

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

Regulatory Findings

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

distribution of power and responsibilities among the various levels of government.

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

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

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026-14-03 General Electric Company:
Amendment 39-23404; Docket No. FAA-2026-2717; Project Identifier AD-2025-01668-E.

(a) Effective Date

This airworthiness directive (AD) is effective August 21, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all General Electric Company (GE) engines listed in paragraphs (c)(1) and (2) of this AD with a fuel tube hose installed having a part number (P/N) identified in table 1 to paragraph (c) of this AD.

(1) GENx-1B engines: Model GENx-1B64, GENx-1B64/P1, GENx-1B64/P2, GENx-1B67, GENx-1B67/P1, GENx-1B67/P2, GENx-1B70, GENx-1B70/75/P1, GENx-1B70/75/P2, GENx-1B70/P1, GENx-1B70/P2, GENx-1B70C/P1, GENx-1B70C/P2, GENx-1B74/75/P1, GENx-1B74/75/P2, GENx-1B76/P2, and GENx-1B76A/P2.

(2) GENx-2B engines: Model GENx-2B67, GENx-2B67B, and GENx-2B67/P.

TABLE 1 TO PARAGRAPH (c)—AFFECTED FUEL TUBE HOSES

Engine model	Part name	P/N
GENx-1B	Fuel cooled oil cooler (FCOC) fuel return hose manifold	2426M07P01
	FCOC fuel cooling inlet tube hose	2426M08P01
GENx-2B	Heat exchanger fuel tube hose	2477M34P01
	Heat exchanger inlet fuel tube hose	2477M35P01

(d) Subject

Joint Aircraft System Component (JASC)
Code 7310, Engine Fuel Distribution.

(e) Unsafe Condition

This AD was prompted by a report of a fuel leak caused by a defective fuel tube hose connecting the main fuel-oil heat exchanger. The FAA is issuing this AD to prevent cracking and fuel leakage in affected fuel tube hoses. The unsafe condition, if not addressed, could result in uncontrolled engine fire and damage to the airplane.

(f) Compliance

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

(g) Definitions

For the purpose of this AD:

(1) A “part eligible for installation” is any fuel tube hose that does not have a P/N identified in table 1 to paragraph (c) of this AD with preform manufacturing lot number 684141 or 677536.

(2) An “engine shop visit” is the induction of an engine into the shop for any maintenance.

(h) Required Actions

(1) At the next engine shop visit after the effective date of this AD, identify the preform manufacturing lot number for the FCOC fuel return hose manifold, FCOC fuel cooling inlet tube hose, heat exchanger fuel tube hose, and heat exchanger inlet fuel tube hose in accordance with the following, as applicable:

(i) For GENx-1B engines, Figure 1 of GE GENx-1B Service Bulletin (SB) 73-0116 R00, dated November 4, 2025 (GE GENx-1B SB 73-0116 R00).

(ii) For GENx-2B engines, Figure 1 of GE GENx-2B SB 73-0108 R00, dated November 4, 2025 (GE GENx-2B SB 73-0108 R00).

(2) If the preform manufacturing lot number of the affected fuel tube hose is 684141 or 677536, before further flight, remove the affected fuel tube hose and replace it with a part eligible for installation.

(i) No Reporting Requirement

Where GE GENx-1B SB 73-0116 R00 and GE GENx-2B SB 73-0108 R00 require reporting part identification for affected fuel tube hoses, this AD does not require that action.

(j) Alternative Methods of Compliance (AMOCs)

The Manager, AIR-520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19,

send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the AIR-520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (k) of this AD 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 local flight standards district office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Itanza Young, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (206) 482-6306; email: itanza.n.young@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) GE GENx-1B Service Bulletin (SB) 73-0116 R00, dated November 4, 2025.

(ii) GE GENx-2B SB 73-0108 R00, dated November 4, 2025.

(3) For GE material identified in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552-3272; email: aviation.fleetsupport@ge.com; website: ge.com.

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

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

Issued on July 6, 2026.

Brian Knaup,

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

[FR Doc. 2026-14478 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 97**

[Docket No. 31672; Amdt. No. 4225]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective July 17, 2026. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 17, 2026.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC, 20590-0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South

MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

Rune Duke, Manager, Standards Section, Flight Procedures and Airspace Group, Aviation Safety, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954-1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPs, Takeoff Minimums and/or ODPs. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are 8260-3, 8260-4, 8260-5, 8260-15A, 8260-15B, when required by an entry on 8260-15A, and 8260-15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore-(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial

number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC on July 3, 2026.

Rune Duke,

Manager, Standards Section, Flight Procedures and Airspace Group, Flight Technologies & Procedures Division, Federal Aviation Administration.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

- 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721-44722.

- 2. Part 97 is amended to read as follows:

Effective 6 August 2026

Ogden, UT, OGD, ILS OR LOC RWY 3, Amdt 6
Ogden, UT, OGD, RNAV (GPS) RWY 3, Amdt 1C
Ogden, UT, OGD, VOR-A, Orig-C

Effective 3 September 2026

Fairbanks, AK, FAI/PAFA, ILS OR LOC RWY 2L, ILS RWY 2L (SA CAT I), ILS RWY 2L (CAT II), ILS RWY 2L (CAT III), Amdt 12
Fairbanks, AK, FAI/PAFA, RNAV (RNP) Z RWY 2L, Amdt 3
Russellville, AR, RUE, NDB-A, Amdt 4D, CANCELED
Merced, CA, MCE, LOC BC RWY 12, Amdt 12
Paso Robles, CA, PRB, VOR-B, Amdt 3B
Sacramento, CA, MHR, ILS Y OR LOC Y RWY 22L, Orig-A
Sacramento, CA, MHR, ILS Z OR LOC Z RWY 22L, ILS Z RWY 22L (SA CAT I), ILS Z RWY 22L (SA CAT II), Amdt 8A
Tallahassee, FL, TLH, RADAR-1, Amdt 6B, CANCELED
Athens, GA, AHN, ILS OR LOC RWY 27, Amdt 2D
Athens, GA, AHN, RNAV (GPS) RWY 27, Amdt 1C
Audubon, IA, ADU, RNAV (GPS) RWY 32, Amdt 2
Chicago/Aurora, IL, ARR, ILS OR LOC RWY 9, Amdt 4B
Chicago/Aurora, IL, ARR, LOC RWY 33, Amdt 1B
Chicago/Aurora, IL, ARR, RNAV (GPS) RWY 9, Amdt 2B

Chicago/Aurora, IL, ARR, RNAV (GPS) RWY 15, Amdt 1B
 Chicago/Aurora, IL, ARR, RNAV (GPS) RWY 27, Amdt 1D
 Chicago/Aurora, IL, ARR, RNAV (GPS) RWY 33, Amdt 2A
 Springfield, IL, SPI, RADAR-1, Amdt 9C, CANCELED
 Crawfordsville, IN, CFJ, NDB RWY 5, Amdt 7, CANCELED
 Henderson, KY, EHR, RNAV (GPS) RWY 9, Amdt 2
 Henderson, KY, EHR, RNAV (GPS) RWY 27, Amdt 2
 Henderson, KY, EHR, VOR-A, Amdt 10A, CANCELED
 Alexandria, LA, AEX, RNAV (GPS) RWY 18, Amdt 2
 Alexandria, LA, AEX, Takeoff Minimums and Obstacle DP, Amdt 1
 Augusta, ME, AUG, ILS OR LOC RWY 17, Amdt 3E
 Rangeley, ME, 8B0, RNAV (GPS) RWY 14, Amdt 1
 Rangeley, ME, 8B0, RNAV (GPS) RWY 32, Amdt 1
 Rangeley, ME, 8B0, RNAV (GPS) -D, Amdt 1A, CANCELED
 Wiscasset, ME, IWI, RNAV (GPS) RWY 7, Amdt 1
 Wiscasset, ME, IWI, RNAV (GPS) RWY 25, Amdt 1
 Wiscasset, ME, IWI, Takeoff Minimums and Obstacle DP, Amdt 3
 Albemarle, NC, VUJ, Takeoff Minimums and Obstacle DP, Amdt 2
 Charlotte, NC, CLT, Takeoff Minimums and Obstacle DP, Amdt 9B
 Concord, NC, JQF, Takeoff Minimums and Obstacle DP, Amdt 5
 Gastonia, NC, AKH, NDB RWY 3, Amdt 9A, CANCELED
 Gastonia, NC, AKH, Takeoff Minimums and Obstacle DP, Amdt 7
 Lincolnton, NC, IPJ, Takeoff Minimums and Obstacle DP, Amdt 3
 Monroe, NC, EQY, Takeoff Minimums and Obstacle DP, Amdt 3
 Salisbury, NC, RUQ, Takeoff Minimums and Obstacle DP, Amdt 3
 Lock Haven, PA, LHV, RNAV (GPS) RWY 27R, Orig
 Lock Haven, PA, LHV, RNAV (GPS)-A, Orig-C, CANCELED
 Providence, RI, PVD, RNAV (RNP) Z RWY 23, Orig-B
 Lancaster, SC, LKR, Takeoff Minimums and Obstacle DP, Amdt 3
 Orangeburg, SC, OGB, RNAV (GPS) RWY 17, Orig-E
 Rock Hill, SC, UZA, Takeoff Minimums and Obstacle DP, Amdt 3
 Wall, SD, 6V4, RNAV (GPS) RWY 13, Orig
 Wall, SD, 6V4, RNAV (GPS) RWY 31, Orig
 Wall, SD, 6V4, Takeoff Minimums and Obstacle DP, Orig
 Fredericksburg, TX, T82, RNAV (GPS) RWY 14, Amdt 2
 Greenville, TX, GVT, ILS Z OR LOC Z RWY 17, Amdt 10
 Greenville, TX, GVT, RNAV (RNP) Z RWY 17, Orig
 Greenville, TX, GVT, RNAV (RNP) Z RWY 35, Orig
 Greenville, TX, GVT, VOR RWY 17, Amdt 2
 Mesquite, TX, HQZ, RNAV (GPS) RWY 18, Amdt 2

Mesquite, TX, HQZ, RNAV (GPS) RWY 36, Amdt 3
 Snyder, TX, SNK, RNAV (GPS) RWY 35, Amdt 1D
 Richmond/Ashland, VA, OFP, VOR RWY 16, Amdt 2E, CANCELED
 Waupaca, WI, PCZ, RNAV (GPS) RWY 10, Amdt 3
 Waupaca, WI, PCZ, RNAV (GPS) RWY 28, Amdt 2A

[FR Doc. 2026-14447 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31673; Amdt. No. 4226]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective July 17, 2026. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 17, 2026.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC, 20590-0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

Rune Duke, Manager, Standards Section, Flight Procedures and Airspace Group, Aviation Safety, Federal Aviation Administration, Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954-1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P-NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the ADDRESSES section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC July 3, 2026.

Rune Duke,
Manager, Standards Section, Flight Procedures and Airspace Group, Flight Technologies & Procedures Division, Federal Aviation Administration.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

- 1. The authority citation for part 97 continues to read as follows:
AUTHORITY: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.
- 2. Part 97 is amended to read as follows:
By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:
Effective Upon Publication

AIRAC date	State	City	Airport	FDC No.	FDC date	Procedure name
6-Aug-26	MN	Brainerd	Brainerd Lakes Rgnl	6/8862	6/17/2026	RNAV (GPS) RWY 5, Amdt 1A
6-Aug-26	WI	Green Bay	Green Bay/Austin Straubel Intl	6/8863	6/17/2026	ILS OR LOC RWY 36, Amdt 9B
6-Aug-26	MO	Columbia	Columbia Rgnl	6/9640	6/22/2026	RNAV (GPS) RWY 2, Amdt 3
6-Aug-26	WA	Spokane	Spokane Intl	6/9988	6/24/2026	RNAV (GPS) Y RWY 3, Amdt 2F

[FR Doc. 2026–14446 Filed 7–16–26; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2026–0815]

RIN 1625–AA08

Special Local Regulation; Cayuga Lake, Ithaca, NY

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for certain waters of the Cayuga Lake. The SLR is needed to protect personnel, vessels, and the marine environment during a marine event on August 8, 2026. This regulation prohibits persons and vessels from being in the regulated area unless specifically authorized by the Captain of the Port Sector Eastern Great Lakes or a designated representative.

DATES: This rule is effective from 6 a.m. to 12 p.m. on August 8, 2026.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2026–0815.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST1 Joseph Stranc, U.S. Coast

Guard Marine Safety Unit Thousand Islands; telephone 315–774–8545, email SMB-MSUThousandIslands-WaterwaysManagement@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

On April 08, 2026, an organization notified the Coast Guard that it will be conducting an open water swim event from 6 a.m. to 12 p.m. on August 8, 2026, at the location specified in Table

1 to 33 CFR 100.901, Event (4). The organization later notified the Coast Guard that the location of the event had changed and will now take place within the following boundaries: starting at point 42°31'07.1" N 76°33'02.6" W; running adjacent to the shore to point 42°31'17.1" N 76°33'10.1" W; thence to 42°32'13.2" N 76°33'02.8" W; running adjacent to the shore to point 42°32'08.3" N 76°32'59.8" W; thence back to the starting position.

The Captain of the Port Eastern Great Lakes (COTP) is issuing this Special Local Regulation (SLR) under the authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the open water swim include the possibility of participants swimming within the navigable channel, as well as the possibility that participants swimming within approaches to local public and private boat facilities might collide with or otherwise interfere with boaters near those facilities. The purpose of this rulemaking is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. Due to the short notice of the change in location we must establish the SLR by August 8, 2026, to protect personnel, vessels, and the marine environment. Therefore, we have do not have enough time to solicit and respond to comments.

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

III. Discussion of the Rule

This rule establishes a temporary SLR from 6 a.m. to 12 p.m. on August 8, 2026. The special local regulation will cover all navigable waters starting at point 42°31'07.1" N 76°33'02.6" W; running adjacent to the shore to point 42°31'17.1" N 76°33'10.1" W; thence to 42°32'13.2" N 76°33'02.8" W; running adjacent to the shore to point 42°32'08.3" N 76°32'59.8" W; thence back to the starting position. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies

that this rule will not result in an annual expenditure of \$100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

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

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

- 2. Add § 100.T999–0815 to read as follows:

§ 100.T999–0815 Special Local Regulation; Cayuga Lake, Ithaca, NY.

(a) *Location.* This special local regulation applies to the following regulated area: All waters of Cayuga Lake, from surface to bottom, encompassed by a line connecting the following points beginning at 42°31'07.1" N 76°33'02.6" W; running adjacent to the shore to point 42°31'17.1" N 76°33'10.1" W; thence to 42°32'13.2" N 76°33'02.8" W; running adjacent to the shore to point 42°32'08.3" N 76°32'59.8" W; thence back to the starting position. These coordinates are based on the North American Datum 83 (NAD 83).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a

Federal, State, and local officer designated by or assisting the Captain of the Port Sector Eastern Great Lakes (COTP) in the enforcement of the regulated area. *Participant* means all persons and vessels registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP Sector Eastern Great Lakes or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF-FM channel 16 or by telephone at (888) 230-4703. Those in the special regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 6 a.m. to 12 p.m. on August 8, 2026.

Matthew J. Walter,

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

[FR Doc. 2026-14500 Filed 7-16-26; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2026-0150]

RIN 1625-AA00

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

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending existing regulations relating to safety zones that occur annually in Captain of The Port Zone Eastern Great Lakes. This action is necessary to provide for the safety of life on these navigable waters.

DATES: This rule is effective August 17, 2026.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG-2026-0150.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Ensign Sarah Eacho, Waterways Management at

Sector Eastern Great Lakes, U.S. Coast Guard; telephone 716-931-4680, email D09-SMB-SECBuffalo-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard lists annually recurring marine events in the CFR. For USCG Sector Eastern Great Lakes, safety zones are listed in Table 1 to 33 CFR 165.939. Over the 2025 calendar year, the Coast Guard was notified of multiple marine events currently recorded in Table 1 to 33 CFR 165.939 that must be amended to keep that table current and accurate. The Captain of the Port Sector Eastern Great Lakes (COTP) also determined that some events currently listed in the regulation are obsolete. On May 27, 2026, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Annual Events in the Captain of the Port Eastern Great Lakes Zone (91 FR 31392). In that NPRM, we stated why we issued the NPRM, listed the proposed amendments to the events in the rule, and invited comments on our proposed regulatory action related to these events.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters before, during, and after each respective scheduled event. The Coast Guard is amending this rule under authority in 46 U.S.C. 70034.

III. Discussion of Comments and the Rule

During the comment period that ended on June 26, 2026, we received two comments. One commenter was generally supportive of this regulation, while also urging the Coast Guard to continue to ensure the safety zones are enforced for the shortest practical amount of time to minimize impact on recreational boaters and businesses. We appreciate the commenter's support and affirm that the Coast Guard's safety zone regulations and enforcement efforts endeavor to balance public safety with reasonable access. The second comment was not related to the proposed regulation or to safety zones.

There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and

Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons.

Vessel traffic will be able to safely transit around these regulated areas. This regulation will only impact small areas for a few hours per event. In general, the enforcement periods are during times when vessel traffic is normally low. In addition, the Coast Guard will issue a Broadcast Notice to Mariners via VHF FM marine channel 16, which will allow small entities to adjust their transit plans, and the rule allows vessels to request permission to enter a regulated area from the COTP.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

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

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

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

This rule is a safety zone. It is categorically excluded from further

review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. In § 165.939, paragraph (e) revise Table 1 to § 165.939 to read as follows:

TABLE 1 TO § 165.939

Event	Location ^{1 2}	Date ³
(a) January Safety Zones		
[Reserved] .....	.....	
(b) February Safety Zones		
[Reserved] .....	.....	
(c) March Safety Zones		
[Reserved] .....	.....	
(d) April Safety Zones		
(1) United Refining Company of Pennsylvania Fireworks.	Erie, PA. All waters of the Presque Isle Bay, from surface to bottom, encompassed by a 583-foot radius around the Dobbins Landing Launch site at 42°08'19.87" N, 80°05'29.54" W in Erie, PA.	On or around the last week in April.
(e) May Safety Zones		
[Reserved] .....	.....	
(f) June Safety Zones		
(1) Festival of the Fish	Vermilion, OH. All U.S. waters of Lake Erie within a 500-foot radius of the fireworks launch site located at position 41°25'45" N and 082°21'54" W.	On or around the 3rd Saturday in June.
(2) City of Syracuse Fireworks Celebration.	Syracuse, NY. All U.S. waters of Onondaga Lake within a 350-foot radius of land position 43°03'37.0" N, 076°09'59.0" W in Syracuse, NY.	On or around the last weekend of June.
(3) Rochester Harbor and Carousel Festival.	Rochester, NY. All U.S. waters of Lake Ontario within a 1,120-foot radius of land position 43°15'40.2" N, 077°36'05.1" W in Rochester, NY.	On or around the 4th Monday of June.
(4) Seneca River Days	Baldwinsville, NY. All U.S. waters of the Seneca River within an 840-foot radius of land position 43°09'25.0" N, 076°20'21.0" W in Baldwinsville, NY.	On or around the 2nd weekend of June.
(5) Flagship Niagara Mariner's Ball Fireworks.	Erie, PA. All waters of Presque Isle Bay, Erie, PA within a 350-foot radius from the Dobbins Landing launch site located at position 42°08'21.79" N, 080°05'15.89" W.	On or around the 1st weekend in June.
(6) Hope Chest Buffalo Niagara Dragon Boat Festival.	Buffalo, NY. All waters of the Buffalo River, Buffalo, NY starting at position 42°52'12.0" N, 078°52'17.0" W then Southeast to 42°52'03.0" N, 078°52'12.0" W then East to 42°52'03.0" N, 078°52'10.0" W then Northwest to 42°52'13.0" N, 078°52'16.0" W and then returning to the point of origin.	On or around the 3rd weekend in June.
(7) Boaters Against Cancer Fireworks.	Kendall, NY. All waters of Lake Ontario contained within a 210-foot radius of the fireworks launch site located at 43°22'02.04" N, 078°01'48.06" W in Kendall, NY.	On or around the last weekend of June.

TABLE 1 TO § 165.939—Continued

Event	Location ^{1 2}	Date ³
(8) NYSOPRHP Patriotic-Themed Fireworks Display.	Varying event names. Hamlin, NY. All waters of Lake Ontario, from surface to bottom, encompassed by a 1000-foot radius around 43°21'51.9" N, 077°56'59.6" W.	On or around the last weekend of June or first weekend in July.
(g) July Safety Zones		
(1) Cleveland Triathlon	Cleveland, OH. All U.S. waters of Lake Erie at North Coast Harbor, Cleveland, OH within 100 feet of a line starting at position 41°30'34.6" N and 081°41'51.3" W extending in a straight line to the East Basin Break wall at position 41°30'51.8" N and 081°42'08.5" W.	On or around the 4th or 5th Sunday in July.
(2) Riverfest Fireworks Display.	Cleveland, OH. All U.S. waters of Lake Erie, Cleveland, OH within a 280-foot radius from position 41°30'34.23" N and 081°08'55.73" W.	On or around the 2nd or 3rd weekend in July.
(3) Blazing Paddles	Cleveland, OH. All waters of the Cuyahoga River in Cleveland OH, between approximate position 41°29'54" N, 081°42'17" W and 41°27'54" N, 081°40'32" W, which is between the Main Avenue Bridge/Nautica waterfront and Cleveland Cliffs Cleveland Works waterfront..	On or around the 3rd weekend of July.
(4) City of Cleveland July 4th Fireworks.	Cleveland, OH. All U.S. waters of Lake Erie and Cleveland Harbor within a 1,000-foot radius of land position 41°30'10" N, 081°42'36" W at Dock 20.	On or around the 4th of July.
(5) Mentor Harbor Yacht Club.	Mentor, OH. All U.S. waters of Lake Erie and Mentor Harbor within a 500-foot radius of land position 41°43'36" N, 081°21'09" W.	On or around the 4th of July.
(6) Whiskey Island Boat Club Parade of Lights.	Cleveland, OH. All U.S. waters within 25 feet of the vessels participating in the Cleveland Parade of Lights in the Cuyahoga River. The safety zone will move with participating vessels as they transit from the mouth of the Cuyahoga River in the vicinity of approximate position 41°29'59" N, 081°43'31" W, to Merwin's Wharf in the vicinity of 41°29'23" N, 081°42'16" W, and returning to the mouth of the Old River at 41°29'55" N, 081°42'18" W.	On or around the 3rd or 4th Weekend in July.
(7) Lorain Independence Day.	Lorain, OH. All U.S. waters within a 750-foot radius of the fireworks launch site located at approximate position 41°28'35.42" N and 082°10'51.28" W.	On or around the 4th of July.
(8) Conneaut Red, White, and Boomfest.	Conneaut, OH. All U.S. waters within a 600-foot radius of the fireworks launch site located at approximate position 41°58'09.00" N and 080°33'31.38" W.	On or around the 4th of July.
(9) Fairport Harbor Mardi Gras.	Fairport, OH. All U.S. waters within a 340-foot radius of the fireworks launch site located at approximate position 41°45'29.55" N and 081°16'19.97" W.	On or around the 4th of July.
(10) Sheffield Lake Community Days.	Sheffield Lake, OH. All U.S. waters of Lake Erie and Sheffield Lake Boat ramp within a 350-foot radius of land position 41°29'27.65" N, 082°6'47.71" W.	On or around the 2nd weekend in July.
(11) Bay Village Independence Day Celebration.	Bay Village, OH. All U.S. waters within a 560-foot radius of the fireworks launch site located in Lake Erie, at position 41°29'23.9" N and 081°55'44.5" W.	On or around the 4th of July.
(12) Brogan Open Water Swim.	Cleveland, OH. All U.S. waters of Lake Erie within a 400-yard radius of approximate position 41°29'23.0" N, 081°44'25.0" W.	On or around the 2nd or 3rd weekend in July.
(13) Boldt Castle 4th of July Fireworks.	Heart Island, NY. All U.S. waters of the Saint Lawrence River within a 1,120-foot radius of land position 44°20'38.5" N, 075°55'19.1" W at Heart Island, NY.	On or around the 4th of July.
(14) Clayton Chamber of Commerce Fireworks.	Calumet Island, NY. All U.S. waters of the Saint Lawrence River within an 840-foot radius of land position 44°15'04.0" N, 076°05'40" W at Calumet Island, NY.	On or around the 4th of July.
(15) French Festival Fireworks.	Cape Vincent, NY. All U.S. waters of the Saint Lawrence River within an 840-foot radius of land position 44°07'54.6.0" N, 076°20'01.3" W in Cape Vincent, NY.	On or around the 2nd weekend of July.
(16) Lyme Community Days	Chaumont, NY. All U.S. waters of Chaumont Bay within a 560-foot radius of land position 44°04'06.3" N, 076°08'56.8" W in Chaumont, NY.	On or around the 4th weekend of July.
(17) Village Fireworks	Sackets Harbor, NY. All U.S. waters of Black River Bay within an 840-foot radius of land position 43°56'51.9" N, 076°07'46.9" W in Sackets Harbor, NY.	On or around the 4th of July.
(18) Can-Am Festival	Sackets Harbor, NY. All U.S. waters of Black River Bay within a 1,120-foot radius of land position 43°57'15.9" N, 076°06'39.2" W in Sackets Harbor, NY.	On or around the 3rd weekend of July.
(19) Fort Brewerton Greater Oneida Lake Chamber of Commerce Fireworks.	Brewerton, NY. All U.S. waters of Lake Oneida within an 840-foot radius of the barge at position 43°14'16.4" N, 076°08'03.6" W in Brewerton, NY.	On or around the 4th of July.
(20) Celebrate Baldwinsville Fireworks.	Baldwinsville, NY. All U.S. waters of the Seneca River within a 700-foot radius of land position 43°09'24.9" N, 076°20'18.9" W in Baldwinsville, NY.	On or around the 1st weekend of July.
(21) Island Festival Fireworks.	Baldwinsville, NY. All U.S. waters of the Seneca River within a 1,120-foot radius of land position 43°09'22.0" N, 076°20'15.0" W in Baldwinsville, NY.	On or around the 1st weekend of July.
(22) Village of Sodus Point Fourth of July Fireworks.	Sodus Point, NY. All U.S. waters of Sodus Bay within a 1,120-foot radius of land position 43°16'33" N, 076°58'27" W in Sodus Point, NY.	On or around the 4th of July.
(23) Olcott Fireworks	Olcott, NY. All U.S. waters of Lake Ontario within a 1,120-foot radius of land position 43°20'23.6" N, 078°43'09.5" W in Olcott, NY.	On or around the 4th of July.
(24) North Tonawanda Fireworks.	North Tonawanda, NY. All U.S. waters of the East Niagara River within a 1,400-foot radius of land position 43°00'56.3" N, 078°53'38.6" W in North Tonawanda, NY.	On or around the 4th of July.
(25) Tonawanda's Canal Fest Fireworks.	Tonawanda, NY. All U.S. waters of the East Niagara River within a 210-foot radius of land position 43°01'17.8" N, 078°52'40.9" W in Tonawanda, NY.	On or around the 4th Sunday of July.
(26) Tom Graves Memorial Fireworks.	Port Bay, NY. All waters of Port Bay, NY, within an 840-foot radius of the barge located in position 43°17'52.4" N, 076°49'55.7" W in Port Bay, NY.	On or around the 4th of July.
(27) Oswego Harborfest	Oswego, NY. All waters of Oswego Harbor, Oswego, NY contained within a 700-foot radius of position 43°28'06.9" N, 076°31'08.1" W along with a 350-foot radius of the breakwall between positions 43°27'53.0" N, 076°31'25.3" W then Northeast to 43°27'58.6" N, 076°31'12.1" W.	On or around the last week of July.

TABLE 1 TO § 165.939—Continued

Event	Location ^{1 2}	Date ³
(28) City of Oswego, NY 4th of July Display.	Oswego, NY. All waters of Lake Ontario, Oswego, NY within a 490-foot radius from the launch site located at position 43°27'55.8" N, 076°30'59.0" W.	On or around the 4th of July.
(29) Wine and Walleye Festival Fireworks.	Ashtabula, OH. All waters of the Ashtabula River between the Arch located at approximate position 41°54'09" N, 80°47'53" W and the Lift Bridge located at position 41°54' 01" N, 080°47' 51" W. (NAD 83).	On or around the last weekend of July.
(30) City of Erie 4th of July Fireworks.	Erie, PA. All waters of Lake Erie contained within a 280-foot radius of the Dobbins Landing launch site located at 42°08'17.13" N, 080°05'30.17" W in Erie, PA.	On or around the 4th of July.
(31) Buffalo Italian Fest	Buffalo, NY. All waters of Lake Erie contained within a 420-foot radius of 42°52'04.23" N, 078°53'00.67" W in Buffalo, NY.	On or around 2nd or 3rd weekend of July.
(32) Hamburg Beach Blast ..	Hamburg, NY. All waters of Lake Erie contained within a 280-foot radius of 42°45'59.21" N, 078°52'41.51" W in Hamburg, NY.	On or around the last weekend of July.
(33) Christmas in July Fireworks.	Henderson Harbor, NY. All waters within a 420-foot radius of the barge at position 43°86'66" N, 076°20'97" W in Henderson Harbor, NY.	On or around the last weekend of July.
(34) SamSen Operation/Seneca Lake Resorts 4th of July.	Romulus, NY. All waters of the Seneca Lake, contained in a 420-foot radius of 42°43'39.28" N, 076°54'59.47" W in Romulus, NY.	On or around the 4th of July.
(35) Town of Newfane Annual Fireworks Show.	Olcott, NY. All waters of Lake Ontario within a 1,120-foot radius of land position 43°20'23.6" N, 078°43'09.5" W in Olcott, NY.	On or around the 4th of July.

(h) August Safety Zones

(1) Whiskey Island Paddlefest.	Cleveland, OH. All U.S. waters of Lake Erie and Cleveland Harbor offshore Wendy Park within the polygon bounded by the approximate positions: 41°29'59.5" N and 081°42'59.3" W to 41°30'4.4" N and 081°42'44.5" W to 41°30'17.4" N and 081°43'0.6" W to 41°30'14.0" N and 081°43'8.0" W to 41°29'59.0" N and 081°43'35.0" W to 41°29'55.0" N and 081°43'35.0" W and back to 41°29'59.5" N and 081°42'59.3" W.	On or around the 3rd or 4th weekend in August.
(2) D-Day Conneaut	Conneaut, OH. All U.S. waters of Conneaut Township Park, Lake Erie, within an area starting at 41°57'43.4" N 80°34'07.2" W to 41°58'03.2" N 80°34'20.0" W to 41°58'08.7" N 80°33'32.0" W to 41°58'04" N 80°33'31" W to 41°58'00" N to 80°33'36" W and returning to the point of origin..	On or around the 3rd weekend in August.
(3) Celebrate Erie Fireworks	Erie, PA. All U.S. waters of Presque Isle Bay within an 800-foot radius of the Dobbins Landing launch site, at 42°08'19.0" N, 080°05'29.0" W in Erie, PA.	On or around the 3rd weekend of August.
(4) Thunder on the Niagara Hydroplane Boat Races.	North Tonawanda, NY. All U.S. waters of the Niagara River near the North Grand Island Bridge, encompassed by a line starting at 43°03'32.9" N, 078°54'46.9" W to 43°03'14.6" N, 078°55'16.0" W then to 43°02'39.7" N, 078°54'13.1" W then to 43°02'59.9" N, 078°53'42.0" W and returning to the point of origin.	On or around the last weekend in July to the 2nd weekend of August.
(5) Ski Show Sylvan Beach	Sylvan Beach, NY. All waters where Fish Creek meets Oneida Lake starting at position 43°11'36.6" N, 75°43'53.8" W then South to 43°11'33.7" N, 75°43'51.2" W then East to 43°11'42.4" N, 75°43'38.6" W then North to 43°11'44.5" N, 75°43'39.7" W then returning to the point of origin.	On or around the 2nd or 3rd weekend of August.
(6) Great Lakes Offshore Grand Prix.	Dunkirk, NY. All waters of Lake Erie starting at position 42°29'37.7" N, 079°21'17.7" W then Northwest to 42°29'45.2" N, 079°21'28.2" W then Northeast to 42°30'15.0" N, 079°21'20.0" W then Northeast to 42°30'39.0" N, 079°19'46.0" W then Southeast to 42°30'09.3" N, 079°19'03.1" W.	On or around the 2nd or 3rd weekend of August.
(7) County Commissioners Association of Pennsylvania Fireworks.	Erie, PA. All waters of Presque Isle Bay, from surface to bottom, encompassed by 350-foot radius around the Dobbins Landing Launch site, at 42°8'19.6008" N 80°5'29.2806" W.	On or around the 1st or 2nd week of August.
(8) Tri CLE Rock Roll Run ...	Cleveland, OH. All U.S. waters of Lake Erie offshore Edgewater Beach and immediately adjacent waters within the following approximate safety zone rectangle: (1) 41°29'15.76" N, 081°44'46.34" W; (2) 41°29'27.96" N, 081°44'49.87" W; (3) 41°29'31.98" N, 081°44'24.01" W, (4) 41°29'27.46" N, 081°44'22.51" W..	On or around the 2nd weekend of August.
(9) Madison Light Up the Park.	Madison Township, OH. All U.S. waters of Lake Erie, within a 400-foot radius of approximate position 41°50'18.35" N and 081°02'52.94" W.	On or around the 2nd Saturday in August.

(i) September Safety Zones

(1) Cleveland National Airshow.	Cleveland, OH. All U.S. waters of Lake Erie and Cleveland Harbor (near Burke Lakefront Airport) from position 41°30'20" N and 081°42'20" W to 41°30'50" N and 081°42'49" W, to 41°32'09" N and 081°39'49" W, to 41°31'53" N and 081°39'24" W, then return to the original position (NAD 83).	Wednesday before Labor Day through Labor Day.
(2) Head of the Cuyahoga ...	Cleveland, OH. All U.S. waters of the Cuyahoga River, between a line drawn perpendicular to the river banks from position 41°29'55" N, 081°42'23" W (NAD 83) just past the Detroit-Superior Viaduct bridge at MM 1.42 of the Cuyahoga River south to a line drawn perpendicular to the river banks at position 41°28'32" N, 081°40'16" W (NAD 83) just south of the Interstate 490 bridge at MM 4.79 of the Cuyahoga River.	The 3rd weekend in September.
(3) Village of Sodus Point Labor Day Fireworks.	Sodus Point, NY. All waters of Lake Ontario, from surface to bottom, encompassed by a 560-foot radius around 43°16'33" N 076°58'27" W in Sodus Point, NY.	On or around the 1st weekend of September.

TABLE 1 TO § 165.939—Continued

Event	Location ^{1 2}	Date ³
(j) October Safety Zones		
(1) Light the Night at Canalside.	Buffalo, NY. All waters of Lake Erie, from surface to bottom, encompassed by 350-foot radius around 42°52'07.96" N 78°53'00.87" W.	On or around the 1st week-end of October.
(k) November Safety Zones		
(1) City of Oswego Tree Lighting Display.	Oswego, NY. All waters of the Oswego River, from surface to bottom, encompassed by a 210-foot radius around 43°27'15.18" N, 76°30'27.89" W.	On or around the 4th week-end in November.
(l) December Safety Zones		
(1) City of North Tonawanda NYE Fireworks.	North Tonawanda, NY. All waters of the Erie Canal, from surface to bottom, encompassed by a 105-foot radius around 43°01'17.96" N 78°52'41.04" W.	On or around the last night in December.

¹ All geographic coordinates in Table 1 to § 165.939 are North American Datum of 1983 (NAD 83).

² Location and zone size subject to change. Exact location and size will be posted in a Notice of Enforcement and Local Notice to Mariners.

³ Date subject to change. Exact date will be posted in a Notice of Enforcement and Local Notice to Mariners.

M.J. Walter,

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

[FR Doc. 2026–14501 Filed 7–16–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2020–0057;
FXES1111090FEDR–245–FF09E21000]

RIN 1018–BE07

Endangered and Threatened Wildlife and Plants; Reclassification of the Razorback Sucker From Endangered to Threatened With a Section 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are reclassifying the razorback sucker (*Xyrauchen texanus*) from endangered to threatened (downlist) under the Endangered Species Act of 1973, as amended (Act). This action is based on our evaluation of the best scientific and commercial data available, which indicates that the species' status has improved such that it is not currently in danger of extinction throughout all or a significant portion of its range, but that it is still likely to become so within the foreseeable future. We also finalize protective regulations under the authority of section 4(d) of the Act that are necessary and advisable to provide for the conservation of this species.

DATES: This rule is effective August 17, 2026.

ADDRESSES: This final rule is available on the internet at <http://www.regulations.gov>. Comments and materials we received are available for public inspection at <http://www.regulations.gov> at Docket No. FWS–R6–ES–2020–0057.

Availability of supporting materials: Supporting materials we used in preparing this rule, including the 5-year status review and the species status assessment report, are available on the Service's website at <https://ecos.fws.gov/ecp/species/530> and at <http://www.regulations.gov> at Docket No. FWS–R6–ES–2020–0057.

FOR FURTHER INFORMATION CONTACT: Julie Stahli, Program Director, U.S. Fish and Wildlife Service, Upper Colorado River Endangered Fish Recovery Program; 720–697–4933, julie_stahli@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, a species warrants reclassification from endangered to threatened if it no longer meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range). The razorback sucker is listed as endangered, and we are reclassifying (downlisting) the razorback sucker as threatened. We have determined the razorback sucker does not meet the Act's definition of an endangered

species but does meet the definition of a threatened species (likely to become an endangered species throughout all or a significant portion of its range within the foreseeable future). Reclassifying a species as a threatened species can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. This rule downlists the razorback sucker from endangered to threatened on the Federal List of Endangered and Threatened Wildlife, with a rule issued under section 4(d) of the Act, based on the species' current status, which has been improved through implementation of conservation actions.

The basis for our action. Under the Act, we may determine that a species is an endangered species or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We may reclassify a species if the best available commercial and scientific data indicate the species no longer meets the applicable definition in the Act. Based on the status review, the current threats analysis, and evaluation of conservation measures discussed in this proposed rule, we conclude that the razorback sucker no longer meets the Act's definition of an endangered species and should be reclassified to a threatened species. The species is no longer in danger of extinction throughout all or a significant portion of

its range but is likely to become so within the foreseeable future.

We have determined that the razorback sucker is a threatened species due to the following threats: changes in river flows (Factor A), predation (Factor C), and competition with nonnative fish species (Factor E). Dam installations and subsequent alterations to river flow regimes limit access to floodplain nursery habitat and reduce in-river channel complexity, such as backwaters and submerged vegetative cover needed by larval and juvenile razorback sucker (Factor A). Predation of young razorback sucker by nonnative fish species is a major cause of recruitment failure throughout the basin, and some larger nonnative species are capable of consuming adults (Factor C). Nonnative fishes may also hybridize and compete for food and habitat with razorback sucker (Factor E).

We are promulgating a section 4(d) rule. We are issuing a rule under the authority of section 4(d) of the Act (a “4(d) rule”) for the razorback sucker. The 4(d) rule specifically tailors the incidental take exceptions for the razorback sucker to provide protective mechanisms to State and Federal partners so that they may continue certain activities that will further recovery of the species. The 4(d) rule will accommodate recovery activities such as propagation and stocking, educational display, habitat restoration, catch-and-release angling, and nonnative control efforts.

Previous Federal Actions

Please refer to the proposed rule to reclassify the razorback sucker published on July 7, 2021 (86 FR 35708), for a detailed description of previous Federal actions concerning this species.

Peer Review

A species status assessment (SSA) team prepared an SSA report for the razorback sucker (Service 2018a, entire; Service 2023, entire). The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy with the National Marine Fisheries Service (NMFS) on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer

review of listing and recovery actions under the Act (<https://www.fws.gov/sites/default/files/documents/peer-review-policy-directors-memo-2016-08-22.pdf>), we solicited independent scientific review of the information contained in the razorback sucker SSA report. As discussed in the proposed rule, we sent the SSA report to three independent peer reviewers and received three responses. The peer reviews can be found at <https://www.regulations.gov>. In preparing the proposed rule, we incorporated the results of these reviews, as appropriate, into the SSA report, which was the foundation for the proposed rule and this final rule. A summary of the peer review comments and our responses can be found in Summary of Comments and Recommendations below.

After our proposed rule published and the public comment period ended, we updated the razorback sucker SSA report (Service 2023, entire) to incorporate the best scientific and commercial data available related to population monitoring results, climate change information, and developments in management actions. We did not change or update the analytical methodology used to evaluate current and future conditions of the eight populations of the razorback sucker. Based on the best scientific and commercial data available, we updated the resiliency for one of the eight populations, the “Colorado River below Parker Dam” population, from extirpated to low resiliency. Because these updates were minor and did not change our overall assessment of species viability, we did not seek additional peer review of the updated SSA report. This final rule is informed by the updated SSA report.

Summary of Changes From the Proposed Rule

Changes to the final rule, based on the updated SSA report and our review of the comments received on our July 7, 2021, proposed rule (86 FR 35708), were minor and have not affected our conclusions regarding the status of the razorback sucker. As a result, this final rule is very similar to the proposed rule. The majority of changes from the proposed rule are updates to scientific information on the species in *Summary of Biological Status and Threats*, as summarized below:

- We updated population information for all of the species’ extant populations, including an update to the current condition of the “Colorado River below Parker Dam” population from extirpated to low resiliency, based on recent monitoring that documented a

measurable and increasing stocked population with high annual survival.

- We updated our summary and analysis of the effects of climate change and potential impacts on the species and its habitats.

- We updated information regarding recent management actions performed by the three multi-stakeholder recovery and conservation programs (Upper Colorado River Endangered Fish Recovery Program [Upper Colorado Program], San Juan River Basin Recovery Implementation Program [San Juan Program], and Lower Colorado River Multi-Species Conservation Program [LCR MSCP]), including actions related to river flows, nursery habitat creation and access, and nonnative fish control.

- We summarized new information regarding the funding and future for two multi-stakeholder recovery programs (the Upper Colorado and San Juan programs) that implement management actions to benefit razorback sucker.

- We clarified that the section 4(d) rule provides exceptions for intentional take, not just incidental take.

- We clarified under the section 4(d) rule that reasonable care is required, not just to be considered, by the Federal, State, and Tribal agencies when allowing incidental catch and release and establishing new recreational angling opportunities for razorback sucker.

Summary of Comments and Recommendations

In the proposed rule published on July 7, 2021 (86 FR 35708), we requested that all interested parties submit written comments on the proposal by September 7, 2021. We also contacted appropriate Federal and State agencies, Tribal entities, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Arizona Daily Sun (Arizona), the Salt Lake City Tribune (Utah), the Las Vegas Review Journal (Nevada), and the Grand Junction Sentinel (Colorado). We did not receive any requests for a public hearing. All substantive information received during the comment period is either incorporated directly into this final determination or addressed below.

Peer Reviewer Comments

As discussed in Peer Review above, we received comments from three peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information. Peer

reviewer comments are addressed in the following summary. As discussed above, because we conducted this peer review prior to the publication of our proposed rule, we had already incorporated all applicable peer review comments into the SSA report, which was the foundation for this proposed rule and this final rule. The peer reviewers generally agreed with our analysis and conclusions and provided additional information, clarifications, and suggestions to improve the SSA report. Peer reviewers helped improve our description of species needs and clarify the analytical framework used to evaluate resiliency. They also provided editorial suggestions, including ways to shorten the report and remove duplication.

Federal Agency Comments

We received one letter from the U.S. Bureau of Indian Affairs, indicating support for the proposed action.

Comments From States

We solicited and received comments from the States of Arizona (Arizona Game and Fish Department), Colorado (Colorado Department of Natural Resources), New Mexico (New Mexico Department of Game and Fish), Utah (Utah Public Lands Policy Coordinating Office), and Wyoming (Wyoming Game and Fish Department). The comments received from the five States indicate support for our reclassification of razorback sucker to a threatened species with a section 4(d) rule.

(1) *Comment:* The State of Colorado suggested clarifying if provisions in the proposed 4(d) rule calling for “reasonable care” by Federal and State agencies and Tribes prior to allowing incidental catch and release in critical habitat and prior to initiating the establishment of a new recreational fishery are mandatory. The State of Colorado also noted that paragraph (gg)(3) of the proposed 4(d) rule referred solely to incidental take, while the text describes exceptions for both incidental and intentional take.

Our response: Based on this comment, we revised *Provisions of the 4(d) Rule* and the regulatory text of the 4(d) rule to reflect that “reasonable care” is mandatory when Federal, State, and Tribal agencies address the angling exceptions. Additionally, we removed “incidental” from the heading of paragraph (gg)(3) of the 4(d) rule.

(2) *Comment:* The State of Arizona supported reclassification and the 4(d) rule, and clarified the management status of razorback sucker in the Gila River subbasin. Their letter stated that the species in this subbasin would

continue to be managed in accordance with the Upper Verde River Watershed Plan, including two potential fish barriers to address the threat of nonnative species.

Our response: We added the additional details of razorback sucker management in the Gila River subbasin to the SSA report (Service 2023, pp. 92–93).

(3) *Comment:* The States of Arizona and New Mexico commented about the need to update the recovery plan and goals for the razorback sucker.

Our response: We recognize this need and recommended updating the recovery plan for the razorback sucker in our last 5-year status review (Service 2018b, p. 21). We anticipate revising the species’ recovery plan in the future, and we will engage State partners and others in that effort. However, revising the recovery plan is outside the scope of this current rulemaking.

Comments From Tribes

We received one letter from a Native American Tribe, the Southern Ute Indian Tribe. In this letter, the Southern Ute Indian Tribe expressed support for our reclassification of razorback sucker with a section 4(d) rule, with an additional comment summarized below.

(4) *Comment:* The Southern Ute Indian Tribe noted its participation as a partner in the San Juan Program. They acknowledged that management actions for razorback sucker recovery needed to continue, that those actions are dependent on future funding of the recovery programs, and that San Juan Program partners are actively pursuing that funding.

Our response: We updated the SSA report (Service 2023, pp. 46, 108) to reflect the current funding situation of the Upper Colorado and San Juan programs. Both programs are operating under cooperative agreements and funding through 2031.

Public Comments

We received 29 letters from the public that provided comments on our July 7, 2021, proposed rule (86 FR 35708). We received letters from the general public and nongovernmental organizations, such as water users, power customers, and environmental organizations. All of the comments included views on whether the razorback sucker should be reclassified, with comments of support for and opposition to the downlisting. Many addressed similar topics, summarized below.

Comment topic (1): Commenters stated that the razorback sucker should not be reclassified because the population demographics do not meet

the 2002 recovery goal criteria, including a lack of recruitment in all but one population.

Our response: As summarized in *Recovery Criteria*, below, without natural recruitment, Criterion 1 of the 2002 recovery goals (Service 2002, entire), which supplemented the 1998 recovery plan (Service 1998, entire), has only partially been met. Recovery plans provide a roadmap for the Service and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery. However, they are not regulatory documents and do not substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of a species is ultimately based on an analysis of the best scientific and commercial data available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan. As described in *Determination of Status* below, our review of the best scientific and commercial data available indicates that the razorback sucker meets the definition of a threatened species throughout all of its range. We updated the SSA report (Service 2023, entire) and *Summary of Biological Status and Threats*, below, with the best scientific and commercial data available regarding recruitment of razorback sucker and expect to revise the species’ recovery plan in the future.

Comment topic (2): Commenters stated that conservation actions, such as stocking, may cease and the species would receive less protection under the Act if reclassified as a threatened species. A commenter also stated that we should not reclassify razorback sucker due to continued threats from future water development and hydropower projects.

Our response: Reclassification from endangered to threatened would not remove the species from the Federal List of Endangered and Threatened Wildlife. Therefore, this rule would not eliminate the protections afforded by the Act, including prohibitions of take under section 9 of the Act, except for specific conservation activities identified under the section 4(d) rule for the species. Additionally, reclassification would not change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of the razorback sucker. This rule

acknowledges that current and potential future alterations to flow regimes and predation by nonnative fish are the species' primary stressors and recognizes the species' continued need for management and conservation actions, such as stocking and nonnative species control.

Comment topic (3): Commenters noted that the abundance and distribution information summarized for some razorback sucker populations was inaccurate or outdated. Specifically, commenters stated that the map of the species' current range was too broad, Green River subbasin abundance estimates were too imprecise to be used to characterize the population as large, Colorado and San Juan River subbasin abundance estimates were inconsistently reported, and the source for the Colorado arm of Lake Powell abundance estimates could not be located. Comments suggested that populations in Lakes Mead and Mohave are declining and that the population downstream of Parker Dam is too small to measure. Furthermore, for the Lake Mohave estimates, one commenter noted that we presented only results that employed both traditional sampling and passive detection data (which show an increase in population size), rather than results using only traditional sampling (which show a decline).

Our response: Our SSA report for the razorback sucker provides a compilation and analysis of the best scientific and commercial data available regarding the razorback sucker and its biological status. Since our proposed rule, we updated the SSA report (Service 2023, entire) and *Summary of Biological Status and Threats*, below, with the best scientific and commercial data available regarding the distribution and estimated abundance of the eight razorback sucker populations in the upper Colorado River basin (upstream of Glen Canyon Dam; "upper basin") and lower Colorado River basin (downstream of Glen Canyon Dam; "lower basin"), including information from researchers and organizations that have monitored the razorback sucker for decades.

Individual razorback suckers are known to range widely and occupy all thermally suitable habitats throughout the upper basin, with movements greater than 500 kilometers (310 miles) among Lake Powell and the Green, Colorado, and San Juan River subbasins (Service 2023, pp. 61–63). In the Green River subbasin, the imprecise abundance estimates are associated with low recapture rates and likely indicate a very large population. Essentially, there were so many fish in the system that very few were ever encountered

more than once (Zelasko and Bestgen 2022, pp. 7–8). Within the Colorado River subbasin, the discrepancy in abundance estimates described by the commenter is the result of limited sizes of fish being included in earlier analyses (Elverud et al. 2016, p. 4). Razorback sucker population estimates were updated for the San Juan River subbasin (Service 2023, pp. 78–79). Abundance estimates for the Colorado River arm of Lake Powell were not published (B. Albrecht, pers. comm.); the potential role of the lake and any associated information is acknowledged as being preliminary in the SSA report (Service 2023, p. 81).

In the lower basin, the population estimates in Lake Mead and Lake Mohave have been updated with the most recent data and are higher than in previous years (Service 2023, pp. 87–89). Estimates calculated from traditional, physical mark-recapture data combined with passive detection data, like those in Lake Mohave, are more precise than those from traditional sampling alone (Conner et al. 2020, entire; Francis et al. 2022, pp. 37, 74, 77). In the Colorado River reach downstream of Parker Dam, the most recent available data demonstrate that the population is measurable and increasing, though the increase is partially attributed to greater sampling coverage (Heishman et al. 2023, pp. 25, 34). The addition of this information did not change our determination regarding the status of the razorback sucker.

Comment topic (4): Commenters suggested that we more thoroughly discuss the effects of climate change in the Colorado River basin and provided references on drought in the Colorado River basin and its potential effects on river flows. A commenter also suggested that we explore how climate change could affect hatchery propagation, an important recovery action for the species.

Our response: Adequate flow regimes are key to the conservation of razorback sucker and climate change may reduce these flows in the future by reducing precipitation, increasing air and water temperatures, lowering snowpack, drying soils, and increasing evapotranspiration. We evaluated the potential effects of climate change on the razorback sucker in our SSA report, including how water managers operating under Federal legislation and interstate compacts may reduce the effects of climate change by continuing to provide adequate flows for the razorback sucker and other species (Service 2023, pp. 24–28).

Based on these comments, we updated the SSA report (Service 2023,

pp. 24–28) and the Summary of Biological Status and Threats, below, with additional information and citations regarding climate change and its potential effects to the razorback sucker. We also incorporated information regarding potential effects to hatcheries as a result of decreased water supply due to climate change (Service 2023, p. 28) in updates to the SSA report and in this rule. We note that water flows and water temperatures are currently adequate for razorback sucker in both basins. The addition of this information did not change our determination regarding the species' status.

Comment topic (5): Some commenters stated that we should not reclassify the razorback sucker as a threatened species because the threat of predation by nonnative fish species has not been abated. In addition, two comments noted that we did not adequately address the threat of predation of larvae by small-bodied nonnative fish, such as shiner and minnow species.

Our response: The SSA report provides a thorough description and analysis of the numerous conservation measures implemented to address nonnative fish species within the razorback sucker's overall range (Service 2023, pp. 45–48). Most notable are actions in the upper basin, where northern pike abundance has been successfully reduced by shifting effort to more effective times of year and capture methods, and where experimental flows from Flaming Gorge Dam have proven useful to reduce smallmouth bass reproductive success during certain hydrologic year types.

The role of small-bodied nonnative fish species, such as red shiner, sand shiner, and fathead minnow, in competition with and predation on razorback sucker larvae is addressed in the SSA report (Service 2023, pp. 13, 32, 38). We acknowledge that the challenge of controlling small-bodied nonnative fish species remains (Martinez et al. 2014, pp. 21, 29, 32). However, the Lake Mead population of razorback sucker is actively recruiting, and most other populations have high adult survival, all in the presence of nonnative piscivores. The threat of nonnative fish species is considered in this final determination, and we continue to conclude that razorback sucker meets the definition of a threatened species.

Comment topic (6): Commenters suggested that off-channel habitats may be important to the recovery of the razorback sucker and that more razorback sucker populations should be established in predator-free, isolated, off-channel ponds.

Our response: In the SSA report, we summarize that the lower basin employs off-channel habitats (both connected to and isolated from the main stem Colorado River) as razorback sucker stocking locations (Service 2023, pp. 66, 86, 90–91). These are primarily located in reaches downstream of Lake Mohave. We added more recent abundance estimates for razorback sucker stocked into three ponds within Imperial Ponds Conservation Area, a location with six total ponds and 80 acres of habitat for razorback sucker and bonytail (*Gila elegans*) (Service 2023, p. 91). The contributions of those ponds and other off-channel habitats to recovery of razorback sucker are unknown at this time.

In the upper basin, the successful management of multiple floodplain wetlands, coincident with carefully planned dam releases, has restored missing nursery habitat for wild-produced razorback sucker larvae. We updated *Summary of Biological Status and Threats*, below, and the SSA report with the most recent results of that wetland management (Service 2023, pp. 74–76). Those habitats are neither isolated from main channels nor free of predators but have produced over 9,000 wild-reared juvenile razorback suckers. The recovery programs continue to explore management techniques for existing wetland habitats and opportunities to establish more of these habitats.

Comment topic (7): A commenter asked for additional consideration regarding the uncertain future funding of conservation and recovery actions, including the cooperative agreement that funds the Upper Colorado and San Juan programs, which expires in 2024. The commenter also stated that, in the lower basin, reduced flows may result in decreased hydropower revenues, which fund LCR MSCP and the Glen Canyon Dam Adaptive Management Program conservation activities.

Our response: The many conservation actions implemented in both the upper and lower Colorado River basins remain essential to recovery of razorback sucker. Cooperative agreements for both the Upper Colorado and San Juan programs have been extended in perpetuity, and the programs are funded through 2031. We updated *Summary of Biological Status and Threats*, below, and the SSA report (Service 2023, pp. 41, 44, 108) with that development. Confidence in the continuation of those programs remains high as all partners remain wholly engaged in the recovery of the species they manage. A decrease in hydropower revenue has been seen in recent years because of drought

conditions. However, funding for compliance activities across the basin has remained a priority for the Bureau of Reclamation, who assumed many of those costs as hydropower revenues declined.

Comment topic (8): Several commenters suggested a deficiency in essential razorback sucker knowledge and data, such as unknown species' ecology and population drivers, as well as lack of reliable monitoring data and quantifiable analyses. One commenter noted that upper basin populations would benefit from additional genetics research.

Our response: As compiled, summarized, and evaluated in our SSA report (Service 2023, entire), the razorback sucker's life history, ecology, resource needs, population dynamics, stressors, population sizes and trends, and conservation actions have been well studied and documented for decades. All eight razorback sucker populations have multiple years or decades of abundance and survival estimates (Service 2023, pp. 72–94). Updated genetic analyses of the upper basin stocked populations, their broodstock, and the potential effect continued stocking may have on the genetic makeup of any future wild-produced portions of the populations would be beneficial, as noted in the SSA report (Service 2023, p. 29). However, our determination in this rule is based on the best scientific and commercial data available. Classification decisions are not dependent on the availability (or lack thereof) of information that would be beneficial or definitive.

Comment topic (9): Some commenters stated that the provisions of the 4(d) rule for razorback sucker would not protect the species, specifically the angling and exhibition provisions.

Our response: We determined that the specific provisions in the 4(d) rule adequately protect razorback sucker, while facilitating the conservation and management of razorback sucker where they currently occur and may occur in the future. Catch-and-release angling and educational exhibition of the species are two activities that afford public engagement with razorback sucker and contribute to its conservation by providing a unique opportunity for the public to see and interact with rare native species. Recreational angling is the primary mechanism by which the public may interact with the razorback sucker, and angling regulations are an important tool for raising public awareness and action. Additionally, educational exhibitions of captive-reared razorback sucker provide a unique opportunity for

the public to see and interact with rare native species. *Provisions of the 4(d) Rule*, below, provides additional detail regarding how these and other activities contribute to the conservation of the species with descriptions of reasonable considerations to limit the take of razorback sucker during these conservation activities.

Final Reclassification Determination

Background

A thorough review of the razorback sucker is presented in the SSA report (Service 2023, entire), which we summarize here.

Species Description

The razorback sucker is a freshwater fish species endemic to warm-water portions of the Colorado River basin in the southwestern United States, uniquely identified by a bony, dorsal keel (ridge) located behind its head. The species tolerates wide-ranging temperatures, high turbidity and salinity, low dissolved oxygen, and wide-ranging flow conditions. Razorback suckers sexually mature at 3 to 4 years of age, grow up to 1 meter (3 feet) long, can live for more than 40 years, and spawn multiple times over a lifespan.

Habitat and Range

Razorback sucker are found throughout the Colorado River basin and are most common in low-velocity habitats such as backwaters, floodplains, flatwater river reaches, and reservoirs. The species' historical range includes most of the Colorado River basin, from Wyoming to the delta in Mexico, including the States of Colorado, Utah, New Mexico, Arizona, Nevada, and California, and Mexican States of Baja and Sonora. Dam construction across the basin dramatically altered flow-regimes and habitat, disconnecting floodplain habitats and converting long reaches of river to reservoirs. These reservoirs initially supported some of the largest populations of razorback sucker (greater than 70,000 individuals) until nonnative sportfish were introduced and became abundant, at which time recruitment, or the survival of young to become adults, became rare and populations declined.

Recovery Criteria

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum

extent practicable, include objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be removed from the Lists of Endangered and Threatened Wildlife and Plants.

Recovery plans provide a roadmap for us and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery and assess the species' likely future condition. However, they are not regulatory documents and do not substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of a species or to delist a species is ultimately based on an analysis of the best scientific and commercial data available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

There are many paths to accomplishing recovery of a species, and recovery may be achieved without all of the criteria in a recovery plan being fully met. For example, one or more criteria may be exceeded while other criteria may not yet be accomplished. In that instance, we may determine that the threats are minimized sufficiently and that the species is robust enough that it no longer meets the definition of an endangered species or a threatened species. In other cases, we may discover new recovery opportunities after having finalized the recovery plan. Parties seeking to conserve the species may use these opportunities instead of methods identified in the recovery plan. Likewise, we may learn new information about the species after we finalize the recovery plan. The new information may change the extent to which existing criteria are appropriate for identifying recovery of the species. The recovery of a species is a dynamic process requiring adaptive management that may, or may not, follow all of the guidance provided in a recovery plan.

We published the first recovery plan for the razorback sucker in 1998, which outlined a suite of recovery actions, including maintaining genetic diversity, reversing the declining population trends in Lake Mohave and the Green River subbasin, protecting and restoring habitat, and augmenting or reestablishing five additional populations of razorback sucker in designated critical habitat (Service 1998, p. vi). In 2002, the razorback sucker

recovery goals supplemented and amended the 1998 recovery plan, providing demographic criteria and management actions needed for recovery (Service 2002, entire). For a detailed description of recovery planning and recovery criteria for the razorback sucker, please refer to *Recovery Criteria* in the July 7, 2021, proposed rule (86 FR 35708).

The current condition of the razorback sucker partially meets the 2002 recovery criteria. Demographic criteria in the upper basin have been partially met, as adult abundance exceeds the minimum viable population (MVP) benchmark of 5,800 adults in both the Green and Colorado River populations. However, all of the adult razorback sucker are stocked, not wild-produced, due to the lack of natural recruitment (survival of wild-spawned individuals to adult stage) as a result of predation and habitat alteration. All stages of the life cycle are routinely observed until the juvenile life stage, which has been generally absent on a wide scale but increasingly documented in the upper basin. Demographic criteria in the lower basin have also been partially met, as Lake Mead is home to the only naturally recruiting population in either basin, but abundance is low. Adult populations of thousands of razorback sucker persist in both Lake Mohave and Lake Havasu (and their associated river reaches), but neither population is naturally recruiting or meets the MVP benchmark. Without continued stocking, these populations would decline due to the lack of natural recruitment from the ongoing threat of predation from nonnative fish. The criterion for a genetic refuge in Lake Mohave has been met. Site-specific management actions have managed or abated several threats to the species, though nonnative fish remain a persistent threat in both basins.

Since 2002, the amount of available science regarding razorback sucker has increased, including knowledge about the species and its associated threats. For example, the 5-year period recommended in the recovery plan to evaluate demographic criteria may not capture the natural variability for such a long-lived species. Furthermore, the minimum viable population criterion of 5,800 adults was established without considering the extent or boundary of each population and excluded Lake Powell and its river inflows. Finally, several site-specific management actions have been achieved, others are ongoing and still needed, and a number are no longer considered necessary to the species' recovery. As such, the 2018 5-year review of the status of the species

(Service 2018b, p. 21) recommended revising the 2002 recovery goals to incorporate new information about the species. We expect to revise the recovery plan for razorback sucker in the future.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species. On April 5, 2024, jointly with the National Marine Fisheries Service, the Service issued a final rule that revised the regulations in 50 CFR part 424 regarding how we add, remove, and reclassify endangered and threatened species and what criteria we apply when designating listed species' critical habitat (89 FR 24300). On the same day, the Service published a final rule revising our protections for endangered species and threatened species at 50 CFR part 17 (89 FR 23919). These final rules are now in effect and are incorporated into the current regulations. Our analysis for this final decision applied our current regulations. Given that we proposed reclassifying this species under our prior regulations (revised in 2019), we have also undertaken an analysis of whether our decision would be different if we had continued to apply the 2019 regulations; we concluded that the decision would be the same. The analyses under both the regulations currently in effect and the 2019 regulations are available on <https://www.regulations.gov>.

The Act defines an "endangered species" as a species that is in danger of extinction throughout all or a significant portion of its range, and a "threatened species" as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects. We consider these same five factors in downlisting a species from endangered to threatened.

We use the term "threat" to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term "threat" includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term "threat" may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an "endangered species" or a "threatened species." In determining whether a species meets either definition, we must evaluate all identified threats by considering the species' expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an "endangered species" or a "threatened species" only after conducting this cumulative analysis and describing the expected effect on the species.

The Act does not define the term "foreseeable future," which appears in the statutory definition of "threatened species." Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis, which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor

(M-37021, January 16, 2009; "M-Opinion," available online at <https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf>). The foreseeable future extends as far into the future as U.S. Fish and Wildlife Service and National Marine Fisheries Service (hereafter, the Services) can make reasonably reliable predictions about the threats to the species and the species' responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species' life-history characteristics, threat-projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. "Reliable" does not mean "certain"; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data available regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be reclassified as a threatened species under the Act. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies.

To assess razorback sucker viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency is the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy is the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation is the ability of the species to adapt to both near-term and long-term changes in its physical and biological environment (for example, climate conditions, pathogens). In general, species viability will increase with increases in resiliency, redundancy, and representation (Smith et al. 2018, p. 306). Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual,

population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best scientific and commercial data available to characterize viability as the ability of a species to sustain populations in the wild over time, which we then used to inform our regulatory decision.

The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS–R6–ES–2020–0057 on <https://www.regulations.gov> and at <https://ecos.fws.gov/ecp/species/530>.

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability. In addition, the SSA report (Service 2023, entire) documents our comprehensive biological status review for the species, including an assessment of the potential threats to the species. The following is a summary of this status review and the best scientific and commercial data available gathered since that time that have informed this decision.

For our analysis, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the factors, both positive and negative, that influence the viability of the razorback sucker, currently and into the future (Service 2023, entire). We evaluated the species' current levels of resiliency, redundancy, and representation, and projected plausible changes into the future (Service 2023, entire).

Summary of Species Needs

Individual razorback suckers need complex lotic (rapidly moving freshwater) and lentic (still freshwater) habitats for spawning, rearing, feeding, and sheltering; suitable water temperatures and quality for spawning,

egg incubation, larval development, and growth; variable flow regimes in lotic systems to provide access to off-channel wetland habitats; and an adequate and reliable food supply (Service 2023, pp. 17–23). Razorback sucker populations need the ability to rebound from stochastic events (resiliency), which is facilitated by an abundance of individuals and their successful growth and survival through all life stages. Population resiliency is aided by habitats with few predatory nonnative fish species, allowing the young to survive and grow; suitable water quality with few toxic inputs, such as fire ash or other contaminants, supporting survival of all life stages; and unimpeded range and connectivity, providing free movement of individuals among populations. Natural recruitment, the survival of wild-spawned individuals to the adult life stage, is rare due to predation on juveniles by nonnative fish and limited access to nursery habitats. Therefore, population resiliency currently depends on management actions, primarily the stocking of hatchery-reared individuals. At the species level, the razorback sucker needs multiple populations to withstand potential catastrophic events (redundancy) and genetic and ecological diversity to maintain the adaptive traits of the species (representation; Service 2023, pp. 22–23). Before dam construction in the 1960s, there were nine populations of razorback sucker, and the species is currently found in eight populations throughout the Colorado River basin.

Risk Factors

To determine the condition of razorback sucker populations, we evaluated several stressors that influence the resiliency of razorback sucker populations, such as river flows, nonnative fish, genetic factors, habitat alterations, overutilization, parasites, disease, pollutants, and the effects of climate change (Service 2023, pp. 24–40). The stressors that most influence the resiliency of razorback sucker populations are alterations to flow regimes, which reduce available habitat and connectivity, and predation by nonnative fish species. Those two stressors relate to listing factor (A): the present or threatened destruction, modification, or curtailment of its habitat or range, and (C): disease or predation, respectively. The effects of climate change could affect habitat connectivity, flow conditions, and densities of predatory nonnative fish over longer timeframes (Service 2023, pp. 24–28).

Altered flow regimes reducing access to nursery habitat—Complex backwater and floodplain wetland habitats support the growth of larval and juvenile razorback sucker. Dam installations in the 20th century altered river flow regimes by reducing spring peak flows, which limited access to the floodplain habitat needed by larvae and juveniles. Altered flow regimes also reduced the complexity of in-river habitat by encouraging establishment of nonnative vegetation on previously dynamic sandbars, which prevented the development of backwater pools and reduced in-river vegetative cover used by larvae and juvenile razorback sucker.

Nonnative fish species—Razorback sucker lack competitive and predator defense abilities compared to fish that evolved in more species-rich regions (Martinez et al. 2014, p. 1). Predation of young razorback sucker by large, nonnative piscivores (carnivores that eat fish) is a major cause of recruitment failure throughout the basin. Nonnative species of particular concern in the upper basin include smallmouth bass (*Micropterus dolomieu*), northern pike (*Esox lucius*), and walleye (*Sander vitreus*) in the Green and Colorado River basins and channel catfish (*Ictalurus punctatus*) in the San Juan River basin. Smallmouth bass, in particular, are adept at establishing large riverine populations. Nonnative species of particular concern in the lower basin include striped bass (*Morone saxatilis*) and flathead catfish (*Pylodictis olivaris*), both of which can consume all life stages of razorback sucker, including adults. Nonnative fishes may also hybridize and compete for food and habitat with razorback sucker.

Effects of climate change—Despite the severe drought during the past 20 years, management of river flows and delivery to downstream users have restored much of the important variability of discharge that the razorback sucker needs to survive and reproduce. Experimental flows in the upper basin have provided main channel connections to off-channel nursery habitats under a variety of hydrologic conditions. However, future climatic conditions could outstrip management flexibility or increase frequency of drier hydrologic years, which benefit nonnative species.

Climate models for the Colorado River basin predict higher temperatures with seasonal drying, lower flows, and increases in fall and winter precipitation in some areas (Reclamation 2016, pp. 3–9). Warming may produce a shift to decreased snowpack, lower snow-water equivalents, and earlier and lower

runoff (Christensen et al. 2004, pp. 347–351; McCabe et al. 2017, entire; Salehabadi et al. 2022, p. 1071). In the upper basin, reduced runoff and altered timing and magnitude could affect reproductive success of razorback sucker through elimination of spawning habitats, precluded access to floodplain nursery habitats, and reduction of cover to avoid predation. In the lower basin, increased temperature of flows released from Glen Canyon Dam could improve thermal suitability of downstream reaches. Warmer water temperatures may also increase growth and developmental rates of razorback sucker in some settings (Clarkson and Childs 2000, entire; Bestgen 2008, entire). However, those same conditions could also benefit survival, reproduction, and distribution of nonnative, warm-water species that are known to have negative impacts on razorback sucker survival and recruitment (Bruckerhoff et al. 2022, pp. 663–665).

Decreased discharge may negatively affect operations at razorback sucker propagation facilities supplied by municipal or surface water sources; however, groundwater recharge in the upper basin is predicted to increase in the expected wetter climate (Tillman et al. 2016, pp. 6971–6972), benefitting hatcheries supplied by groundwater wells. During a period when air and water temperatures have increased and flows have declined in the Colorado River basin (Service 2023, pp. 24–28), razorback sucker survived at high rates of 70–99 percent throughout much of their range (Miller et al. 2020, p. 36; Zelasko et al. 2022, p. 12; Rogers et al. 2023, p. 46). Climate change is not expected to be the source of significant stressors in the near term, but the effects could increase in the long term (*i.e.*, greater than 30 years; Service 2023, pp. 99–104).

Conservation Actions

Ongoing management actions to benefit razorback sucker are primarily undertaken by three expansive, multi-stakeholder management programs: the Upper Colorado Program, established in January 1988 and funded through 2031; the San Juan Program, established in 1992 and funded through 2031; and the LCR MSCP, established in 2005 and funded, permitted, and committed through 2055; as well as a variety of smaller working groups. These conservation programs' goals are to work toward improving population resiliency by augmenting adult populations, providing beneficial flows, creating habitat, and reducing nonnative predators and competitors, each of which is briefly discussed below. Our

SSA report provides additional information on these conservation programs and their actions (Service 2023, pp. 46–47).

To conduct augmentation in the upper basin, each of three hatcheries maintains its own razorback sucker broodstock according to genetic and management plans developed by the programs they serve (Czapla 1999, entire; Ryden 2005, entire; Integrated Stocking Plan Revision Committee 2015, entire; Wilson 2012, entire). Fish are reared and stocked annually into the Green, Colorado, and San Juan subbasins. In the lower basin, the established population in Lake Mohave is the broodstock for most augmentation efforts, as it has the most genetically diverse population. Commonly referred to as repatriation, wild larvae are collected, reared at multiple facilities, and released into Colorado River reaches managed by LCR MSCP (LCR MSCP 2015, pp. 9–12). Augmentation is the primary tool used to enhance the resiliency of razorback sucker in the lower basin. In the upper basin, stocking is coupled with other management actions that all contribute to population resiliency on the landscape.

Flow recommendations have been developed for most major rivers in the upper basin (Holden 1999, entire; McCAda 2003, entire; LaGory et al. 2019, entire) to support conservation of native fish species, including razorback sucker. Flow recommendations commonly set both peak and base flow recommendations based on the hydrology of the system in a given year and their effects on native fish species and downstream geomorphology. Most important for razorback sucker in the Green River are spring peaks timed to move wild-produced larvae into warm, food-rich floodplain wetlands that are managed to exclude nonnative fish.

Successful floodplain management for razorback sucker nursery habitat requires: (a) flow management that provides floodplain connection when larval razorback sucker are present in the system; (b) floodplains that are retrofitted with water control structures that restrict entry of large-bodied fish and allow managers to fill and drain the habitat at the beginning and end of the growing season, respectively; and (c) a supplemental water source to freshen floodplain water quality through the summer. The Upper Colorado Program has developed multiple wetlands that can connect under various flow regimes in the Green River downstream of Flaming Gorge Dam. One wetland, Stewart Lake, has provided the largest naturally produced cohort of wild razorback sucker surviving through their

first summer of life to date in the upper basin (Partlow et al. 2022, pp. 4–5).

The Upper Colorado and San Juan programs are working to reduce the numbers of nonnative fishes, focusing primarily on smallmouth bass, northern pike, and walleye in the Green and upper Colorado River subbasins and channel catfish in the San Juan subbasin. A comprehensive nonnative fish control strategy was developed by the Upper Colorado Program encompassing active removal from riverine habitats, escapement prevention from upstream reservoirs, revised stocking guidelines, harvest regulation changes, and outreach messaging (Martinez et al. 2014, entire). In-river removal efforts are scientifically evaluated and adjusted as appropriate to increase effectiveness.

In addition, both the Upper Colorado and San Juan programs have installed fish passage facilities to support range expansion of the species and have screened irrigation canals to prevent entrainment. Research, monitoring, and habitat management occur throughout the Colorado River basin.

Current Condition

The SSA assesses eight populations of razorback sucker: four populations in the upper basin (Green, upper Colorado, and San Juan River subbasins, and Lake Powell) and four in the lower basin (Lake Mead [including the Grand Canyon], Lake Mohave, the Colorado River between Davis and Parker Dams [Lake Havasu], and the Colorado River below Parker Dam). Razorback sucker were historically present in the Gila River system, but the system was not evaluated in the SSA because wild razorback sucker were extirpated from the system and subsequent stocking efforts have ceased without establishing a population. The SSA evaluates the current condition for each population in terms of four resiliency categories (high, medium, low, and extirpated), which is an average of our evaluation of condition for the population factors of population size, evidence of reproduction, and recruitment that influence the resiliency of each population. Definitions of population factors for each category (high, medium, low, and extirpated) were developed to calibrate our understanding of these factors in terms of resiliency (Service 2023, pp. 51–53). In general, populations in higher resiliency categories are better able to withstand stochastic events than populations in lower resiliency categories. To calculate an overall score for resiliency for each population, we assigned a 3 for population factors with high condition,

2 for medium condition, 1 for low condition, and 0 for extirpated condition, and then calculated an average (high resiliency 2.26–3; medium resiliency 1.51–2.25; low resiliency 0.76–1.5; and extirpated 0–0.75) (Service 2023, pp. 94–95). Currently, Lake Mead has high resiliency, the Green River subbasin has medium resiliency, the Colorado and San Juan river subbasins, Lake Powell, Lake Mohave, Lake Havasu, and the Colorado River below Parker dam have low resiliency (Service 2023, p. 95). Our SSA report provides additional detail regarding our evaluation of current condition (Service 2023, pp. 51–93).

Below, we summarize the current condition for each known population of razorback sucker, taking into account the primary stressors and conservation actions for each population.

The Upper Basin—The four upper basin populations currently have adequate food and unimpeded connectivity, except for a waterfall that blocks upstream movement of razorback sucker from Lake Powell into the San Juan River. In other areas, fish passage structures have been constructed to allow movement between populations. Populations in the upper basin generally have medium-condition habitat, water temperature, water quality, and variable flow, except in the Green River subbasin, where water temperature and quality and variable flow are in high condition (Service 2023, pp. 64–65).

Since the early 2000s, management of river flows has restored much of the important intra- and inter-annual variability of river flow needed to support razorback sucker. Flows in the Green River are actively managed to benefit razorback sucker by using biologically triggered releases from Flaming Gorge Dam to increase connectivity with several floodplain wetlands that provide nursery habitat. Floodplain wetlands are being developed adjacent to the Colorado River near Grand Junction, Colorado, and Moab, Utah, to provide more nursery habitat in that subbasin. Reservoirs in the Aspinall Unit along the Gunnison River changed release patterns to provide downstream flows that support razorback sucker. In addition, the Upper Colorado Program acquired water stored in reservoirs in the Yampa and Colorado Rivers to enhance flow conditions when needed, such as during low flow periods in summer. In the San Juan River, flow recommendations for Navajo Reservoir support creation and sustained presence of habitat. Therefore, conservation actions have helped restore flow regimes to increase connectivity to

floodplain habitats, such that the stressor of altered flow regimes has been reduced in the upper basin populations.

Predation by nonnative fish species remains a significant stressor to razorback sucker in the upper basin, resulting in populations with low conditions for that factor throughout most of the upper basin. More than 50 nonnative fish species, some of which prey on or compete with razorback sucker, have been introduced into the upper basin. Most upper basin populations have substantial levels of predatory nonnative fish species, including channel catfish, smallmouth bass, northern pike, and walleye, which likely prevent recruitment of young razorback sucker to the adult life stage on a large scale. In addition, small-bodied nonnative fish are ubiquitous across the upper basin and likely prey on younger life-stages of razorback sucker. The Upper Colorado Program implements nonnative fish management actions, such as removing predatory fish from approximately 966 km (600 mi) of river and screening reservoir outlets to prevent predators from escaping into downstream habitats used by razorback sucker. State partners in the Upper Colorado Program no longer stock certain nonnative predators and instead implement harvest regulations that promote the removal of predatory fish throughout the upper basin. The San Juan River subbasin is free from nonnative predators, except channel catfish. Removal efforts successfully reduced the population's size-structure to relieve some predation pressure on native species.

Upper Colorado River basin populations of razorback sucker are monitored using mark-recapture population estimation, some with estimates dating back to the late 1980s. Population monitoring in the late 1980s and early 1990s, after the species had already begun to decline, estimated populations of hundreds of individuals in the middle Green River. By 2000, the estimates had declined to approximately 100 wild adults, prompting the development of a stocking program in the upper basin. The most recent abundance estimates from 2011 to 2013 indicate the Green River subbasin population totals more than 30,000 adult stocked razorback sucker (Zelasko et al. 2018, pp. 11–13). The estimates resulted from thousands of captures but are imprecise due to low number of recaptures, which indicates a large population.

Successful reproduction is documented annually by larval presence in the Green River population, but natural recruitment has been rare due to

predation by nonnative fish and limited access to nursery habitats. This population is not self-sustaining, though young-of-year razorback sucker (surviving through the first summer of life) have been documented annually since 2013 in off-channel wetlands of both the Green and Colorado River subbasins. Managed flows and wetland operations produced more than 4,000 juvenile razorback sucker in 2022, which doubled the number produced in all previous years. Subsequent encounters of wild-produced razorback sucker have increased in the Green River subbasin, including detections of several age-2 and age-3 juveniles and two age-6 adults at or near a known spawning location (Partlow et al. 2020, pp. 6–7). These encounters suggest that survival of young razorback sucker is increasing in the basin. The Upper Colorado Program stocks 6,000 adult razorback sucker into the Green River subbasin annually to support the population.

The number of wild razorback sucker in the upper Colorado River subbasin decreased by the 1970s, and the population was functionally extirpated by 2000. The most recent abundance estimates (2013 to 2015) indicate that the population ranges from approximately 5,000–8,000 adults (Elverud 2020, pp. 26, 92). The upper Colorado River subbasin population is not self-sustaining, but reproduction and larval presence have been documented. Survival to the juvenile stage is rare but has been confirmed at low levels. As in the Green River, recruitment to the adult life stage is rare, likely due to persistent predation from nonnative fishes and the lack of nursery habitat. The Upper Colorado Program stocks 6,000 adults annually into the upper Colorado River subbasin to support the population. There is one managed floodplain wetland on the Colorado River.

Sampling efforts from 1987 and 1993 failed to collect any razorback sucker in the San Juan River, prompting stocking efforts in the basin. Populations in the San Juan River subbasin have recently been monitored using catch-per-unit effort, which saw a significant increase after 2010 (Schleicher 2016, pp. 17–18). Recent abundance estimates indicate the adult population is relatively stable around 3,000 individuals (Schleicher et al. 2022, pp. 6–7). Successful reproduction and larval presence are documented annually, but recruitment to the juvenile and adult life stages is also rare in the San Juan River subbasin. The population is not self-sustaining, and 11,400 adult razorback sucker are stocked annually to support it.

The fourth upper basin population is found in the Colorado and San Juan River inflow areas to Lake Powell. Although this population may functionally be an extension of the other three upper basin populations, its habitat conditions and the methods used to monitor it vary enough from the other three populations that it is evaluated separately. Little is known about this population, as monitoring has only recently expanded to reaches. However, mark-recapture population estimates indicate there are persistent populations in both the San Juan and Colorado River arms, with approximately 647 and 2,184 individuals, respectively (Pennock and Gido 2019, p. 2; Service 2023, p. 81), primarily composed of stocked adults. Reproduction is occurring annually, and larval razorback sucker have been captured in both inflow areas. Recruitment has yet to be confirmed, but untagged adults have been captured in Lake Powell. Lake Powell also supports populations of nonnative predatory fish species, including smallmouth bass, largemouth bass (*Micropterus salmoides*), striped bass, walleye, channel catfish, black crappie (*Pomoxis nigromaculatus*), and bluegill (*Lepomis macrochirus*). However, inflow areas commonly have inflow- or wind-driven turbidity and inundated terrestrial vegetation, which may offer protection for razorback sucker from predation by nonnative fish species (Albrecht et al. 2017, pp. 510–511). The Upper Colorado and San Juan programs continue to explore the Lake Powell population, which is not actively managed like the other three riverine populations in the upper basin.

Summary of Current Condition in the Upper Basin—Four populations of razorback sucker occur in the upper basin. The Upper Colorado and San Juan programs' conservation and management actions have maintained and improved resource conditions for three of the four populations in the upper basin over the last 20 years. The SSA assessed demographic factors in the Green River subbasin as being in medium condition and the three remaining upper basin populations to be in low condition. Populations of stocked adults use fish passage facilities to access all available habitat. Successful reproduction, as evidenced by the collection of wild-produced larvae, is common in all populations. Signs of survival to later life stages are increasing but have not reached levels of self-sustainability. Razorback sucker populations in the upper basin rely on

management actions to maintain resiliency.

The Lower Basin—Dams on the mainstem of large rivers that provide water storage and hydropower dramatically altered the aquatic habitat in the lower Colorado River, such that these dams now define the boundaries of the razorback sucker populations in the lower basin. Three of the four lower basin populations generally have high-quality habitat, water quality, and temperature, and adequate food for razorback sucker. The reservoirs provide suitable habitat for razorback sucker, and the largest populations ever documented occurred in these reservoirs after filling. There are few natural barriers to movement within these populations, but connectivity among populations across the dams depends on management actions. Flows are heavily managed in the lower basin, with the dams reducing spring peak flows and providing stable downstream flows year-round, so there are few natural flows. Due to dam management of flows, variable flows are not available in the lower basin, which are essential to connect off-channel floodplains in the upper basin. Despite the presence of nonnative predatory fish, the reservoirs behind the dams provide suitable nursery habitat for juvenile razorback sucker that supports recruitment in Lake Mead.

As in the upper basin, predation of razorback sucker by nonnative fish in the lower basin is a significant stressor that influences the resiliency of the populations. More than 20 nonnative fish species occupy razorback sucker habitat, and all the lower basin mainstem reservoirs have populations of bluegill, striped bass, smallmouth bass, and largemouth bass that are managed as sport fisheries. Both striped bass and flathead catfish easily consume all life stages of razorback sucker, including large adults, so are especially detrimental to population recruitment. Flathead catfish have established populations in Lake Havasu, downstream of Parker Dam and in the Gila River subbasin. These predatory nonnative fish species have largely eliminated recruitment to the adult life stage in all lower basin populations except Lake Mead. The Lake Mead population is the only population that demonstrates sufficient recruitment, to a level that it is self-sustaining that does not require stocking. Managers hypothesize that portions of Lake Mead have physical conditions (vegetation and high turbidity) that provide some cover from site-feeding predatory nonnative fishes, and that this cover has led to a level of recruitment that is

sustaining this population at its current level.

The LCR MSCP oversees management actions to support razorback sucker in the Colorado River mainstem in the lower basin. Management focuses primarily on capturing wild-produced larvae and raising them to adult size in protected environments; stocking, creating, and managing predator-free off-channel habitats; and monitoring populations. Nonnative fish are not actively controlled in the lower basin, except in the Grand Canyon, where they are managed by the Glen Canyon Dam Adaptive Management Program. Many of the nonnative species are valuable sport fish managed by State wildlife agencies.

LCR MSCP produces annual mark-recapture population estimates for all razorback sucker populations in its geographic scope. The Lake Mead population, though large during the initial filling of the reservoir, was recently estimated to be 578 adults (Rogers et al. 2023, p. 46). Ten years of population estimates document that the population is stable, but small. Reproduction and natural recruitment have been documented annually since the 1990s in turbid inflow areas, making Lake Mead home to the only self-sustaining razorback sucker population in either basin. Cover, in the form of turbidity and submerged vegetation, may explain why recruitment to the adult life stage occurs in Lake Mead, despite the presence of many nonnative predatory fish species.

Lake Mohave remains an important genetic refuge for razorback sucker, annually providing wild-spawned larvae for reintroduction efforts across the lower basin. Recent genetic studies document the persistence of high levels of genetic diversity in both wild and stocked individuals. The population exceeded 60,000 individuals in the 1980s but declined to fewer than 250 wild individuals in 2011. In both 2020 and 2021, the population was estimated to be approximately 5,000 hatchery-raised and stocked adults (Kesner et al. 2022, p. 19; Saucier et al. 2023, p. 24). Reproduction and larval presence are observed annually. Recruitment to the adult life stage has not been documented in this population and is unlikely due to high rates of predation. Each year, wild larvae are captured, raised in hatcheries, and repatriated at sizes larger than can be consumed by most nonnative fish species.

Reintroduction occurs annually, but the number of reintroduced adults varies. Razorback sucker were extirpated from the Colorado River between Davis and Parker Dams, including Lake

Havasu. Reintroduction has established a population with estimates of nearly 5,000 adults in both 2018 and 2019 (Bullard et al. 2022, p. 25), and the population is maintained through continual stocking. Spawning and larval presence occur annually. Recruitment to the adult life stage has not been documented in this population and is unlikely due to high rates of predation.

In the Colorado River downstream of Parker Dam, razorback sucker are augmented annually. Survival rate and abundance estimates have been increasing annually, with the population in 2021 estimated to be 1,162 individuals (Heishman et al. 2023, p. 25). Larval production occurs at low levels, but no evidence of natural recruitment has been documented.

Summary of the Lower Basin—Four populations of razorback sucker are currently extant in the lower basin. The LCR MSCP's conservation and management actions continue to reintroduce razorback sucker and actively develop off-channel habitat. The Lake Mead population is small, persistent, and the only self-sustaining population of the species. The SSA rated the population condition as high relative to other populations. Populations of reintroduced adults in Lake Mohave, Lake Havasu, and downstream of Parker Dam are maintained through stocking. The SSA rated all three populations in low condition. Successful spawning and larval production are common in three of the four populations, with minimal larval production in the population below Parker Dam. Razorback sucker populations in the lower basin rely on management actions to be persistent.

Summary of Current Condition—The razorback sucker has many traits that enable individuals to be resilient in the face of stochasticity, including a long lifespan; high reproductive potential; flexibility in habitat conditions; adaptation to a wide variety of water-quality conditions, flow and thermal regimes; and a variable omnivorous diet. Although individual adult razorback sucker are persistent, seven of the eight populations are maintained through stocking. Overall, one population is rated in high condition; one, in medium condition; and six, in low condition. Only one population, the Lake Mead population, exhibits natural recruitment and stability. The overall status of each population depends on ongoing management actions, such as population augmentation and the removal of nonnative predatory fish species, to maintain resiliency.

Redundancy for razorback sucker is currently provided by eight established

populations. Further, the expansive distribution of each population, with individuals distributed and established in multiple locations across wide areas, also provides redundancy to help reduce risk associated with catastrophic events, such as widespread wildfire and extended drought. Due to this widespread distribution, existing populations are likely to survive localized and even regional catastrophic events. Representation is sufficient in terms of genetic diversity and genetic relatedness, as genetic diversity has been maintained through augmentation. Ecological representation is demonstrated by the species exhibiting a high degree of plasticity by inhabiting both lentic and lotic habitats. However, the lack of natural recruitment may reduce levels of genetic diversity for the species.

Future Conditions

We projected the resiliency, redundancy, and representation of the razorback sucker under five plausible future scenarios, 30 years into the future, based on various levels of conservation actions. Over the past 30 years, management actions have increased and supported populations across the Colorado River basin and have, in many cases, developed the populations currently in place through active intervention. Because of the reliance of this species on continued management, the future scenarios represent different levels of management action or intervention in the system and their subsequent effect on the populations based on the effectiveness of those management actions. The future scenarios we evaluated are summarized below and discussed in greater detail in the SSA report (Service 2023, pp. 104–118). The future scenarios range from a reduction in conservation actions to an increase and improvement in the effectiveness of conservation actions. We selected the 30-year timeframe because it accounts for approximately three generations of razorback sucker (time to sexual maturity) and is a timeframe within which we can make reasonably reliable predictions about the threats to the species and the species' response to those threats.

Scenario 1 of the SSA describes a reduction in recovery and conservation actions for razorback sucker to minimal levels due to funding reductions or the expiration of recovery programs. Scenario 2 of the SSA describes a reduction in the effectiveness of stocking and reintroduction efforts, which is currently a key management tool supporting most populations.

Scenarios 3, 4, and 5 of the SSA show continued management actions under various levels of effectiveness. Scenario 3 represents a continuation of current management actions and their current level of effectiveness at reducing some threats. Scenarios 4 and 5 assume increases in the effectiveness of management actions based on more effective flow and nursery habitat management or the development of novel techniques to control nonnative predators.

Under Scenario 1, conditions would presumably severely degrade in 30 years in the upper basin, primarily because the assumed reduction in conservation activities that would occur in the absence of the Upper Colorado and San Juan programs would likely result in all four populations reaching an extirpated condition in the foreseeable future. Under Scenario 1, conditions are not likely to change in the lower basin because the LCR MSCP has committed conservation actions under their consultation requirements under section 7 of the Act and a habitat conservation plan and its associated permit issued under section 10 of the Act until 2055. The most dramatic declines in condition are likely under Scenario 2 under which most populations would decline to an extirpated condition, underscoring the importance of stocking and reintroduction programs to the species across the basin. In Scenarios 1 and 2, both resiliency and redundancy are likely to decline in all populations. Scenario 2 predicts a decline in representation because genetics are currently managed and distributed using stocking and reintroduction programs.

Scenarios 3, 4, and 5 all predict increasing resource and population conditions because conservation actions are assumed to continue to improve the resiliency of populations, differentiated by the effectiveness of said actions. Scenario 3 predicts restoration of all upper basin populations and the Lake Mohave population to a medium condition based on continued implementation of management actions, which support resiliency, redundancy, and representation. Under Scenario 3, populations are likely to continue to expand, but resiliency of the species would require ongoing management actions. Scenario 4 predicts an increase in effectiveness of management actions to support wild recruitment, including the management of additional nursery habitat in the upper basin and additional off-channel habitat in the lower basin. Under Scenario 4, all populations are predicted to reach high or medium condition. Under Scenario 5,

which assumes availability of a novel tool to address nonnative fish, most populations would be expected to reach high condition. In Scenarios 3, 4, and 5, improvements in the upper basin populations are likely larger than those in the lower basin as a broader suite of actions are occurring in the upper basin.

Cumulative Effects

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have analyzed the cumulative effects of identified threats and conservation actions on the species. To assess the current and future condition of the species, we evaluate the effects of all the relevant factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative-effects analysis.

Determination of Razorback Sucker Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an “endangered species” as a species in danger of extinction throughout all or a significant portion of its range, and a “threatened species” as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

We have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to the razorback sucker.

Threats to the razorback sucker include changes in flow regime and habitat connectivity (which could be affected by climate change in the long term; Factor A), and predation and competition with nonnative fish species

(Factor C) (Service 2023, pp. 24–40, 98–104). There is no evidence that overutilization (Factor B), disease (Factor C), or other natural and manmade factors affecting the species (Factor E) are occurring. Adequate regulatory mechanisms (Factor D) are in place. We evaluated each potential stressor, including its source, affected resources, exposure, immediacy, geographic scope, magnitude, and impacts on individuals and populations, and our level of certainty regarding this information, to determine which stressors were likely to be drivers of the species' current condition (Service 2023, pp. 24–40). We have also analyzed potential cumulative effects of stressors, such as low river flows and warm water temperatures that may act cumulatively to increase predation by nonnative predators.

The SSA framework considers the presence of the factors influencing the species, including threats and conservation efforts, and to what degree they collectively influence risk to the entire species at the current time and in the future. Our analysis found that the primary drivers for the razorback sucker's current and future condition in the wild are lack of access to rearing habitat in the upper basin, and persistent populations of predatory nonnative fish species, which, together, prevent natural recruitment from occurring at a population scale in both basins.

Status Throughout All of Its Range

The razorback sucker currently demonstrates sufficient individual and population resiliency, redundancy, and representation across eight populations, four in the upper basin and four in the lower basin, supplemented by augmentation across the range, such that the potential extirpation of multiple populations is not likely to occur now or in the short term. The current resiliency of the relatively small, naturally recruiting Lake Mead population, in conjunction with the resiliency and redundancy afforded by management-based populations across both basins, decreases risk to the species from stochastic and catastrophic events. Wide-ranging adult populations, successful spawning, established stocking and reintroduction programs, and continued threat management programs provide resiliency and redundancy, which decrease risks to the species.

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we determine that the risk of extinction is currently low, given the

presence of one recruiting wild population and seven additional stocked populations with high survival. Thus, after assessing the best scientific and commercial data available, we conclude that the razorback sucker is not in danger of extinction throughout all of its range.

We therefore proceed with determining whether the razorback sucker is likely to become endangered within the foreseeable future throughout all of its range.

For this finding, the foreseeable future is 30 years, a biologically meaningful timeframe for the species for which we can make reasonably reliable predictions about the threats to the species and the species' response to those threats (Service 2023, pp. 98–99). In the foreseeable future, the condition of the eight populations distributed across the upper and lower basins depends on management actions, such as stocking efforts, which are effective and ongoing, in order to counteract nonnative predators that prevent nearly all natural recruitment of razorback sucker to the adult life stage in most habitats. Management actions have ensured that stocked razorback sucker are migrating, spawning, and producing viable larvae in most populations. Signs of recruitment to the juvenile life stage are increasing in the upper basin but are not yet sufficient for self-sustainability in any population. Although the current risk of extinction is low, such that the species is not in danger of extinction, there is enough risk associated with the species' reliance on management actions and the potential loss of these important management actions such that the species is at risk of extinction in the foreseeable future. The primary management organization in the lower basin, LCR MSCP, will not expire until at least 2055, so will continue through the foreseeable future, which ensures that conservation actions will continue in the lower basin to maintain populations in their current state. Reduction or elimination of ongoing management actions in the upper basin could slow or reverse the positive trajectory in the upper basin populations.

Thus, after assessing the best scientific and commercial data available, we conclude that the razorback sucker is not in danger of extinction, but is likely to become in danger of extinction within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. The court in *Ctr. for Biological Diversity v. Everson*, 435 F. Supp. 3d 69 (D.D.C. 2020) (*Everson*), vacated the provision of the Final Policy on Interpretation of the Phrase “Significant Portion of Its Range” in the Endangered Species Act's Definitions of “Endangered Species” and “Threatened Species” (hereafter Final Policy; 79 FR 37578; July 1, 2014) that provided that if the Services determine that a species is threatened throughout all of its range, the Services will not analyze whether the species is endangered in a significant portion of its range.

Therefore, we proceed to evaluating whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the “significance” question or the “status” question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

Following the court's holding in *Everson*, we now consider whether there are any significant portions of the species' range where the species is in danger of extinction (*i.e.*, endangered). In undertaking this analysis for the razorback sucker, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify portions of the range where the species may be endangered.

We evaluated the range of the razorback sucker to determine if the species is in danger of extinction now in any portion of its range. The range of a species can theoretically be divided into portions in an infinite number of ways. We focused our analysis on portions of the species' range that may meet the definition of an endangered species. For razorback sucker, we considered whether the threats or their effects on the species are greater in any biologically meaningful portion of the species' range than in other portions

such that the species is in danger of extinction in that portion.

We examined the following threats: changes in flow regime and habitat connectivity (which could be affected by effects of climate change in the long term) (Factor A), predation and competition with nonnative fish species (Factor C), overutilization (Factor B) of razorback sucker, disease (Factor C), or other natural and manmade factors affecting the species (Factor E), including cumulative effects. We determined that threats to the razorback sucker include changes in flow regime and habitat connectivity (which could be affected by climate change in the long term) (Factor A), and predation and competition with nonnative fish species (Factor C) (Service 2023, pp. 24–40, 98–104). There is no evidence that overutilization (Factor B), disease (Factor C), or other natural and manmade factors affecting the species (Factor E) are occurring.

In the upper basin, large dams historically changed flow regimes, which altered water temperatures and reduced connectivity and access to rearing habitat needed by the razorback sucker. Currently, flow recommendations in the upper basin are providing access to rearing habitat in the form of off-channel wetlands and floodplains. In the lower basin, large dams created large on-channel reservoirs that supported large populations of wild razorback sucker before the introduction of nonnative fish species. Both the upper and lower basins now support large, augmented populations of razorback sucker. Although in the future, regional climatic patterns and water availability could affect the river flows and water temperatures needed by the razorback sucker, flow regimes are currently not a threat to the species and there are no geographically concentrated changes to flow regimes operating at biologically meaningful scales, whether at a population level, across the upper or lower basin, or for the species' rangewide.

Across the upper and lower basins, the razorback sucker evolved in an environment relatively free of predators and competitors and, as a soft-rayed fish with no defense mechanisms against predation, it is ill-adapted to live with the many nonnative piscivorous fish introduced into the Colorado River basin. By feeding on juvenile razorback sucker, and some adults in the lower basin, predatory, nonnative fish species reduce recruitment of the razorback sucker to adult life stages. Nonnative fish can also compete for resources with all life stages of razorback sucker. As a

result, predation and competition by nonnative fish species are threats to the razorback sucker in both the upper and lower basins. All razorback sucker populations in the upper and lower basins have established populations of nonnative predators; however, predation pressure is considered low in the San Juan River in the upper basin, and only Lake Mead in the lower basin remains unmanaged and naturally recruiting despite abundant nonnative predators. Although nonnative species differ between basins, predation and competition by nonnative fish species occurs across both the upper and lower basins and there are no geographical concentrations of this threat across biologically meaningful scales, either at the population level, across the upper or lower basin, or for the species' rangewide.

We found no portion of the razorback sucker's range where threats are impacting individuals differently from how they are affecting the species elsewhere in its range, or where the biological condition of the species differs from its condition elsewhere in its range such that the status of the species in that portion does not differ from any other portion of the species' range.

Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction in a significant portion of its range, and we determine that the species is likely to become in danger of extinction within the foreseeable future throughout all of its range. This does not conflict with the courts' holdings in *Desert Survivors v. U.S. Department of the Interior*, 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018) and *Center for Biological Diversity v. Jewell*, 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) because, in reaching this conclusion, we did not apply the aspects of the Final Policy, including the definition of “significant” that those court decisions held to be invalid.

Determination of Status

Based on the best scientific and commercial data available, we determine that the razorback sucker meets the Act's definition of a threatened species. Therefore, we are downlisting the razorback sucker as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the

recovery of these listed species, so that they no longer need the protective measures of the Act. Once we have downlisted the razorback sucker, conservation measures continue to be provided to species listed as threatened species under the Act including recognition as a listed species, planning and implementation of recovery actions, requirements for Federal protection, and prohibitions against certain practices. As discussed above, the current condition of razorback sucker partially meets the 2002 recovery criteria and three expansive, multi-stakeholder management programs oversee ongoing management actions to benefit the species. In addition, section 7(a)(1) and 7(a)(2) responsibilities of Federal agencies remain.

Section 7 of the Act is titled, “Interagency Cooperation,” and it mandates all Federal action agencies to use their existing authorities to further the conservation purposes of the Act and to ensure that their actions are not likely to jeopardize the continued existence of listed species or adversely modify critical habitat. Regulations implementing section 7 are codified at 50 CFR part 402.

Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Each Federal agency shall review its action at the earliest possible time to determine whether it may affect listed species or critical habitat. If a determination is made that the action may affect listed species or critical habitat, formal consultation is required (50 CFR 402.14(a)), unless the Service concurs in writing that the action is not likely to adversely affect listed species or critical habitat. At the end of a formal consultation, the Service issues a biological opinion, containing its determination of whether the Federal action is likely to result in jeopardy or adverse modification.

Examples of discretionary actions for the razorback sucker that may be subject to consultation procedures under section 7 are management of Federal lands administered by the National Park Service, the U.S. Bureau of Reclamation, and the Western Area Power Administration, as well as actions that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*)) or actions funded by Federal agencies such as the Federal Highway

Administration, Federal Aviation Administration, or the Federal Emergency Management Agency. Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation. Federal agencies should coordinate with the local Service field office (see **FOR FURTHER INFORMATION CONTACT**) with any specific questions on section 7 consultation and conference requirements.

Please let us know if you are interested in participating in recovery efforts for the razorback sucker. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery implementation purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 9 of the Act provides a specific list of prohibitions for endangered species but does not provide these same prohibitions for threatened species. Instead, pursuant to section 4(d) of the Act, for any species listed as a threatened species, the Secretary must issue protective regulations that are “necessary and advisable to provide for the conservation of such species” (these are referred to as “4(d) rules”). Additional measures for the razorback sucker are described below (see Protective Regulations Under Section 4(d) of the Act, below).

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits for threatened wildlife are codified at 50 CFR 17.32, and general Service permitting regulations are codified at 50 CFR part 13. With regard to threatened wildlife, a permit may be issued: for scientific purposes, for enhancing the propagation or survival of the species, or for take incidental to otherwise lawful activities. The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is the policy of the Services, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the extent known at the time a species is listed, specific activities that will not be considered likely to result in violation of section 9 of the Act. To the extent possible, activities that will be considered likely to result in violation will also be identified in as specific a manner as possible. The intent of this policy is to increase public awareness of

the effect of a listing on proposed and ongoing activities within the range of the species. Although most of the prohibitions in section 9 of the Act apply to endangered species, sections 9(a)(1)(G) and 9(a)(2)(E) of the Act prohibit the violation of any regulation under section 4(d) pertaining to any threatened species of fish or wildlife, or threatened species of plant, respectively. Section 4(d) of the Act directs the Secretary to promulgate protective regulations that are necessary and advisable for the conservation of threatened species. As a result, we interpret our policy to mean that, when we list a species as a threatened species, to the extent possible, we identify activities that will or will not be considered likely to result in violation of the protective regulations under section 4(d) for that species.

At this time, we are unable to identify specific activities that will or will not be considered likely to result in violation of section 9 of the Act beyond what is already clear from the descriptions of prohibitions and exceptions established by protective regulation under section 4(d) of the Act.

Questions regarding whether specific activities would constitute violation of section 9 of the Act should be directed to the Upper Colorado River Endangered Fish Recovery Program (see **FOR FURTHER INFORMATION CONTACT**).

Protective Regulations Under Section 4(d) of the Act

Background

As discussed in Available Conservation Measures, section 9 of the Act provides a specific list of prohibitions for endangered species but does not provide these same prohibitions for threatened species. Instead, pursuant to section 4(d) of the Act, for any species listed as a threatened species, the Secretary must issue protective regulations that are “necessary and advisable to provide for the conservation of such species” (these are referred to as “4(d) rules”). Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as they deem necessary and advisable to provide for the conservation of species listed as threatened species. Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by

regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. With these two sentences in section 4(d), Congress delegated broad authority to the Secretary to determine what protections would be necessary and advisable to provide for the conservation of threatened species, and even broader authority to put in place any of the section 9 prohibitions, for a given species.

Courts have recognized the extent of the Secretary’s discretion under section 4(d) to develop regulations that are appropriate for the conservation of threatened species. For example, courts have upheld, as a valid exercise of agency authority, rules developed under section 4(d) that included limited prohibitions against takings (see *Alsea Valley Alliance v. Lautenbacher*, 2007 WL 2344927 (D. Or. 2007); *Washington Environmental Council v. National Marine Fisheries Service*, 2002 WL 511479 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana v. Verity*, 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, “once an animal is on the threatened list, the Secretary has an almost infinite number of options available to [them] with regard to the permitted activities for those species. [They] may, for example, permit taking, but not importation of such species, or [they] may choose to forbid both taking and importation but allow the transportation of such species” (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Under our 4(d) authorities, we put in place protections intended to both prevent a threatened species from becoming an endangered species and to promote its recovery. We have two ways to put in place these protections for a threatened species: (1) we can issue a species-specific 4(d) rule (at 50 CFR 17.40–17.47 or 17.73–17.74), which would contain all of the protective regulations for that species; or (2) we can apply a “blanket rule” (for more information, see 89 FR 23919, April 5, 2024), which extends to threatened species without a species-specific rule all of the prohibitions that apply to endangered species under section 9 (with certain exceptions applicable to threatened species).

Both “blanket rules” and species-specific 4(d) rules explain what is prohibited for a threatened species, thus making the activity unlawful without a permit or authorization under the Act for the prohibited activity unless

otherwise excepted in the 4(d) rule (species-specific 4(d) rules may also include affirmative requirements). Section 4(d) rules are therefore directly related to what actions may require permits in the future. As discussed in Available Conservation Measures, permits may be issued for purposes described in our threatened species permitting regulations at 50 CFR 17.32 and 17.72, including for recovery actions, conservation benefit agreements (previously referred to as candidate conservation agreements with assurances and safe harbor agreements), or habitat conservation plans. We may also except otherwise prohibited activities through a 4(d) rule itself, in which case threatened species permits would not be required for those activities. For example, there are two categories of exceptions that we frequently include in 4(d) rules, and these are for otherwise prohibited acts or forms or amounts of “take” that are: (1) unavoidable while conducting beneficial actions for the species, or (2) considered inconsequential (de minimis) to the conservation of the species. For otherwise prohibited take activities that require section 10 permits, programmatic approaches—such as general conservation plans and template habitat conservation plans—may be available as another way for project proponents to comply with take prohibitions or requirements applicable to one or more species while reducing the time that would otherwise be associated with developing individual permit applications. In addition, the Service and project proponents can reduce the need for such permits by developing standardized conservation measures that avoid the risk of “take.”

The provisions of this species’ protective regulations under section 4(d) of the Act are one of many tools that we will use to promote the conservation of the razorback sucker. Nothing in 4(d) rules change in any way the recovery planning provisions of section 4(f) of the Act or the consultation requirements under section 7 of the Act. As mentioned previously in Available Conservation Measures, Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. These requirements are the same for a threatened species regardless of what is included in a 4(d) rule.

Section 4(d) rules do not alter section 7 obligations, including the criteria for

informal or formal consultations or the analytical process used for biological opinions or concurrence letters. Section 7 consultation is required for Federal actions that “may affect” a listed species regardless of whether take caused by the activity is prohibited or excepted by a 4(d) rule. For example, as with an endangered species, if a Federal agency determines that an action is “not likely to adversely affect” a threatened species, this will require the Service’s written concurrence (50 CFR 402.13(c)). Similarly, if a Federal agency determines that an action is “likely to adversely affect” a threatened species, the action will require formal consultation with the Service and the formulation of a biological opinion (50 CFR 402.14(a)). Because consultation obligations and processes are unaffected by 4(d) rules, we may consider developing tools to streamline future intra-Service and inter-Agency consultations for actions that result in forms of take that are not prohibited by the 4(d) rule (but that still require consultation). These tools may include consultation guidance, online consultation processes via the Service’s digital project planning tool (Information for Planning and Consultation; <https://ipac.ecosphere.fws.gov/>), template language for biological opinions, or programmatic consultations.

Provisions of the 4(d) Rule

Exercising the Secretary’s authority under section 4(d) of the Act, we have developed a rule that is designed to address the razorback sucker’s conservation needs. As discussed previously in Summary of Biological Status and Threats, we have concluded that the razorback sucker is likely to become in danger of extinction within the foreseeable future primarily due to the loss and fragmentation of habitats due to changes in flow regimes and predation and competition with nonnative fish species. Section 4(d) requires the Secretary to issue such regulations as he deems necessary and advisable to provide for the conservation of each threatened species and authorizes the Secretary to include among those protective regulations any of the prohibitions that section 9(a)(1) of the Act prescribes for endangered species. We are not required to make a “necessary and advisable” determination when we apply or do not apply specific section 9 prohibitions to a threatened species (*In re: Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation*, 818 F. Supp. 2d 214, 228 (D.D.C. 2011) (citing *Sweet Home Chapter of Cmty. for a Great Or. v.*

Babbitt, 1 F.3d 1, 8 (D.C. Cir. 1993), *rev’d on other grounds*, 515 U.S. 687 (1995))). Nevertheless, even though we are not required to make such a determination, we have chosen to be as transparent as possible and explain below why we find that, if finalized, the protections, prohibitions, and exceptions in this rule as a whole satisfy the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the razorback sucker.

The protective regulations for razorback sucker incorporate prohibitions from section 9(a)(1) to address threats to the species. The prohibitions of section 9(a)(1) of the Act, and implementing regulations codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed any of the following acts with regard to any endangered wildlife: (1) import into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect) within the United States, within the territorial sea of the United States, or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign commerce. This protective regulation includes all of these prohibitions because the razorback sucker is at risk of extinction within the foreseeable future and putting these prohibitions in place will help to prevent further declines, preserve the species’ remaining populations, slow its rate of decline, and decrease synergistic, negative effects from other ongoing or future threats.

In particular, this 4(d) rule will provide for the conservation of the razorback sucker by prohibiting the following activities, unless they fall within specific exceptions or are otherwise authorized or permitted: importing or exporting; take; possession and other acts with unlawfully taken specimens; delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; or selling or offering for sale in interstate or foreign commerce.

Under the Act, “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or

to attempt to engage in any such conduct. Some of these provisions have been further defined in regulation at 50 CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. Regulating take will help preserve the species' remaining populations, slow their rate of decline, and decrease cumulative effects from other ongoing or future threats. Therefore, we are prohibiting take of the razorback sucker, except for take resulting from those actions and activities specifically excepted by the 4(d) rule.

Exceptions to the prohibition on take include all of the exceptions to the prohibition on take of endangered wildlife, as set forth in 50 CFR 17.21 and additional exceptions, as described below.

The 4(d) rule will also provide for the conservation of the species by allowing exceptions that incentivize conservation actions or that, while they may have some minimal level of take of the razorback sucker, are not expected to rise to the level that would have a negative impact (*i.e.*, would have only de minimis impacts) on the species' conservation. The exceptions to these prohibitions include:

- Take resulting from population restoration efforts including captive-breeding, stocking, and reintroduction of individuals;
- Take resulting from display of razorback sucker for educational purposes;
- Take resulting from creating and managing nursery habitat for razorback sucker;
- Take resulting from the removal or suppression of nonnative fish species;
- Take resulting from catch-and-release angling activities associated with razorback sucker in accordance with all applicable laws, including incidental take from nontargeted angling in critical habitat and take from targeted angling for razorback sucker in any newly established areas; and
- Take associated with chemical treatments in support of the recovery of razorback sucker.

These exceptions are expected to have negligible impacts to the razorback sucker and its habitat and are described in more detail below.

Captive-Breeding, Reintroduction, and Stocking

Robust hatchery and reestablishment programs have been developed as a result of catastrophic historical declines in wild populations and are essential management tools used by agencies across the Colorado River basin. Population restoration efforts provide

the flexibility to perform supplemental stocking into existing populations or reintroduction of individuals to extirpated areas. Stocking hatchery-reared razorback sucker and reintroducing wild-spawned larvae as adults too large for predation are important management actions supporting the managed viability of the species. Introducing individuals into new areas can provide increased redundancy and decreased risk to catastrophic events by expanding the range of the species. Introducing individuals into wild populations can increase resiliency of extant populations by potentially offsetting population declines or increasing genetic diversity. Currently, the genetic diversity of razorback sucker exists in captive broodstock and wild-spawned larvae in Lake Mohave. Broodstock are maintained at multiple locations across the upper and lower basin.

The process of establishing or supplementing broodstock or enhancing populations by reintroducing wild-collected larvae as adults can require take in the form of collection of wild individuals of various life stages. Furthermore, the long-term care and maintenance of broodstock or hatchery stock can result in take, including take related to disease, parasites, genetic assessment, and management of captive populations, and natural mortality of individuals existing in broodstock or refuge populations. The process of culturing and stocking individuals can also result in take via hatchery methods or incidental mortality of stocked individuals.

This 4(d) rule describes captive-breeding, stocking, and reintroduction of razorback sucker excepted from take as any activity undertaken to expand the range of razorback sucker or to supplement existing wild populations. Under this 4(d) rule, take resulting from captive-breeding, stocking, and reintroduction for razorback sucker by qualified personnel will not be prohibited as long as reasonable care is practiced to minimize the effects of such taking. Qualified personnel are full-time fish biologists or aquatic resources managers employed by any of the Colorado River Basin State or Tribal wildlife agencies, the Department of the Interior bureau offices located within the Colorado River basin, or fish biologists or aquatic resource managers employed by a private consulting firm. Reasonable care should include, but is not limited to: (1) Ensuring that the number of individuals removed minimally impacts extant wild populations; (2) acting in accordance with the Service's Policy Regarding

Controlled Propagation of Species Listed Under the Endangered Species Act (65 FR 56916, September 20, 2000) and all Federal, State, and Tribal laws and regulations; (3) implementing methods that result in the least harm, injury, or death to razorback sucker as feasible; (4) preserving specific genetic groupings of razorback sucker as defined by the best available science to maintain the genetic diversity of the species; and (5) ensuring no detrimental impacts to existing razorback sucker populations from disease, parasites, or genetic drift. Any stocking of razorback sucker must be approved by the Service.

Exhibitions of Captive-Bred Razorback Sucker

Live fish exhibits provide a unique opportunity for the public to see and interact with rare native species. Exhibits are currently distributed throughout the basin in educational classrooms and public buildings holding hatchery-propagated fish. In cooperation with the Service, an educational message shall be presented with each animal and shall include the following minimal information: Common and scientific names, historical and current distribution, Endangered Species Act listing status, and a brief history of recovery. The long-term care and maintenance of live individuals in exhibits can result in take, including take related to disease, parasites, and natural mortality of individuals existing in captivity. Wild-caught razorback sucker are not permitted to be used for this purpose. Fish used in exhibitions may not be released into natural waterways without written permission from the Service defining time, location, and procedures to be used during release. Any releases must be in compliance with all Federal, State, and Tribal laws and regulations. Reasonable care must be taken to reduce take including, but not limited to: (1) Holding razorback sucker in aquaria of appropriate size for the life stage on exhibit (no less than 10 gallons (37.8 L)); and (2) providing routine care by individuals trained and knowledgeable in fish and aquarium care and the management of parasites and disease.

Creation and Management of Nursery Habitat

Floodplain wetlands and other habitats support growth of larval and juvenile razorback sucker (see *Summary of Biological Status and Threats*, above). Successful floodplain management for razorback sucker can require: (a) Flow management that provides floodplain connection when larval razorback sucker are present in the system; (b)

floodplains that are retrofitted with water control structures that restrict entry of large-bodied fish and allow managers to fill and drain the habitat at the beginning and end of the growing season, respectively; (c) supplemental water to freshen floodplain water quality through the summer; and (d) periodic monitoring of fish communities in the wetland to determine species composition. Take of razorback sucker can occur when the floodplains are drained and razorback sucker are inadvertently left in the floodplain or when water quality or other physical habitat conditions become insufficient to support the species. Incidental take may also occur when individuals of the species are handled, either during population sampling or draining of the wetland.

Currently, management of floodplain wetlands occurs at multiple locations in the Green River basin and in one location along the Colorado River, near Moab, Utah. Creation of floodplain habitat is in development in the San Juan River basin. In the lower basin, razorback sucker are common in off-channel pond habitat. Both the floodplain and pond habitats are constructed and managed to keep large-bodied nonnative predators out. New construction designs or management techniques, as available and feasible, may also need to be implemented in the future.

This 4(d) rule describes creation and management of nursery habitat excepted from take prohibitions as any action with the primary or secondary purpose of enhancing or providing nursery habitat for razorback sucker, and that is approved in writing by the Service for that purpose.

Under this 4(d) rule, take resulting from actions to create or manage nursery habitats to benefit razorback sucker by qualified personnel will not be prohibited as long as reasonable care is practiced to minimize the effects of such taking. Reasonable care may include, but is not limited to: (1) Performance of management treatments at times and locations that reduce the impacts to razorback sucker; (2) compliance with all Federal, State, and Tribal regulations for construction in wetland habitats; (3) attention to water quality conditions while razorback sucker are thought to be present; and (4) performance of robust salvage efforts to remove any razorback sucker before draining occurs. Whenever possible, razorback sucker that are salvaged should be moved to a location that supports recovery of the species.

Nonnative Fish Removal

Control of nonnative fishes is vital for the continued recovery of razorback sucker because predatory, nonnative fishes are a principal threat to razorback sucker (see *Summary of Biological Status and Threats*, above). The goal of removing nonnative fishes is to reduce predation and competition pressure on razorback sucker to such a level that it results in increasing razorback sucker survival, recruitment, and access to resources. During the course of removing nonnative fishes, take of razorback sucker may occur from incidental captures, resulting in handling, injury, or possible mortality. However, nonnative removal activities in razorback sucker habitats are designed to be selective, allowing for the removal of predatory, nonnative fish while razorback sucker are returned safely to the river. Therefore, if nonnative fish removal is performed under deliberate, well-designed programs, the benefits to razorback sucker can greatly outweigh losses.

Currently, active nonnative fish removal is widespread in the upper basin but is less common in the lower basin. Control of nonnative fishes is conducted by qualified personnel in the upper basin via mechanical removal using boat-mounted electrofishing, nets, and seines, primarily focusing on removal of smallmouth bass, northern pike, and walleye. Removal of nonnative fishes in the upper basin is performed under strict standardized protocols to limit impacts to razorback sucker. In the lower basin, nonnative fish actions primarily focus on preventing establishment of new species (such as removal of green sunfish below Glen Canyon Dam) and controlling populations of trout in tributary habitats (such as removal of brown trout in Bright Angel Creek). New techniques, as available and feasible, may also need to be implemented in the future.

This 4(d) rule describes nonnative fish removal excepted from take prohibitions as any action with the primary or secondary purpose of mechanically removing nonnative fishes that compete with, predate, or degrade the habitat of razorback sucker and that is approved in writing by the Service for that purpose. These methods include mechanical removal within occupied razorback sucker habitats, including, but not limited to, electrofishing, seining, netting, and angling, or other ecosystem modifications such as altered flow regimes or habitat modifications. All methods must be conducted by qualified personnel and equipment used

in compliance with applicable Federal, State, and Tribal regulations.

Under this 4(d) rule, incidental take resulting from actions implementing nonnative fish control activities to benefit razorback sucker will not be prohibited as long as reasonable care is practiced to minimize the effects of such taking. Reasonable care may include, but is not limited to: (1) Performing removal actions at times and locations that reduce the impacts to razorback sucker; (2) complying with all applicable regulations and following principles of responsible removal; and (3) judiciously using methods and tools to reduce the likelihood that razorback sucker are captured, injured, or die in the removal process. Whenever possible, razorback sucker that are caught alive as part of nonnative fish removal should be returned to their capture location as quickly as possible.

Catch-and-Release Angling of Razorback Sucker

Recreational angling is an important consideration for management of all fisheries, as recreational angling provides many indirect conservation benefits, such as anglers funding and volunteering for conservation efforts (Cook et al. 2016, entire). While the razorback sucker is not currently a species that is prized for its recreational or commercial value, the species is a large-bodied, catchable-sized fish that could offer potential recreational value in certain situations. Conservation value from public support for razorback sucker could arise through newly established fishing locations and public engagement with this species. Furthermore, anglers target species that co-occur with razorback sucker at some locations. As a result, otherwise legal angling activity in razorback sucker habitats could result in the unintentional catch of razorback sucker by the angling public. Catch-and-release angling, both intentional and incidental, can result in take of razorback sucker through handling, injury, and potential mortality. However, the conservation support that angling provides can outweigh losses to razorback sucker if the angling program is designed appropriately.

Currently, State angling regulations require the release of all incidental catches of razorback sucker and do not allow anglers to target the species. Based on current angling regulations for razorback sucker, the States of Arizona, California, Colorado, New Mexico, Nevada, and Utah have demonstrated a willingness to enact appropriate regulations for the protection of the razorback sucker. It is important to

continue to protect razorback sucker from intentional angling pressure in critical habitat to support recovery of the species. Supporting recreational fishing access to these areas for species other than razorback sucker is an important economic consideration for State and Tribal entities. This 4(d) rule will allow take of razorback sucker from angling activities that are in accordance with State and Tribal fishing regulations in razorback sucker critical habitat, but that do not target razorback sucker. That is, take associated with incidental catch-and-release of razorback sucker in the core populations will not be prohibited. Reasonable consideration by the States and Tribes for incidental catch of razorback sucker in critical habitat includes, but is not limited to: (1) Regulating tactics to minimize potential injury and death to razorback sucker if caught; (2) communicating the potential for catching razorback sucker in these areas; and (3) promoting the importance of the populations across the Colorado River basin.

Outside of critical habitat, we foresee that Federal, State, or Tribal governments may want to establish new recovery locations where razorback sucker could be targeted for catch-and-release angling or new locations without recovery value, where the sole purpose is recreational angling for razorback sucker. Newly established locations could offer a genetic refuge for core populations of razorback sucker, provide a stocking location for hatchery-reared fish (see *Captive-Breeding, Stocking, and Reintroduction*, above), and offer the public a chance to interact with the species in the wild. Therefore, this 4(d) rule will allow take of razorback sucker from catch-and-release angling activities that target razorback sucker and are in accordance with State and Tribal fishing regulations in new areas outside of critical habitat.

Sport fishing for razorback sucker will be allowed only through the 4(d) rule and subsequent State or Tribal regulations. This rule will allow recreational catch-and-release fishing of razorback sucker in new, specified waters outside of critical habitat. Management as a recreational species will be conducted after completion of, and consistent with the goals within, a revised recovery plan for the species. The principal effect of this 4(d) rule is to allow take in accordance with fishing regulations enacted by States or Tribes.

Recreational opportunities may be developed by the States and Tribes in new waters following careful consideration of the locations and impacts to the species. Reasonable consideration for establishing new

recreational locations for razorback sucker includes, but is not limited to: (1) Carefully evaluating each water body and determining whether the water body can sustain angling; (2) ensuring the population does not detrimentally impact populations of razorback sucker through such factors as disease or genetic drift; (3) ensuring adequate availability of razorback sucker to support angling; and (4) monitoring to ensure there are no detrimental effects to the population from angling. If monitoring indicates that angling has a negative effect on the conservation of razorback sucker in the opinion of the Service, the fishing regulations must be amended or the fishery could be closed.

Chemical Treatments Supporting Razorback Sucker

Chemical treatments of water bodies are an important fisheries management tool because they are the principal method used to remove all fishes from a defined area. That is, chemical treatments provide more certainty of complete removal than other methods, such as mechanical removal. Therefore, chemical treatments are used for a variety of restoration and conservation purposes, such as preparing areas for stocking efforts, preventing nonnative fishes from colonizing downstream areas, and resetting locations after failed management efforts. Chemical treatments of water bodies could take razorback sucker if individuals reside in the locations that are treated and cannot be salvaged completely prior to treatment. However, the overall benefit of conservation actions implemented using chemical treatment can outweigh the losses of razorback sucker if reasonable care and planning are taken prior to treatments.

Chemical piscicides (chemicals that are poisonous to fish) have been used in the upper and lower basin to remove upstream sources of nonnative fishes in support of razorback sucker. For example, Red Fleet Reservoir (Green River, Utah) was treated by the Utah Division of Wildlife Resources to remove walleye that were escaping downstream, and a slough downstream of Glen Canyon Dam (Colorado River, Arizona) was treated by the National Park Service to remove green sunfish. At Red Fleet Reservoir, chemical treatment also provided the Utah Division of Wildlife Resources with the ability to establish a new fish community that supported angling interests and provided greater compatibility with downstream conservation efforts.

Chemical treatments could support a variety of activities to assist in the conservation of razorback sucker,

including certain other actions described in this 4(d) rule. For example, chemical treatments could be used prior to introducing razorback sucker through stocking. Nonnative fishes can also be removed using chemical treatments, providing faster and more complete removal than mechanical means. Furthermore, chemical treatments offer the ability to fully restore a location after a failed introduction effort. For example, if razorback sucker were stocked into a new area but did not successfully establish, landowners may want to restore this location for another purpose.

Chemical treatments will be allowed under this 4(d) rule with specific requirements described below. Necessary precautions and planning should be applied to avoid impacts to razorback sucker. For example, treatments upstream of occupied razorback sucker habitats should plan for unintended consequences (e.g., dispersal of piscicide beyond treatment boundaries). Chemical treatments that take place in locations where razorback sucker occur, or may occur, must take place only after a robust salvage effort takes place to remove razorback sucker in the area. Any chemical treatment that takes place in an area where razorback sucker may reside will require written approval from the Service, but treatments of unoccupied habitat will not need to be approved. Once the location of a chemical treatment is approved in writing by the Service, the take of razorback sucker by qualified personnel associated with performing a chemical treatment will not be regulated by the Service.

Under this 4(d) rule, take resulting from actions implementing chemical treatments to benefit razorback sucker will not be prohibited as long as reasonable care is practiced to minimize the effects of such taking. Reasonable care includes, but is not limited to: (1) Performance of treatments at times and locations that reduce the impacts to razorback sucker; (2) compliance with all Federal, State, and Tribal regulations for the use of fish toxicants and piscicides; (3) adherence to all protocols to limit the potential for fish toxicants and piscicides travelling beyond treatment boundaries; and (4) performance of robust salvage efforts to remove any razorback sucker in the treatment area. Whenever possible, razorback sucker that are salvaged should be moved to a location that supports recovery of the species.

Reporting and Disposal of Razorback Sucker

Under this 4(d) rule, if razorback sucker are killed during actions described in the 4(d) rule, the Service must be notified of the death and may request to take possession of the animal. Notification should be given to the appropriate Service Regional Law Enforcement Office or associated management office. Information on the offices to contact is set forth under Regulation Promulgation, below. Law enforcement offices must be notified within 72 hours of the death, unless special conditions warrant an extension. The Service may allow additional reasonable time for reporting if access to these offices is limited due to closure or if the activity was conducted in an area without sufficient communication access.

Permits

Despite these prohibitions regarding threatened species, we may under certain circumstances issue permits to carry out one or more otherwise-prohibited activities, including those described above. The regulations that govern permits for threatened wildlife state that the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened species. These include permits issued for the following purposes: for scientific purposes, to enhance propagation or survival, for economic hardship, for zoological exhibition, for educational purposes, for incidental taking, or for special purposes consistent with the purposes of the Act (50 CFR 17.32). The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

This 4(d) rule will not impact existing or future permits issued by the Service for take of razorback sucker. Any person with a valid permit issued by the Service under § 17.22 or § 17.32 may take razorback sucker, subject to all take limitations and other special terms and conditions of the permit.

In addition, to further the conservation of the species, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, a State conservation agency, or a federally recognized Tribe, who is designated by their agency or Tribe for such purposes, may, when acting in the course of their official duties, take threatened wildlife without a permit if such action is necessary to: (i) Aid a sick, injured, or orphaned specimen; or (ii) dispose of a dead specimen; or (iii) salvage a dead

specimen that may be useful for scientific study; or (iv) remove specimens that constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner. The taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in an appropriate area.

We recognize the special and unique relationship that we have with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist us in implementing all aspects of the Act. In this regard, section 6 of the Act provides that we must cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with us in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, will be able to conduct activities designed to conserve the razorback sucker that may result in otherwise prohibited take without additional authorization.

Required Determinations

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

Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; title II of Pub. L. 104–121, March 29, 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying the rule will not have a significant economic impact on a substantial number of small entities.

While we do not conduct RFA analyses on our classification determinations under the Act, in accordance with recent caselaw (*Kansas*) we comply with RFA through consideration of conservation and economic impacts when promulgating 4(d) rules. Under the RFA, as amended, and as understood in light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities.

Some of the actions regulated by the proposed 4(d) rule are likely to involve Federal action agencies. 4(d) rules do not alter any obligations for Federal agencies under section 7 of the Act. Federal agencies, in consultation with the Service, are required to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirements. Consequently, it is our position that only Federal action agencies would be directly regulated during section 7 consultations (regardless of what is prohibited in 4(d) rules). The RFA does not require evaluation of the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities.

During the development of this final rule, we reviewed and evaluated all information submitted during the comment period on the proposed rule (86 FR 35708; July 7, 2021) that may pertain to our consideration of the probable impacts of the 4(d) rule. As discussed above, there are no new regulatory requirements due to reduced costs associated with the 4(d) rule. The razorback sucker is currently an endangered species and all section wildlife 9(a)(1) prohibitions currently apply with limited exceptions. The 4(d) rule provides increased flexibilities in management and reduced permitting requirements for the razorback sucker. Please see our April 21, 2026, “Consideration of Economic Impacts for the 4(d) Rule for the Razorback Sucker” on <https://www.regulations.gov> for our consideration of economic impacts. We have examined this final rule’s potential effects on small entities as required by the RFA, and based on our current information, we certify that this action will not have a significant economic impact on a substantial number of small entities.

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

Regulations adopted pursuant to section 4(a) of the Act are exempt from the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and do not require an environmental analysis under NEPA. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations and species-specific protective regulations promulgated concurrently with a decision to list or reclassify a species as threatened. The courts have upheld this position (*e.g.*, *Douglas Cnty. v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995) (critical habitat); *Ctr. for Biological Diversity v. U.S. Fish and Wildlife Serv.*, 2005 WL 2000928 (N.D. Cal. Aug. 19, 2005) (concurrent 4(d) rule)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951, May 4, 1994), E.O. 13175 (Consultation and

Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. In accordance with Secretaries' Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

In developing this rulemaking action, we coordinated with Tribes in the range of the razorback sucker and requested their input on the proposed rule. The South Ute Indian Tribe provided a letter of support for downlisting with a 4(d) rule.

References Cited

A complete list of references cited in this rulemaking is available on the internet at <https://www.regulations.gov> and upon request from the Upper Colorado River Endangered Fish

Recovery Program Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by revising the entry for “Sucker, razorback” in alphabetical order under FISHES to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
FISHES				
*	*	*	*	*
Sucker, razorback	<i>Xyrauchen texanus</i>	Wherever found	T	56 FR 54957, 10/23/1991; 89 FR [IN-SERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS], 7/17/2026; 50 CFR 17.44(gg); ^{4d} 50 CFR 17.95(e). ^{CH}
*	*	*	*	*

■ 3. Amend § 17.44 by adding paragraph (gg) to read as follows:

§ 17.44 Species-specific rules—fishes.

* * * * *

(gg) Razorback sucker (*Xyrauchen texanus*).

(1) *Prohibitions.* The following prohibitions that apply to endangered wildlife also apply to the razorback sucker. Except as provided under paragraphs (gg)(2) and (3) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife.

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(iv) Interstate or foreign commerce in the course of commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *Exceptions from prohibitions.* In regard to this species, you may:

(i) Conduct activities as authorized by a permit under § 17.32.

(ii) Conduct activities as authorized by a permit issued prior to August 17, 2026 under § 17.22 for the duration of the permit.

(iii) Take, as set forth at § 17.21(c)(2) through (c)(4) for endangered wildlife.

(iv) Take, as set forth at § 17.31(b).

(v) Possess and engage in other acts with unlawfully taken wildlife, as set forth at § 17.21(d)(2) for endangered wildlife.

(3) *Exceptions from prohibitions for specific types of take.* You may take razorback sucker while carrying out the following legally conducted activities in accordance with this paragraph:

(i) *Definitions.* For the purposes of this paragraph (gg)(3):

(A) *Person* means a person as defined by section 3(13) of the Act.

(B) *Qualified person* means a full-time fish biologist or aquatic resources manager employed by any of the Colorado River Basin State or Tribal wildlife agencies or the Department of the Interior bureau offices located within the Colorado River basin, or a fish biologist or aquatic resource manager employed by a private consulting firm, provided the firm has received a scientific collecting permit from the appropriate State or Tribal agency.

(C) *Reasonable care* means limiting the impacts to razorback sucker individuals and populations by complying with all applicable Federal, State, and Tribal regulations for the activity in question; using methods and techniques that result in the least harm, injury, or death, as feasible; undertaking activities at the least impactful times and locations, as feasible; salvaging individuals from treatment areas, as feasible, and returning them to a location that supports recovery of the species; ensuring the number of individuals removed or sampled minimally impacts existing extant wild populations; ensuring no disease or parasites are introduced into existing extant wild populations; and preserving the genetic diversity of extant wild populations.

(ii) *Captive-breeding, reintroduction, and stocking.* A qualified person may take razorback sucker while engaging in captive-propagation, stocking, or reintroduction, provided that reasonable care is practiced to minimize the effects of that taking. All captive-breeding shall be conducted by a qualified person in accordance with Service policies pertaining to the propagation of listed species and all Federal, State, and Tribal laws and regulations. Methods of allowable take include, but are not limited to, removing wild individuals via electrofishing, nets, and seines from the six core populations; managing captive populations, including handling, rearing, and spawning of captive fish; and sacrificing individuals for hatchery management, such as parasite and disease certification.

(iii) *Exhibitions of captive-bred razorback sucker in aquaria for educational purposes.* A person may exhibit live, captive-bred razorback sucker in aquaria for educational purposes. Allowable take includes, but is not limited to, incidental take associated with the care and display of captive-bred razorback sucker in aquaria for educational purposes.

(A) An educational message shall be presented with each animal and shall

include the following minimal information: Common and scientific names, historical and current distribution, Endangered Species Act listing status as threatened, and a brief history of recovery.

(B) All exhibitions must be provided routine care and be housed in aquaria of 10 gallons (38 liters) or more.

(C) Captive-bred razorback sucker used in exhibitions may not be released into natural waterways without written permission from the Service, which will define time, location, and procedures to be used during release. Any releases of captive-bred razorback sucker used for educational purposes must be in compliance with all Federal, State, and Tribal laws and regulations.

(iv) *Creation and management of nursery habitats.* A qualified person may take razorback sucker to create or manage nursery habitats to support the growth of larval and juvenile razorback sucker, provided that reasonable care is practiced to minimize the effects of that taking. The Service must approve, in advance and in writing, the development of any nursery habitat with the primary or secondary purpose of conserving razorback sucker. Methods of allowable take include, but are not limited to, draining or drying an occupied floodplain wetland to remove fish or perform habitat maintenance; construction activities to improve or maintain the wetland; and habitat management activities to alter vegetation including but not limited to mechanical, chemical, and burning treatments.

(v) *Nonnative fish removal.* A qualified person may take razorback sucker in order to perform nonnative fish removal for conservation purposes if reasonable care is practiced to minimize effects to razorback sucker. Nonnative fish removal for conservation purposes means any action with the primary or secondary purpose of mechanically removing nonnative fishes that compete with, predate, or degrade the habitat of razorback sucker. The Service and all applicable landowners must approve, in advance and in writing, any nonnative fish removal activities. Methods of allowable take include but are not limited to mechanical removal of nonnative fish within occupied razorback sucker habitats, including but not limited to electrofishing, seining, netting, and angling and the use of other ecosystem modifications, such as altered flow regimes or habitat modifications, for the purpose of managing nonnative species populations that may impact razorback sucker populations.

(vi) *Catch-and-release angling of razorback sucker.* States and Tribes may enact Federal, State, and Tribal fishing regulations that address catch-and-release angling. In federally designated critical habitat for the razorback sucker, angling activities may include nontargeted (incidental) catch and release of razorback sucker when targeting other species in accordance with Federal, State, and Tribal fishing regulations. In areas outside of federally designated critical habitat for the razorback sucker, angling activities may include targeted catch and release of razorback sucker in accordance with Federal, State, and Tribal fishing regulations.

(A) Angling activities for razorback sucker may cause take via handling, injury, and unintentional death of razorback sucker that are caught via angling.

(B) Reasonable care required by the Federal, State, and Tribal agencies for incidental catch and release of razorback sucker in critical habitat includes, but is not limited to, communicating the potential for catching razorback sucker in these areas and regulating tactics to minimize potential injury and death to razorback sucker if caught.

(C) Reasonable care required for establishing new recreational angling locations for razorback sucker includes, but is not limited to, evaluating each water body's ability to support razorback sucker and sustain angling; ensuring the recreational fishing population does not detrimentally impact populations of razorback sucker through such factors as disease or genetic drift; and monitoring to ensure there are no detrimental effects to the razorback sucker population from angling.

(D) The Service and all applicable State, Federal, and Tribal landowners must approve, in advance and in writing, any new recreational fishery for razorback sucker.

(vii) *Chemical treatments to support razorback sucker.* A qualified person may take razorback sucker by performing a chemical treatment in accordance with Federal, State, and Tribal regulations that would support the conservation and recovery of razorback sucker, provided that reasonable care is practiced to minimize the effects of such taking. For treatments outside of occupied razorback sucker habitat, Service approval is not required, and care should be taken to limit the potential for fish toxicants and piscicides traveling beyond treatment boundaries and impacting razorback sucker. For treatments in known or

potentially occupied razorback sucker habitat, the Service must approve any treatment, in advance and in writing.

(viii) *Reporting and disposal requirements.* Any mortality of razorback sucker associated with the actions authorized under the provisions of this paragraph (gg) must be reported to the Service within 72 hours, and specimens may be disposed of only in accordance with directions from the Service. Reports in the upper basin

(upstream of Glen Canyon Dam) must be made to the Service’s Mountain-Prairie Region Law Enforcement Office, or the Service’s Upper Colorado River Endangered Fish Recovery Office. Reports in the lower basin (downstream of Glen Canyon Dam) must be made to the Service’s Southwest Region Law Enforcement Office, or the Service’s Arizona Fish and Wildlife Conservation Office. Contact information for the Service’s regional offices is set forth at

50 CFR 2.2. The Service may allow additional reasonable time for reporting if access to these offices is limited due to office closure or if the activity was conducted in an area without sufficient communication access.

* * * * *

Brian R. Nesvik,
Director, U.S. Fish and Wildlife Service.
[FR Doc. 2026–14492 Filed 7–16–26; 8:45 am]
BILLING CODE 4333–15–P

Proposed Rules

Federal Register

Vol. 91, No. 136

Friday, July 17, 2026

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2026-8054; Airspace
Docket No. 26-AGL-15]

RIN 2120-AA66

Establishment of Class E Airspace; Peoria, IL

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM).

SUMMARY: This action proposes to establish Class E airspace at OSF St Francis Medical Center Heliport, Peoria, IL. The FAA is proposing this action to support new instrument procedures and instrument flight rule (IFR) operations.

DATES: Comments must be received on or before August 31, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2026-8054 and Airspace Docket No. 26-AGL-15 using any of the following methods:

* *Federal eRulemaking Portal:* Go to www.regulations.gov and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W58-213, West Building, 5th Floor, Washington, DC 20590-0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W58-213 of the West Building, 5th Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W58-213 of the

West Building, 5th Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Raul Garza Jr, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, OH 76177; telephone (817) 222-5874.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace extending upward from 700 feet above the surface at OSF St Francis Medical Center Heliport, Peoria, IL, to support IFR operations at this airport.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed

electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov as described in the system of records notice (DOT/ALL-14FDMS), which can be reviewed at www.dot.gov/privacy.

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at www.regulations.gov. Recently published rulemaking documents can also be accessed through the FAA's web page at www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operation). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Class E airspace is published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These updates would be

published subsequently in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 that would establish Class E airspace extending upward from 700 feet above the surface within a 6.6-mile radius of OSF St Francis Medical Center Heliport, Peoria, IL.

This action is the result of instrument procedures being developed for this airport to support IFR operations.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Order 2100.6B, “Policies and Procedures for Rulemakings” (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting for operators choosing to navigate around the controlled airspace. Since these proposed amendments are routine and the expected impact to operators is de minimis, the FAA certifies that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1G, “FAA National Environmental Policy Act Implementing Procedures” prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL IL E5 Peoria, IL [Establish]

OSF St Francis Medical Center Heliport, IL
(Lat 40°42'10" N, long 89°35'32" W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of OSF St Francis Medical Center Heliport.

* * * * *

Issued in Fort Worth, Texas, on July 15, 2026.

Jerry J. Creecy,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2026–14471 Filed 7–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2024–0186;
FXES1111090FEDR–267–FF09E21000]

RIN 1018–BI14

Endangered and Threatened Wildlife and Plants; Grizzly Bear Listing on the List of Endangered and Threatened Wildlife With a Revised Section 4(d) Rule; Proposed Revision of the Protective Regulations Under Section 4(d)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental notice of proposed rulemaking; revised proposed protective regulations under section 4(d); reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or FWS), notify the public that we are making changes to our January 15, 2025,

proposed rule to revise the protective regulations for the grizzly bear (*Ursus arctos horribilis*) in the lower-48 States under section 4(d) of the Endangered Species Act of 1973, as amended (Act or ESA). We are reopening the comment period because we are proposing substantive changes to the protective regulations in the January 15, 2025, proposed rule. Comments previously submitted will be considered and do not need to be resubmitted now. However, we invite comments on the new information presented in this announcement relevant to the changes to the proposed protective regulations, as described below. We encourage those who have commented previously to submit additional comments, if appropriate, considering this new information relative to the protective regulations for the grizzly bear. At this time, we are not proposing any revisions to, nor asking for additional comments on, any other components of our January 15, 2025, proposed rule for the grizzly bear, including the proposed grizzly bear distinct population segment (DPS). In addition, we are providing notice that we are considering issuing separate final rules for our final determinations on the revision to the grizzly bear listing and the revision to the 4(d) rule.

DATES:

Written comments: We will accept comments received or postmarked on or before August 17, 2026. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date.

Information Collection Requirements:

If you wish to comment on the information collection requirements in this rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after the date of publication of this rule in the **Federal Register**. Therefore, comments should be submitted to the Service by September 15, 2026.

ADDRESSES:

Comment submission: You may submit comments by one of the following methods:

(1) **Electronically:** Go to the Federal eRulemaking Portal:

<https://www.regulations.gov>. In the Search box, enter FWS–R6–ES–2024–0186, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading,

check the Proposed Rule box to locate this document. You may submit a comment by clicking on "Comment."

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R6-ES-2024-0186, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: Supporting materials, such as the species status assessment report, are available at <https://www.fws.gov/species/grizzly-bear-ursus-arctos-horribilis> or at <https://www.regulations.gov> at Docket No. FWS-R6-ES-2024-0186.

Information Collection Requirements: Written comments and suggestions on the information collection requirements should be submitted within 60 days of publication of this document to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041-3803 (mail); or Info_Coll@fws.gov (email). Please reference RIN 1018-B114 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Hilary Cooley, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, 406-243-4903, hilary_cooley@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. Please see Docket No. FWS-R6-ES-2024-0186 on <https://www.regulations.gov> for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this

proposed rule. We particularly seek comments concerning:

(1) Information to assist us with applying or issuing protective regulations under section 4(d) of the Endangered Species Act of 1973, as amended (Act or ESA) that may be necessary and advisable to provide for the conservation of the grizzly bear in the lower-48 States. In particular, we seek information concerning:

(a) Whether we should remove, add, or clarify any of the section 9 prohibitions in the proposed 4(d) rule;

(b) Whether we should remove, add, or clarify any of the exceptions from the prohibitions in the proposed 4(d) rule associated with either conservation benefit or de minimis take, and specifically, whether or how we address incidental take associated with otherwise lawful activities, including limits on liability for entities regulating those activities;

(c) Whether we should modify the structure and requirements for management tiers; and

(d) Impacts (conservation and economic) associated with implementing the 4(d) rule;

(e) How frequently and in what geographical areas are activities that we propose to continue to regulate under the proposed 4(d) rule (e.g., sale, "take") currently occurring;

(f) Whether there are other laws currently in place beyond what we describe in the economic considerations document that regulate the activities or "take" prohibited in the proposed 4(d) rule;

(g) Any new entities likely to request section 10(a)(1)(A) permits for conducting activities that would involve "take" that we propose to continue to prohibit such as capture or handling of the grizzly bear in the lower-48 States;

(h) Data available on the time and economic costs of obtaining section 10(a)(1)(A) permits in accordance with 50 CFR 17.32 for these activities compared to existing costs associated with permits under 50 CFR 17.22;

(i) Any new entities likely to develop habitat conservation plans and request section 10(a)(1)(B) permits for conducting activities that would involve incidental "take" of the grizzly bear in the lower-48 States that we propose to continue to prohibit;

(j) Data available on the time and economic costs of obtaining section 10(a)(1)(B) permits in accordance with 50 CFR 17.32 compared to existing costs associated with permits under 50 CFR 17.22 for these activities;

(k) Any other entities not addressed in this proposed rule that may be affected by the 4(d) rule;

(l) Any information about effects to States, on the relationship between the Federal Government and the States, or on the distribution of powers and responsibilities among the various levels of government; and

(m) Comments and suggestions regarding additional guidance and methods that we could provide or use, respectively, to streamline the implementation of this proposed 4(d) rule.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a change from the proposed rule. Section 4(d) of the Act directs the Service to issue regulations necessary and advisable for the conservation of threatened species. You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request you send comments only by the methods described in **ADDRESSES**.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <https://www.regulations.gov>.

Our final regulation may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. Based on the new information we receive (and, if relevant, any comments on that new information), we may change the parameters of the prohibitions or the exceptions to those prohibitions in the protective regulations issued under section 4(d) of the Act. For example, we may expand the prohibitions if we conclude the protective regulation as a whole, including those additional prohibitions, is necessary and advisable to provide for the conservation of the

species. Conversely, we may establish additional or different exceptions to the prohibitions in the final rule if we conclude the activities would facilitate or are compatible with the conservation and recovery of the species. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

Previous Federal Actions

Please see our January 15, 2025 (90 FR 4234), proposed rule for a full summary of our previous Federal actions for the grizzly bear. Our January 15, 2025 (90 FR 4234), proposed rule would revise the listing of the grizzly bear by defining the boundaries of the contiguous U.S. grizzly bear distinct population segment (DPS) with revised protective regulations for the grizzly bear issued under section 4(d) of the Act. That proposal had a 60-day comment period, ending March 17, 2025, which we extended for an additional 60 days (90 FR 12286, March 17, 2025). The extended comment period ended on May 17, 2025. We are now reopening the public comment period for an additional 30 days to give all interested parties an opportunity to comment on our revised proposal for the protective regulations issued under section 4(d) of the Act for the grizzly bear in the lower-48 States, and to notify the public that we are considering issuing separate final rules for our final determinations on the revision to the grizzly bear listing and the revision to the 4(d) rule.

Background

Section 9 of the Act provides a specific list of prohibitions for endangered species but does not provide these same prohibitions for threatened species. Instead, pursuant to section 4(d) of the Act, for any species listed as a threatened species, the Secretary must issue protective regulations that are “necessary and advisable to provide for the conservation of such species” (these are referred to as “4(d) rules”). Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as they deem necessary and advisable to provide for the conservation of species listed as threatened species. “Conservation” is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of

the Act states the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. With these two sentences in section 4(d), Congress delegated broad authority to the Secretary to determine what protections would be necessary and advisable to provide for the conservation of threatened species, and even broader authority to put in place any of the section 9 prohibitions for a given species.

Courts have recognized the extent of the Secretary’s discretion under section 4(d) to develop regulations that are appropriate for the conservation of threatened species. For example, courts have upheld, as a valid exercise of agency authority, rules developed under section 4(d) that included limited prohibitions against takings (see *Alsea Valley Alliance v. Lautenbacher*, 2007 WL 2344927 (D. Or. 2007); *Washington Environmental Council v. National Marine Fisheries Service*, 2002 WL 511479 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana v. Verity*, 853 F.2d 322 (5th Cir. 1988)). As noted in the Act’s legislative history, “once an animal is on the threatened list, the Secretary has an almost infinite number of options available to [them] with regard to the permitted activities for those species. [They] may, for example, permit taking, but not importation of such species, or [they] may choose to forbid both taking and importation but allow the transportation of such species” (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Under our section 4(d) authorities, we put in place protections intended to both prevent a threatened species from becoming an endangered species and to promote its recovery. Section 4(d) rules explain what is prohibited for a threatened species, thus making the activity unlawful without a permit or authorization under the Act for the prohibited activity unless otherwise excepted in the 4(d) rule (species-specific 4(d) rules may also include affirmative requirements). Section 4(d) rules are therefore directly related to what actions may require permits in the future. Permits may be issued for purposes described in our threatened species permitting regulations in title 50 of the Code of Federal Regulations (CFR; 50 CFR 17.32), including for recovery actions, conservation benefit agreements (previously referred to as candidate conservation agreements with assurances and safe harbor agreements), or habitat conservation plans. We may

also except otherwise prohibited activities through a 4(d) rule itself, in which case threatened species permits will not be required for those activities. For example, there are two categories of exceptions we frequently include in 4(d) rules, and these are for otherwise prohibited acts or forms or amounts of “take” that are: (1) unavoidable while conducting beneficial actions for the species, or (2) considered inconsequential (*de minimis*) to the conservation of the species. For otherwise prohibited take or activities that require permits under section 10 of the Act, programmatic approaches—such as general conservation plans and template habitat conservation plans—may be available as another way for project proponents to comply with prohibitions or requirements applicable to one or more species while reducing the time that would otherwise be associated with developing individual permit applications. In addition, the Service and project proponents can reduce the need for such permits by developing standardized conservation measures that avoid the risk of “take.”

The grizzly bear (*Ursus arctos horribilis*) currently has a species-specific protective regulation at 50 CFR 17.40(b), which we are proposing to amend. The provisions of this species’ proposed protective regulation under section 4(d) of the Act are one of many tools we will use to promote the conservation of the grizzly bear in the lower-48 States. The grizzly bear also has two designated experimental populations. An experimental population is a population of a listed species that has been specifically designated under section 10(j) of the Act for release into habitat capable of supporting the species outside of its current range. While the two experimental populations will further the conservation of the species, both have been found to be not essential to the continued existence of the species, or nonessential. These designations include population-specific protective regulations under section 10(j) of the Act for two nonessential experimental populations (NEPs), the North Cascades and Bitterroot, that are not affected by this proposed rule. Any changes to NEP population status or their specific regulations would require separate rulemaking processes with opportunities for public review and comment (see *Interaction of the 4(d) Rule with 10(j) Regulations*).

The proposed protective regulations will apply only if and when we finalize this proposed 4(d) rule. Nothing in 4(d) rules change in any way the recovery planning provisions of section 4(f) of the

Act, the consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of the grizzly bear. Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. These requirements are the same for a threatened species regardless of what is included in its 4(d) rule. A 4(d) rule does not alter section 7 obligations, including the criteria for informal and formal consultations or the analytical process used for biological opinions or concurrence letters. Section 7 consultation is required for Federal actions that “may affect” a listed species regardless of whether take caused by the activity is prohibited or excepted by a 4(d) rule. For example, as with an endangered species, if a Federal agency determines an action is “not likely to adversely affect” a threatened species, this will require the Service’s written concurrence (50 CFR 402.13(c)). Similarly, if a Federal agency determines an action is “likely to adversely affect” a threatened species, the action will require formal consultation with the Service and the formulation of a biological opinion (50 CFR 402.14(a)), regardless of whether the action will result in “take” of the threatened species.

At the end of a formal consultation, the Service issues a biological opinion, containing its determination as to whether the Federal action is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat (a “jeopardy” biological opinion) (50 CFR 402.14(h)).

If the Service determines in its biological opinion the action is likely to jeopardize listed species or destroy or adversely modify critical habitat, it shall include reasonable and prudent alternatives, if any exist, it believes would avoid the likelihood of jeopardy or destruction or adverse modification (50 CFR 402.14(h)). In accordance with 50 CFR 402.14(i), when there is a “no jeopardy” biological opinion but “take” of a listed species is reasonably certain to occur, the Service is required to issue an incidental take statement that specifies those reasonable and prudent measures (RPMs) the Service considers necessary or appropriate to minimize the impact of the incidental take and terms and conditions (TCs) that must be complied with to implement those

measures. When impacts associated with certain activities are not prohibited by a 4(d) rule (*i.e.*, not “take”), the biological opinion will likely not include additional RPMs/TCs relative to those impacts. In those cases where take is prohibited, the RPMs/TCs associated with the incidental take statement would vary depending on the nature of the action, the location, scope, etc. Regardless, the RPMs/TCs cannot alter the basic design, location, scope, duration, or timing of the action and may involve only minor changes (50 CFR 402.14(i)(2)). They should not prevent the action subject to consultation from proceeding as essentially proposed (89 FR 24268).

Because consultation obligations and processes are unaffected by 4(d) rules, we may consider developing tools to streamline future intra-Service and interagency consultations for actions that result in forms of take that are not prohibited by the 4(d) rule (but still require consultation). These tools, which can also increase consistency across consultations, may include consultation guidance; streamlined, online consultation processes via the Service’s digital project planning tool (Information for Planning and Consultation; <https://ipac.ecosphere.fws.gov/>); template language for biological opinions; or programmatic consultations. Although there are no specific habitat-based take exceptions in this rule, habitat management is a key aspect of grizzly bear conservation, and we plan to work with land management agencies (*e.g.*, U.S. Forest Service) to streamline consultation obligations for habitat management.

Interaction of the 4(d) Rule With 10(j) Regulations

As discussed above, there are currently two NEPs for the grizzly bear in the lower-48 States: (1) the Bitterroot NEP in portions of Idaho and Montana; and (2) the North Cascades NEP in the State of Washington. We treat any population determined by the Secretary to be an experimental population as if we had listed it as a threatened species for the purposes of establishing protective regulations under section 4(d) of the Act with respect to that population (50 CFR 17.82). We have established protective regulations for the Bitterroot and North Cascades NEPs for grizzly bears at 50 CFR 17.84(l) and 17.84(y), respectively.

Species-specific regulations promulgated under section 10(j) of the Act are specific to and apply only to the designated experimental population authorized for release and identified

through regulation. The 10(j) regulations specific to an experimental population do not apply to members of nonexperimental populations of the same species (per section 10(j)(1) of the Act and our regulations at 50 CFR 17.80(a)). This ensures the experimental populations and nonexperimental populations each receive the appropriate level of protections under the Act. Currently, no grizzly bears have been released in either the Bitterroot or North Cascades NEPs, so any grizzly bears found in the experimental population areas would be assumed to be members of nonexperimental populations and would be managed under this proposed grizzly bear section 4(d) rule (50 CFR 17.40(b)).

If there is an initial release of one or more grizzly bears into an NEP area in the United States, any grizzly bears in that NEP area would be assumed to be members of the experimental population and would be treated as part of the experimental population while they are present within the NEP area. Following an initial release, any grizzly bears within the experimental population area would receive all the Act’s protections and the exceptions associated with the experimental population regulations promulgated under section 10(j). If grizzly bears are released in an NEP area, the 4(d) rule would no longer apply in that NEP area unless the 10(j) regulation for that NEP area is removed through a separate rulemaking.

Provisions of the Proposed 4(d) Rule for the Grizzly Bear in the Lower-48 States

Exercising the Secretary’s authority under section 4(d) of the Act, we have developed this proposed rule, designed to address the grizzly bear’s conservation needs. Section 4(d) requires the Secretary to issue such regulations as they deem necessary and advisable to provide for the conservation of each threatened species and authorizes the Secretary to include among those protective regulations any of the prohibitions that section 9(a)(1) of the Act prescribes for endangered species (*In re: Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation*, 818 F. Supp. 2d 214, 228 (D.D.C. 2011) (citing *Sweet Home Chapter of Cmty. for a Great Or. v. Babbitt*, 1 F.3d 1, 8 (D.C. Cir. 1993), *rev’d on other grounds*, 515 U.S. 687 (1995))). Our necessary and advisable determination includes consideration of conservation and economic impacts (*Kansas Natural Resources Coalition, et al. v. USFWS, et al.* 780 F. Supp. 3d 650 (W.D. Tex. 2025)). We explain below why we find that, if finalized, the

prohibitions, and exceptions in this proposed rule as a whole satisfy the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the grizzly bear.

The protective regulations we are proposing for the grizzly bear incorporate prohibitions from section 9(a)(1) of the Act to address the threats to the species. We propose to include the following prohibitions of section 9(a)(1) of the Act, and implementing regulations codified at 50 CFR 17.21, which make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed any of the following acts with regard to any endangered wildlife: (1) import into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) within the United States, within the territorial sea of the United States, or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign commerce. We also propose to prohibit—with specific exceptions described below, certain acts with grizzly bears that have been legally taken (*i.e.*, the acts of possessing, selling, delivering, carrying, transporting, or shipping, by any means whatsoever). This proposed protective regulation includes these prohibitions to help conserve the species' existing populations, and decrease synergistic, negative effects from ongoing or future threats.

In particular, this proposed 4(d) rule will provide for the conservation of the grizzly bear by prohibiting the following activities, unless they fall within specific exceptions or are otherwise authorized or permitted: importing or exporting; take, including mistaken-identity killings; possession, delivery, carriage, transport, or shipment of taken grizzly bears; interstate or foreign commerce in the course of commercial activity; and selling or offering for sale in interstate or foreign commerce.

Under the Act, "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulations at 50 CFR 17.3. Take can result knowingly or

otherwise, by direct and indirect impacts, intentionally or incidentally. Regulating take is intended to help conserve the species' existing populations, and decrease synergistic, negative effects from other stressors. Therefore, we propose to prohibit take of the grizzly bear, except for take resulting from those actions and activities specifically excepted by this proposed 4(d) rule.

The proposed 4(d) rule would also provide for the conservation of the species by allowing exceptions that are intended to incentivize conservation actions or actions that are not expected to rise to the level that would have a negative impact (*i.e.*, would have only de minimis impacts) on the species' conservation. We propose to conditionally except take associated with the following activities:

- Employees or agents of the Service acting in the course of their official duties;
- Import and export;
- Possession;
- Interstate or foreign commerce;
- Permits;
- Scientific, genetic, or population augmentation purposes;
- Defense of life (self-defense);
- Aiding sick and injured grizzly bears;
- Disposal of or salvage a dead grizzly bear;
- Incidental take by authorized agencies due to nonlethal capture and handling of other species for research and management;
- Deterrence;
- Management activities; and
- Incidental take associated with regulated trapping of other species.

We provide additional detail regarding these exceptions and the conditions under which they would apply below. Although there are no habitat-based take exceptions in this 4(d), we recognize that the primary land managers across much of this range in the lower-48 are Federal agencies (*e.g.*, U.S. Forest Service). Because consultation obligations and processes under section 7(a)(2) are unaffected by 4(d) rules, we plan to work with land management agencies (*e.g.*, U.S. Forest Service) to streamline and improve consistency in the consultation obligations for habitat management activities independently of this rule.

We also describe a dynamic approach, with two tiers of additional exceptions for management activities and incidental take for Federal, State, or Tribal agencies once management plans and conservation strategies are finalized, population demographic objectives are achieved, and

Memorandums of Understanding (MOUs) with the Service are completed. These activities are intended to incentivize conservation actions and have negligible impacts to the grizzly bear in the lower-48 States.

Grizzly bears sometimes obtain anthropogenic food sources, such as pet food, garbage, or livestock. Grizzly bears that repeatedly obtain anthropogenic foods (*i.e.*, food-conditioned bears) can become a threat to human safety. Additionally, grizzly bears that kill or injure livestock (*i.e.*, depredating bears, or bears that cause damage or loss) can affect the livelihood of ranchers and other livestock owners. Deterrence, relocation, or timely removal of depredating or food-conditioned grizzly bears mitigates risks to human safety and livestock, thereby fostering increased public tolerance and support for conservation efforts. This approach has been implemented by wildlife agencies for decades, during which grizzly bear populations have continued to expand. In this proposed 4(d) rule, we consider strategies, including nonlethal and lethal methods, to increase human safety and reduce human-bear conflicts and thereby promote conservation of the grizzly bear.

We recognize the special and unique relationship that we have with our State natural resource agency partners in contributing to conservation of listed species. Their decades of commitment, collaboration, and resource investment have been central to the species' recovery and ongoing success. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist us in implementing the Act. Section 6 of the Act provides that we must cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Our Federal and Tribal agency partners also possess scientific data and valuable expertise on the status and distribution of grizzly bears, as well as important knowledge of local issues and concerns. Therefore, we propose that any qualified employee or designated agent of an authorized agency, who is designated by his or her agency for such purposes, would be able to conduct activities designed to conserve the grizzly bear in the lower-48 States that may result in otherwise prohibited take as specified in a current Technical Letter of Assistance (TLA) from, or

MOU with, the Service under the provisions of this proposed 4(d) rule. A TLA is a letter issued by the Service that describes and clarifies terms and conditions for take by authorized agencies.

To further the conservation of the species, we propose not to apply the exceptions at 50 CFR 17.31(b), and apply multiple species-specific exceptions. For example, this rule would clarify exceptions for any employee or agent of the Service or any other authorized agency, who is designated by their agency for such purposes. Such employees or agents, may, when acting in the course of their official duties, live-capture grizzly bears if such action is necessary for scientific, genetic, or population augmentation purposes, take grizzly bears to aid sick

or injured individuals, dispose of or salvage a dead grizzly bear that may be useful for scientific study, and incidentally take grizzly bears associated with research or non-lethal management of other species. We also propose to except take for individuals conducting nonlethal deterrence to discourage grizzly bears from using areas near human-occupied areas.

Below, we provide additional detail regarding the following proposed exceptions: import and export; possession; interstate or foreign commerce; permits; scientific, genetic, or population augmentation; aiding sick or injured grizzly bears; disposal of or salvage a dead grizzly bear; incidental take from research and nonlethal management of other species; deterrence; management activities;

incidental take from regulated trapping of other species; and additional exceptions for authorized agencies for management activities and incidental take under Tier 1 and Tier 2. Table 1 summarizes these exceptions and Table 2 summarizes the additional exceptions under either Tier 1 or Tier 2 for authorized agencies once the tier's conditions are met.

Table 1. Summary of the proposed exceptions to the prohibitions for the grizzly bear. Additional exceptions for management activities and incidental take by authorized agencies may apply in geographic areas identified as Tier 1 or Tier 2 once the tier's conditions are met and MOUs with the Service are complete (see Table 2).

Exceptions from the prohibitions	Description of the exception, with any applicable conditions and monitoring requirements
Employees or agents of the U.S. Fish and Wildlife Service (Service).	Any employee or agent of the Service may, when acting in the course of their official duties, take a grizzly bear.
Import and export	Federal, State, or Tribal agencies may import live grizzly bears into the lower-48 States. Public zoological institutions (see 50 CFR 10.12) with an MOU with the Service may import or export live grizzly bears or their parts and products into or out of the United States. Federal, State, or Tribal agencies may import or export grizzly bear parts and products for scientific, cultural, law enforcement, educational, or research purposes.
Possession	Federal, State, and Tribal agencies with authorization to possess from the Service may possess, deliver, carry, transport, or ship grizzly bear parts and products of grizzly bears. Public zoological institutions (see 50 CFR 10.12) with an MOU with the Service may possess live grizzly bears (e.g., orphaned cubs) obtained from the wild. Museums and other nonprofit institutions with authorization to possess from the Service may possess, deliver, carry, transport, or ship grizzly bear parts and products for cultural, education, information, and outreach purposes. Parts and products may only be possessed by entities or nonprofit (501(c)(3)) organizations whose primary stated purposes are cultural, education or research. Parts and products shall not be traded, transferred or disposed without prior authorization from the Service and may not be used in advocacy or lobbying efforts.
Interstate or foreign commerce	A public zoological institution (see 50 CFR 10.12) dealing with other public zoological institutions may sell grizzly bears or offer them for sale in interstate or foreign commerce, and may, in the course of commercial activity, deliver, receive, carry, transport, or ship grizzly bears in interstate or foreign commerce with prior authorization from the Service.
Permits	Any person may conduct activities as authorized by a valid permit under § 17.32.
Scientific, genetic, or population augmentation purposes.	Collection of samples from a grizzly bear in the wild excepted for authorized agencies. Designated agents with a TLA or MOU may live-capture and tag, collar, transport, and release a grizzly bear. Take that results in a grizzly bear mortality or grizzly bear lasting bodily injury must be reported to the Service within 48 hours or as soon as practical given remote conditions. Without an MOU or TLA, a permit under § 17.32 is required.
Defense of life (self-defense)	Any person may take a grizzly bear in defense of their own life or the lives of others. Grizzly bears taken in self-defense or in defense of human life must be reported by the person who has taken the bear or their designee within 48 hours of occurrence or as soon as practical given remote conditions.
Aiding sick or injured grizzly bears	Take is excepted for authorized agencies aiding bears determined to be sick or injured to the extent they are unable to effectively move, obtain food, or defend themselves for any length of time (i.e., lasting bodily harm) if the necessary actions are conducted in a humane manner. Take associated with orphaned cubs must have prior authorization from the Service, except in geographic areas identified as Tier 2 (see Table 2, below). Take must be reported to the Service within 48 hours or as soon as practical given remote conditions.
Disposal of or salvage a dead grizzly bear.	Take is excepted for authorized agencies to dispose of or salvage a dead grizzly bear that may be useful for scientific study. Take must be reported to the Service within 48 hours or as soon as practical given remote conditions.
Incidental take from research and non-lethal management of other species by authorized agencies.	Incidental take associated with research and nonlethal management of other species by an authorized agency identified in a TLA from, or an MOU with, the Service is excepted.

Exceptions from the prohibitions	Description of the exception, with any applicable conditions and monitoring requirements
Deterrence	Take in the form of harassment is excepted for individuals to conduct deterrence of grizzly bears for the purposes of avoiding human-bear conflicts or to discourage bears from using areas near homes and other human-occupied areas under the following conditions: any deterrence must be conducted in accordance with the Service's grizzly bear hazing guidelines (https://www.fws.gov/sites/default/files/documents/Grizzly%20Bear%20Hazing%20Guidance%202020_Final.pdf); and any person using deterrence methodologies must not intentionally cause lasting bodily injury or mortality to the grizzly bear. All grizzly bear mortalities or incidents resulting in lasting bodily injury must be reported to the Service within 48 hours or as soon as practical given remote conditions. Authorized agencies may use additional tools, including contracted services, as described in a TLA from, or an MOU with, the Service. In Tier 2 geographic areas, excepted deterrence techniques available to authorized agencies will be determined by the applicable Federal, State, or Tribal laws and regulations (see Table 2, below).
Management activities	Take associated with management activities is excepted for authorized agencies, with prior authorization from the Service, to avoid human-bear conflicts, prevent habituation, improve grizzly bear survival, release or relocate non-targets, or aid in law enforcement investigations, given: efforts are made to eliminate potential sources of conflict, when applicable and reasonably possible, by securing attractants, using deterrence, and/or live-capturing and releasing the bear unharmed in a remote area; authorized agencies may relocate bears as a preemptive action for the purpose of preventing conflict that appears imminent or breaking habituated behavior of grizzly bears lingering near human-occupied areas; any relocations shall be coordinated with the Service and appropriate land-management agencies; and lethal control of a grizzly bear involved in conflict requires prior authorization from the Service. Annual reports are due to the Service on or by February 15.
Incidental take associated with regulated trapping of other species.	In geographic areas and temporal periods defined in a TLA from the Service, incidental take associated with regulated trapping of other species is excepted, provided those activities are conducted in accordance with Federal, State, and Tribal laws and regulations. Annual reports are due to the Service on or by February 15. Without a TLA from the Service, or an MOU with the Service that documents additional Tier 1 or Tier 2 exceptions (see Table 2, below), incidental take from regulated trapping of other species would not be excepted under this 4(d) rule.

Table 2. Additional take exceptions for individuals and authorized agencies that may apply to specific geographic areas under Tier 1 and Tier 2 once the

tier's conditions are met and MOUs with the Service are complete. "No change" indicates that there are no additional provisions provided under

the tier for the specified activity, so the exception described in Table 1 applies.

Exceptions from the prohibitions	Tier 1: Conditions: management plans and conservation strategies are finalized and MOU with service complete	Tier 2: Conditions: management plans and conservation strategies are finalized, populations have achieved demographic objectives, and MOU with service complete
Employees or agents of the Service; Import and export; Possession; Interstate or foreign commerce; Permits; Scientific, genetic, or population augmentation purposes; Defense of life (self-defense); Disposal of or salvage a dead grizzly bear; Incidental take from research and nonlethal management of other species by authorized agencies.	No change (See Table 1)	No change (See Table 1).
Aiding sick or injured grizzly bears	No change (See Table 1)	Same as Table 1, plus take associated with orphaned cubs by authorized agencies does not require prior authorization from the Service. Take must be reported to the Service within 48 hours or as soon as practical given remote conditions.
Deterrence	No change (See Table 1)	Excepted deterrence techniques for authorized agencies will be determined by the applicable Federal, State, or Tribal laws and regulations.
Management activities	No change (See Table 1)	Take associated with management activities by authorized agencies is excepted under applicable Federal, State, and Tribal laws. Service oversight, excluding Service law enforcement investigations, will be carried out consistent with the monitoring and reporting requirements. Annual reports are due to the Service on or by February 15.
Incidental take associated with regulated trapping of other species for Tier 1, or Incidental take for Tier 2.	Incidental take associated with regulated trapping of other species is excepted, provided trapping is conducted in accordance with Federal, State, or Tribal laws and regulations. Annual reports are due to the Service on or by February 15.	Incidental take is excepted, provided those activities are conducted in accordance with Federal, State, or Tribal laws and regulations. Annual reports are due to the Service on or by February 15.

(1) Import and Export (See (b)(3)(ii) Below)

Federal, State, or Tribal agencies may import live grizzly bears into the lower-48 States. Additionally, Federal, State, or Tribal agencies may import or export grizzly bear parts and products for scientific, cultural, law enforcement, educational or research purposes. Public zoological institutions (see 50 CFR 10.12) with an MOU with the Service may import or export live grizzly bears or their parts and products into or out of the United States. This exception furthers the conservation of the species by supporting genetic, demographic, or restoration recovery needs.

(2) Possession (See (b)(3)(iii) Below)

Federal, State, and Tribal agencies with authorization to possess from the Service may possess, deliver, carry, transport, or ship grizzly bear parts and products. Public zoological institutions (see 50 CFR 10.12) may possess live grizzly bears (e.g., orphaned cubs) obtained from the wild after entering into an MOU with the Service. Museums and other nonprofit institutions with authorization to possess from the Service may possess, deliver, carry, transport, or ship grizzly bear parts and products for cultural, education, information, and outreach purposes. Parts and products may only be possessed by entities or nonprofit (501(c)(3)) organizations whose primary stated purposes are cultural, education, or research. Parts and products shall not be traded, transferred or disposed without prior authorization from the Service and may not be used in advocacy or lobbying efforts. This exception furthers the conservation of the species by supporting law enforcement needs and education efforts intended to improve social acceptance of the species.

(3) Interstate or Foreign Commerce (See (b)(3)(iv) Below)

A public zoological institution (see 50 CFR 10.12) dealing with other public zoological institutions may sell grizzly bears or offer them for sale in interstate or foreign commerce, and may, in the course of commercial activity, deliver, receive, carry, transport, or ship grizzly bears in interstate or foreign commerce with prior authorization from the Service.

(4) Permits (See (b)(3)(v) Below)

Any person may conduct activities as authorized by a permit under § 17.32. We may under certain circumstances issue permits to carry out one or more otherwise prohibited activities, including those described above. The

regulations that govern permits for threatened wildlife state that the Service may issue a permit authorizing any activity otherwise prohibited with regard to threatened species. These include permits issued for scientific purposes, to enhance propagation or survival, for incidental taking, or for special purposes consistent with the purposes of the Act (50 CFR 17.32). The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

(5) Scientific, Genetic, or Population Augmentation Purposes (See (b)(3)(vi) Below)

We propose to except take for authorized agencies to take or collect samples from grizzly bears in the wild. Designated agents may live-capture and tag, collar, transport, and release a grizzly bear consistent with this proposed grizzly bear 4(d) rule and the applicable TLA or applicable MOU if such action is necessary for scientific, genetic, or population augmentation purposes. Take that results in a grizzly bear mortality or grizzly bear lasting bodily injury must be reported to the Service within 48 hours or as soon as practical given remote conditions. In the absence of an MOU or TLA, a permit under § 17.32 is required. This exception furthers the conservation of the species by supporting genetic, demographic, or restoration research.

(6) Aiding Sick or Injured Grizzly Bears (See (b)(3)(viii) Below)

We propose to except take for authorized agencies aiding grizzly bears determined to be sick or injured to the extent they are unable to effectively move, obtain food, or defend themselves for any length of time (i.e., lasting bodily harm) if the necessary actions are conducted in a humane manner. Take associated with orphaned cubs must have prior authorization from the Service except in geographic areas identified as Tier 2. In Tier 2 geographic areas, take associated with orphaned cubs does not require prior authorization from the Service. All take under this exception, including under Tier 2, must be reported to the Service within 48 hours or as soon as practical given remote conditions.

(7) Disposal of or Salvage a Dead Grizzly Bear (See (b)(3)(ix) Below)

We propose to except take for authorized agencies to dispose of or salvage a dead grizzly bear that may be useful for scientific study. Take associated with disposal or salvage of a dead grizzly bear must be reported to

the Service within 48 hours or as soon as practical given remote conditions.

(8) Incidental Take From Research and Nonlethal Management of Other Species by Authorized Agencies (See (b)(3)(x) Below)

We propose to except incidental take by an authorized agency identified in a TLA from, or an MOU with, the Service for research and nonlethal management of other species. Although research and non-lethal management of other species by authorized agencies may result in some minimal level of take of the grizzly bear, such take is not expected to rise to a level that will have a negative impact (i.e., will have only de minimis impacts) on the species' conservation.

(9) Deterrence (See (b)(3)(xi) Below)

We propose to except take caused by conducting deterrence of grizzly bears for the purposes of avoiding human-bear conflicts or to discourage bears from using areas near homes and other human-occupied areas when the deterrence is conducted according to current Service hazing guidelines. Deterrence means an intentional, nonlethal action to haze, disrupt, or annoy a grizzly bear out of close proximity to people or property to promote human safety, prevent conflict, or protect property. Any person using deterrence methodologies must not intentionally cause lasting bodily injury to any grizzly bear and must be undertaken safely and responsibly. Acceptable deterrence techniques may include, but is not limited to, auditory deterrents, visual stimuli/deterrents, vehicle threat pressure, bear spray, or soft projectiles fired from non-powder-actuated launchers intended to break on contact. Any person may deter a grizzly bear to protect themselves (e.g., using bear spray or loud noises). Excepted deterrence methodologies do not include baiting, stalking, or pursuing a grizzly bear. Authorized agencies may use additional tools for deterrence, including contracted services, as described in a TLA from, or an MOU with, the Service. For more information about appropriate nonlethal deterrents, individuals can contact the Grizzly Bear Recovery Office for the Service's most current hazing guidelines. By excepting take from deterring bears away from human-occupied areas, this exception furthers the conservation of the species by reducing the likelihood of human-bear conflicts and resulting management actions, such as removals.

(10) Management Activities (See (b)(3)(xii) Below)

We propose to except take by authorized agencies for management activities to prevent and mitigate human-bear conflicts. With prior authorization from the Service, authorized agencies may relocate grizzly bears to prevent conflicts, increase survival, prevent habituation, release or relocate non-targets, or aid in law enforcement investigations. Under this exception, authorized agencies may lethally remove grizzly bears involved in conflict with prior authorization from the Service. Efforts must be made to eliminate potential sources of conflict, when applicable and reasonably possible, and by mitigating ongoing conflicts by securing attractants, using deterrence, and/or live capturing and releasing the bear unharmed in a remote area. Authorized agencies may relocate grizzly bears as a preemptive action for the purpose of preventing conflict that appears imminent or breaking habituated behavior of grizzly bears lingering near human-occupied areas; any relocations shall be coordinated with the Service and appropriate land-management agencies; and lethal control of grizzly bears involved in conflict requires prior authorization from the Service.

Authorized agencies must submit an annual report to the Service documenting the location, date, and type of all take resulting in the capture, relocation, or mortality of a grizzly bear within a calendar year on or by February 15 of the subsequent year. The Service will annually review monitoring reports and changes in Federal, State, or Tribal management to determine whether any change in tier status is appropriate.

As described below under *Additional exceptions for management activities and incidental take under Tier 1 and Tier 2*, and summarized above in Table 2, once management plans and conservation strategies are finalized and demographic objectives are achieved, authorized agencies may enter into an MOU with the Service to obtain additional Tier 2 exceptions associated with management activities.

(11) Incidental Take Associated With Regulated Trapping of Other Species (See (b)(3)(xiii) Below)

We propose to except incidental take associated with regulated trapping of other species under the following conditions: (1) take occurs in geographic areas and temporal periods as defined in a TLA from the Service; and (2) the trapping of other species is conducted

in accordance with Federal, State, and Tribal laws and regulations. The TLA from the Service would define the geographic areas and temporal periods for which this exception would apply. The Service would consider the best available information, including but not limited to, current distributions, verified locations outside of current distributions, known denning seasons within a given geographic area, verified grizzly bear activity outside of the den during denning seasons, and potential impacts to populations to define the geographic areas and temporal periods in the TLA. This will provide flexibility to ensure that this exception for regulated trapping of other species applies only in geographic areas where bears are not known to occur or during temporal periods when bears are likely to be denning. As a result, we expect that any incidental take due to regulated trapping of other species to be de minimis. Without a TLA from the Service, or an MOU with the Service that documents additional Tier 1 or Tier 2 exceptions (see *Additional exceptions for management activities and incidental take under Tier 1 and Tier 2*), incidental take from regulated trapping of other species would not be excepted under this 4(d) rule.

Authorized agencies will continue to receive and operate under TLAs from the Service, which identify the terms and conditions for take, monitoring, and reporting by the authorized agencies. The authorized agencies would be required to submit an annual report to the Service documenting the location, date, and type of all take that resulted in the capture, relocation, or mortality of a grizzly bear within a calendar year on or by February 15 of the subsequent year. Upon receipt of that report, the Service would issue that agency a TLA for the following year. As described below under *Additional exceptions for management activities and incidental take under Tier 1 and Tier 2* and summarized above in Table 2, once management plans and conservation strategies are finalized for Tier 1, and demographic objectives are also achieved for Tier 2, authorized agencies may enter into an MOU with the Service to obtain additional Tier 1 or Tier 2 exceptions associated with incidental take.

(12) Additional Exceptions for Management Activities and Incidental Take Under Tier 1 and Tier 2 (See (b)(3)(xiv) Below)

Under this 4(d) rule, we also propose to provide Federal, State, and Tribal agencies, or authorized agencies, a path to gain additional exceptions for

management activities and incidental take. This tiered approach incentivizes authorized agencies to proactively develop adequate regulatory mechanisms in geographic areas where they currently do not exist to obtain additional exceptions, which may increase their management flexibilities and reduced permitting requirements for the associated activities. This approach allows Federal, State, and Tribal agencies to gain additional management flexibility while providing a mechanism to identify and address any potential issues to ensure conservation outcomes are maintained. This tiered approach contributes to the conservation of the species by incentivizing the development of regulatory mechanisms through the finalization of management plans and conservation strategies and may also enhance social tolerance for grizzly bears—an important consideration as grizzly bears expand into new areas.

We propose two tiers, Tier 1 and Tier 2, of increasing exceptions for management activities and incidental take that would provide authorized agencies additional management flexibilities. Under Tier 1, after finalizing management plans and conservation strategies, authorized agencies may enter into an MOU with the Service to gain an additional exception for incidental take associated with regulated trapping of other species, provided trapping is conducted in accordance with Federal, State, or Tribal laws and regulations (Table 2, above). Tier 1 allows additional take exceptions where a conservation strategy exists and a Federal, State, or Tribal grizzly bear management plan is in place, but the associated population has yet to achieve the demographic objectives defined in the associated conservation strategy. After finalizing management plans and conservation strategies, and once populations have achieved demographic objectives, authorized agencies may enter into an MOU with the Service to gain additional exceptions under Tier 2 for management activities and incidental take (Table 2, above). Tier 2 excepts additional management activities and all incidental take in the relevant Federal, States, or Tribal jurisdiction, such that the authorized agency has additional management flexibilities. The respective conditions and monitoring and reporting requirements of Tier 1 and Tier 2 must be met and an MOU finalized with the Service for the additional exceptions to apply. Additionally, the Service would maintain oversight, by reviewing annual monitoring reports submitted by the

authorized agencies and may revoke a tier designation if the conditions are not met. Failure to meet any or all of the conditions described for Tier 1 and Tier 2, will initiate a review by the Service and may result in revoking the management tier status of a Federal, State, or Tribal agency. We may also initiate a review of management tier status, which could result in revocation, if changes in Federal, State, or Tribal laws, rules, regulations, or management plans or practices, or other circumstances depart significantly from the potential to achieve demographic objectives or mortality thresholds detailed in a conservation strategy.

Obtaining the additional exceptions under Tier 1 and Tier 2 requires that the authorized agencies complete an MOU with the Service. These MOUs would identify and formalize the management tier as either Tier 1 or Tier 2 for a particular geographic area. Where necessary, MOUs would replace the current TLAs that we provide to authorized agencies and could be updated throughout the year. Consistent with TLAs, these MOUs would outline the terms and conditions for take, define monitoring and reporting requirements, and establish designated agents from each authorized agency. In addition, these MOUs would document the Service's determination that conservation strategies and management plans meet the relevant criteria for a specific management tier, and identify the management tier for the applicable agency within a given geographic area described in a conservation strategy (e.g., ecosystem). Completed TLAs, MOUs, and maps of the geographic areas assigned to either Tier 1 or Tier 2 would be available on our website at <https://www.fws.gov/office/grizzly-bear-recovery-program>.

Request for MOUs by authorized agencies to the Service may be in the form of an update to their MOU with the Service for grizzly bear management, or—for authorized agencies that do not yet have an MOU—a written request to enter into a new grizzly bear management MOU with the Service. In either case, the request to enter an MOU or move between tiers may be made at any time. The Service would determine if the conditions for the requested management tier had been met. Signature of the MOU by the Service would represent the Service's determination that the relevant requirements to change management tiers had been met and would officially mark the transition of management and incidental take to the exceptions in the new tier for that authorized agency. We

first summarize additional detail regarding Tier 1 and then Tier 2 below:

(a) Tier 1

Tier 1 provides additional exceptions for incidental take associated with regulated trapping of other species by expanding the area in which incidental take exceptions apply to include areas where Federal, State, or Tribal agencies have adopted conservation strategies and management plans as specified and approved in a current MOU with the Service (Table 2, above). Conservation strategies and management plans must describe population management mechanisms necessary to achieve and maintain populations. This added flexibility incentivizes States and Tribes to ensure the adequacy of regulatory mechanisms. Therefore, we do not expect take to rise to a level that would have a negative impact (*i.e.*, would have only de minimis impacts) on the species' conservation. Authorized agencies must submit an annual report to the Service documenting the location, date, and type of all take resulting in the capture, relocation, or mortality of a grizzly bear within a calendar year on or by February 15 of the subsequent year. The Service will annually review monitoring reports and changes in management and retains the ability to revoke Tier 1 designations if changes in Federal, State, or Tribal laws, rules, regulations, or management plans or practices, or any other circumstances depart significantly from the potential to achieve demographic objectives or mortality thresholds detailed in a conservation strategy. The MOU between the Service and State, Federal, or Tribal agencies will identify Tier 1 geographic areas, along with designated agents and terms and conditions, and will be available on our website at <https://www.fws.gov/office/grizzly-bear-recovery-program>.

(b) Tier 2

Tier 2 provides additional exceptions for management actions and incidental take to Federal, State, or Tribal agencies in geographic areas where populations have achieved demographic objectives as identified in interagency conservation strategies, and where conservation strategies and management plans have been adopted, as specified and approved in a current MOU with the Service. These additional exceptions would increase management flexibilities, such that States and Tribes could assume most broad day-to-day management for grizzly bears according to applicable State and Tribal laws. This approach allows States and Tribes to gain additional management

flexibilities, which may enhance social tolerance for grizzly bears, while providing a mechanism to identify and address any potential issues to ensure conservation outcomes are maintained. If conservation outcomes are not maintained, as determined through monitoring and reporting requirements, Tier 2 designations could be reduced to Tier 1 or revoked. Therefore, we do not expect take to rise to a level that would have a negative impact (*i.e.*, would have only de minimis impacts) on the species' conservation.

Under Tier 2, authorized agencies must submit an annual report to the Service for a given geographic area documenting the location, date, and type of all take resulting in the capture, relocation, or mortality of a grizzly bear within a calendar year on or by February 15 of the subsequent year. Additionally, this report must include demographic monitoring reports. The Service will annually review monitoring reports and changes in management and retains the ability to revoke a Tier 2 designation if: (1) conservation strategy-defined demographic objectives or mortality thresholds are not maintained; (2) or if any change in State or Tribal laws, rules, regulations, or management plans or practices, or other circumstances depart significantly from the specifics of population management detailed in the conservation strategy. The MOU between the Service and State, Federal, or Tribal agency will identify Tier 2 geographic areas, along with designated agents and terms and conditions. We will post completed MOUs with a map that identifies Tier 2 geographic areas on our website at <https://www.fws.gov/office/grizzly-bear-recovery-program>.

The proposed 4(d) rule provides for the conservation of the grizzly bear because it will regulate activities that may pose a threat to the species. However, it also provides flexibilities in management and reduced permitting requirements for several activities. Where there is a Federal nexus, the 4(d) rule does not change any obligations under section 7 of the ESA. Please see our "Consideration of Economic Impacts of the Grizzly Bear 4(d) Rule" on <https://www.regulations.gov> for our consideration of economic impacts. After considering the conservation needs of the species and the economic impacts of the 4(d) rule, we have determined the 4(d) rule is necessary and advisable to provide for the conservation of the species. We appreciate any public comment on the potential impacts (conservation and economic) of the proposed 4(d) rule.

Required Determinations

Clarity of the Rule

We are required by Executive Order (E.O.) 12866 and E.O. 12988 and by the Presidential memorandum of June 1, 1998, to write all rules in plain language. This means each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements. OIRA has determined this rule is significant under section 3(f)(4) of E.O. 12866. To support our necessary and advisable determination for 4(d) rules, we developed an economic considerations document that describes how implementation of the provisions in the proposed 4(d) rule may result in any economic impacts due to changes in current baseline protections. We have not quantified the impacts of the implementation of the 4(d) rule but

expect any economic costs or benefits to be minimal. However, the proposed regulatory framework of the proposed 4(d) rule would allow for additional exceptions to prohibitions (Tier 1 or Tier 2). Though we have not quantified the economic effects of these exceptions at this time, we anticipate these exceptions would provide potential cost savings by reducing regulatory burden through the provisions outlined under Tier 1 and Tier 2.

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

Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; title II of Pub. L. 104–121, March 29, 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying the rule will not have a significant economic impact on a substantial number of small entities.

While we do not conduct RFA analyses on our classification determinations under the Act, in accordance with recent caselaw (*Kansas Natural Resources Coalition, et al. v. USFWS, et al.* 780 F. Supp. 3d 650 (W.D. Tex. 2025)) we comply with RFA through consideration of conservation and economic impacts when promulgating 4(d) rules. Under the RFA, as amended, and as understood in light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities.

Some of the actions regulated by the proposed 4(d) rule are likely to involve Federal action agencies. 4(d) rules do not alter any obligations for Federal agencies under section 7 of the Act. Federal agencies, in consultation with the Service, are required to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only

Federal action agencies are directly subject to the specific regulatory requirements. Consequently, it is our position that only Federal action agencies would be directly regulated during section 7 consultations (regardless of what is prohibited in 4(d) rules). The RFA does not require evaluation of the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities.

Please see our “Consideration of Economic Impacts of the Grizzly Bear 4(d) Rule” on <https://www.regulations.gov> for our consideration of economic impacts. The revised 4(d) rule would result in minimal changes to the regulated community regarding import, export, and intrastate or foreign commerce of the grizzly bear. Federal, State and Tribal agencies would retain all existing exceptions related to import and export of grizzly bears and obtain additional exceptions for these activities. The requirement for public zoological institutions to establish an MOU with the Service in order to possess live grizzly bears obtained from the wild or import or export live grizzly bears or their parts and products into or out of the lower-48 States is not expected to have a significant economic impact on these entities, as most public zoological institutions currently housing live grizzly bears already have MOUs with the Service. There is also little difference in the regulation of interstate and foreign commerce of grizzly bears in the revised 4(d) rule. Zoological institutions dealing with other public zoological institutions would need prior authorization from the Service to sell grizzly bears or offer them for sale in interstate or foreign commerce. In addition, public zoological institutions would need an MOU with the Service to possess live grizzly bears (*e.g.* orphaned cubs) obtained from the wild. We have no record of any public zoological institution having exported grizzly bears for any purpose, including foreign commerce. Furthermore, we are not aware of any interstate commerce between public zoological institutions or of any Federal, State or Tribal authority selling grizzly bears in interstate commerce and we presume these types of activities are extremely rare. Finally, take and acts with illegally taken individuals would continue to be prohibited under the revised 4(d) rule. In addition, current informal approval and reporting processes would be formalized in the revised 4(d) rule and a few provisions would expand to extend exceptions to individuals, zoos,

museums and other entities or non-profit organizations. Overall, the revised 4(d) rule would result in reduced regulatory requirements associated with take of the grizzly bear in the lower-48 United States (e.g., State, Tribal, and Federal conservation and management actions and individual deterrence actions). Further, the revised 4(d) rule would not compel or require any action on the ground to be undertaken at any time by anyone. The reasonably foreseeable effects that may result from promulgating or revising a 4(d) rule that extends some or all of the section 9 prohibitions are administrative (application or lack of application for a permit or authorization under the Act). We certify that, if adopted as proposed, this proposed rule would not have a significant economic impact on a substantial number of small entities. We request information (see Information Requested) to ensure we fully understand the potential small-entity impacts of this proposed rule.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 requires agencies to prepare statements of energy effects “to the extent permitted by law” when undertaking actions identified as significant energy actions (66 FR 28355; May 22, 2001). E.O. 13211 defines a “significant energy action” as, among other things, an action that (i) meets the definition of a “significant regulatory action” under E.O. 12866; and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule is not a significant regulatory action under E.O. 12866. Therefore, this action is not a significant energy action, and there is no requirement to prepare a statement of energy effects for this action.

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

This rule will not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The rule will not have a significant or unique effect on State, local, or Tribal governments or the private sector.

(a) As discussed above under Regulatory Flexibility Act, this rule is not likely to have a significant economic effect on a substantial number of small entities.

(b) The regulations do not require a small government agency plan or any other requirement for expending local funds.

(c) Any costs incurred from the reporting requirement to notify the Service of any take of a grizzly bear as a result of defense of life are expected to be rare in occurrence and would only result in minor burden.

(d) The rule clarifies and improves upon the current regulations allowing greater management flexibilities based on the condition of the species within a management area.

(e) This rule will not produce a Federal mandate of \$100 million or greater in any year, i.e., it is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

Government Actions and Interference With Constitutionally Protected Private Property Rights—Executive Order 12630

In accordance with E.O. 12630, this proposed rule would not have significant takings implications. We have determined the rule has no potential takings of private property implications as defined by this Executive Order because this proposed 4(d) rule would, with exceptions, maintain the regulatory status quo regarding activities currently allowed under the Endangered Species Act. A takings implication assessment is not required.

Federalism—Executive Order 13132

In accordance with E.O. 13132, this proposed 4(d) rule does not have significant federalism effects. A federalism summary impact statement is not required. This rule would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of powers and responsibilities among the various levels of government.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988, the Office of the Solicitor has determined the rule does not unduly burden the judicial system and it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed a 4(d) rule in accordance with the provisions of the Act. To assist the public in understanding the conservation needs of the species, the proposed rule identifies the prohibitions and exceptions to those prohibitions that are necessary and advisable to the conservation of the species.

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

This proposed rule contains new collections of information that require approval by the Office of Management

and Budget (OMB) under the PRA. 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. We will ask OMB to review and approve the information collection requirements contained in this rulemaking related to revising the protective regulations for the grizzly bear in the lower-48 States under section 4(d) of the Act. Additional information collection requirements associated with importing or exporting, possession, delivery, carriage, transport, or shipment of taken grizzly bears; interstate or foreign commerce in the course of commercial activity; and selling or offering for sale in interstate or foreign commerce are currently approved under the following:

- OMB Control No. 1018–0092, Federal Fish and Wildlife Applications and Reports—Law Enforcement; 50 CFR 13 and 14 (expires 05/31/2026, and in accordance with 5 CFR 1320.10, an agency may continue to conduct or sponsor this collection of information while the submission is pending at OMB), and
- OMB Control No. 1018–0093, Federal Fish and Wildlife Permit Applications and Reports—Management Authority; 50 CFR 13, 15, 16, 17, 18, 22, 23 (expires 12/31/2026).

There are no forms associated with this information collection. Our proposed regulations under section 4(d) of the ESA, as amended, impose information collection requirements on the States, certain Federally recognized Tribal governments, and public zoological institutions as described below (Federal agencies are exempt from the PRA):

1. *MEMORANDUMS OF UNDERSTANDING (MOUs)*—This proposed 4(d) rule provides authorized agencies a path to gaining additional flexibilities by achieving certain benchmarks and entering into an MOU with the Service. This includes the requirement that agencies obtain prior authorization from the Service for conflict removals, as described in an MOU between the Service and authorized agency. Authorized agencies may relocate bears as a preemptive action to prevent conflict that appears imminent or in an attempt to break the habituated behavior of grizzly bears lingering near human-occupied areas. When a grizzly bear is captured, the employee will consult with the appropriate land management agency to determine a relocation site that is most suitable for the bear, considering age and sex of the bear, conflict history, and current human use at available

relocation sites. Such taking must be coordinated with the Service as described in a current MOU between the Service and the authorized agency.

The Service would enter into MOUs with authorized agencies to authorize more flexible grizzly bear management and with public zoological institutions to allow for specific types of conservation related activities consistent with this 4(d) rule. The Service does not expect to enter into MOUs with local governments or authorities. We are not reporting burden for Federal agencies as they are exempt from the requirements of the PRA. The Service would collect information from the relevant agencies in relation to these MOUs as described below.

2. **MANAGEMENT PLANS/ CONSERVATION STRATEGIES**—This proposed 4(d) rule outlines a tiered framework where take exceptions for grizzly bear management activities and incidental take are linked to a population's demographic status and the status of conservation strategies and Federal, State, or Tribal management plans. This framework would provide for the conservation of the species by tailoring take exceptions for populations with conservation strategies and management plans that have been approved by the Service through an MOU, such that otherwise prohibited activities are expected to have negligible impacts to grizzly bear populations. This would incentivize conservation actions and promote increased public tolerance and support for conservation efforts.

a. *Management Plan*—Federal, State, or Tribal wildlife management agencies develop this document to define how they plan to manage grizzly bears. These plans should include specifics on conflict management, population management, and adherence to associated conservation strategies.

b. *Conservation Strategy*—This is an interagency document describing the habitat and population management mechanisms that will achieve and maintain demographic and habitat objectives; it will remain in place after grizzly bears are no longer listed under the Act; and it will demonstrate the adequacy, continuity, and continued agency application of population and habitat management regulatory mechanisms in order to maintain populations. These documents are prepared by Federal, State, and Tribal agencies engaged in grizzly bear management within a given geographic area as part of their grizzly bear recovery efforts and are not a requirement of the proposed 4(d).

3. **AMENDMENTS TO MANAGEMENT TIERS**—Authorized agencies involved in grizzly bear management may gain additional flexibilities by entering into an MOU with the Service, where an agency may request the additional exceptions under Tier 1 or Tier 2 once they present evidence that the criteria required for the requested tier have been met. This request may be in the form of an update to their MOU with the Service for grizzly bear management, or—for authorized agencies that do not yet have an MOU—a request to enter into a new grizzly bear management MOU with the Service. In either case, the request to enter an MOU or move between tiers may be made at any time. The Service would determine if the requestor, and the relevant geographic area, met the conditions specified in this rule for the requested management tier.

Signature of the MOU by the parties would represent the Service's determination that the relevant requirements to change management tiers had been met and would officially mark the transition of management activities and incidental take to the exceptions in the new tier for that authorized agency within that particular geographic area over which they have jurisdiction. Authorized agencies in Tier 1 or Tier 2 will be required to submit reports associated with applicable demographic monitoring on or by February 15 of the subsequent year. Upon receipt and review of this report, the Service will renew the MOU, or issue a new MOU for agencies moving up to Tier 1 or Tier 2, for the following year (see reporting requirements below).

4. **ACTIONS REQUIRING PRIOR AUTHORIZATION FROM THE SERVICE**—

a. *Import and Export*—Federal, State, or Tribal agencies may import live grizzly bears into the lower-48 United States. Public zoological institutions (see 50 CFR 10.12) with an MOU with the Service may import or export live grizzly bears or their parts and products into or out of the United States. Federal, State, or Tribal agencies may import or export grizzly bear parts and products for scientific, cultural, law enforcement, educational, or research purposes.

b. *Possession*—Federal, State, and Tribal agencies with authorization to possess from the Service may possess, deliver, carry, transport, or ship grizzly bear parts and products. Public zoological institutions (see 50 CFR 10.12) with an MOU with the Service may possess live grizzly bears (e.g. orphaned cubs) obtained from the wild. Museums, and other nonprofit institutions with authorization to

possess from the Service may possess, deliver, carry, transport, or ship unlawfully or lawfully taken grizzly bear parts and products for cultural, education, information, and outreach purposes.

c. *Interstate or Foreign Commerce*—A public zoological institution (see 50 CFR 10.12) dealing with other public zoological institutions may sell grizzly bears or offer them for sale in interstate or foreign commerce, and may, in the course of commercial activity, deliver, receive, carry, transport, or ship grizzly bears in interstate or foreign commerce with prior authorization from the Service.

d. *Take of Orphaned Cubs*—Take associated with orphaned cubs must have prior authorization from the Service except in areas where the Tier 2 set forth under paragraph (b)(3)(xiv)(D) applies. Take must be reported to the Service within 48 hours or as soon as practical given remote conditions.

e. *Relocation of Grizzly Bears*—With prior authorization from the Service, except in areas where Tier 2 under paragraph (b)(3)(xiv)(D) applies, authorized agencies may relocate grizzly bears to prevent conflicts, increase survival, or to break a habituated behavior, and may lethally remove a bear in certain situations considering the age and sex of the bear, nature of the conflict, and the bear's conflict history.

f. *Management of Grizzly Bears*—Take associated with management activities is excepted for authorized agencies, with prior authorization from the Service, except in areas where Tier 2 under paragraph (b)(3)(xiv)(D) applies, to avoid human-bear conflicts, prevent habituation, improve grizzly bear survival, release or relocate non-targets, or aid in law enforcement investigations, given:

1. Efforts are made to eliminate potential sources of conflict, when applicable and reasonably possible, by securing attractants, using deterrence, and/or live-capturing and releasing the bear unharmed in a remote area.

2. Authorized agencies may relocate bears as a preemptive action for the purpose of preventing conflict that appears imminent or breaking habituated behavior of grizzly bears lingering near human-occupied areas.

3. Any relocations shall be coordinated with the Service and appropriate land-management agencies.

4. Lethal control of a grizzly bear involved in conflict requires prior authorization by the Service.

5. **REPORTING REQUIREMENTS**—

a. *Mortalities/Bodily Injury*—Mortalities or suspected lasting bodily

injury must be reported to the Service as described in a current TLA from, or an MOU with, the Service.

1. **Take Resulting in Grizzly Bear Mortality**—Take that results in a grizzly bear mortality must be reported to the Service within 48 hours, or as soon as practical given remote conditions.

2. **Take Resulting in Grizzly Bear Lasting Bodily Injury**—Take that results in a grizzly bear lasting bodily injury must be reported to the Service within 48 hours, or as soon as practical given remote conditions.

b. **Moving Grizzly Bears**—Designated agents may move a grizzly bear to aid recovery or increase the genetic health of the population after notification to the Service.

c. **Defense of Life**—Any person may take a grizzly bear in defense of their own life or the lives of others. Grizzly bears taken in self-defense or in defense of human life must be reported by the person who has taken the bear or their designee within 48 hours of occurrence or as soon as practical given remote conditions. Take must be reported to the Office of Law Enforcement, U.S. Fish and Wildlife Service, in the appropriate region (see 50 CFR 2.2 for regional office information), and to appropriate State and Tribal authorities.

d. **Annual Report**—Agencies receiving a TLA from or entering into an MOU with the Service will submit an annual report to the Service documenting the location, date, and type of all excepted take that resulted in the capture, relocation, or mortality of a grizzly bear within a calendar year on or by February 15 of the subsequent year, at which point the Service will issue that agency a TLA.

e. **Monitoring**—Agencies must submit an annual report to the Service documenting the location, date, and type of all take resulting in the capture, relocation, or mortality of a grizzly bear within a calendar year on or by February 15 of the subsequent year.

6. **APPOINTMENT OF DESIGNATED AGENT**—A designated agent is an employee of a Federal, State, or Tribal agency who as part of their official duties, normally handles carnivores, and when acting in the course of their official duties, may engage in actions that result in take of the grizzly bear in the lower-48 United States consistent with the proposed 4(d) rule.

Title of Collection: Endangered and Threatened Wildlife—Grizzly Bear (50 CFR 17.40).

OMB Control Number: 1018–New.

Form Numbers: None.

Type of Review: New.

Respondents/Affected Public: State and Tribal governments.

Total Estimated Number of Annual Respondents: 45.

Total Estimated Number of Annual Responses: 73.

Estimated Completion Time per Response: Varies from 30 to 60 minutes, depending on activity.

Total Estimated Number of Annual Burden Hours: 66.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for authorizations/amendments/appointment of designated agent; annually or on occasion for reporting requirements.

Total Estimated Annual Non-hour Burden Cost: None.

As part of our continuing effort to reduce paperwork and respondent burdens, and in accordance with 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on any aspect of this proposed information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this proposed rulemaking are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Send your written comments and suggestions on this information collection by the date indicated in **DATES** to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by

email to Info_Coll@fws.gov. Please reference “RIN 1018–BI14/OMB Control No. 1018–NEW Grizzly” in the subject line of your comments.

National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 et seq.)

We are analyzing this proposed rule in accordance with NEPA criteria, the Department of the Interior regulations on Implementation of the National Environmental Policy Act (43 CFR part 46), and the Department of the Interior Manual (516 DM 1).

We invite the public to comment on the extent to which this proposed rule may have a significant impact on the human environment or fall within one of the categorical exclusions for actions that have no reasonably foreseeable effects on the quality of the human environment that would require further analysis under NEPA. We will complete our analysis, in compliance with NEPA, before finalizing these proposed regulations.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951, May 4, 1994), E.O. 13175 (Consultation and Coordination with Indian Tribal Governments), the President's memorandum of November 30, 2022 (Uniform Standards for Tribal Consultation; 87 FR 74479, December 5, 2022), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. In accordance with Secretary's Order (SO) 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. In accordance with joint SO 3403 A1 of November 30, 2022, we recognize our responsibility to ensure our decisions with respect to wildlife safeguard the interests of potentially affected Tribes. We previously solicited information from Tribes to inform the development of our SSA report, but we did not receive any responses. Additionally, we did not receive any comments from Tribes in response to our January 15,

2025, proposal. We will inform and consult affected Tribes regarding this proposed rulemaking, and continue to coordinate with affected Tribes during the development of any final rules for the grizzly bear.

References Cited

A complete list of references cited in this rulemaking is available on the internet at <https://www.regulations.gov> and upon request from the Grizzly Bear Recovery Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.40 by revising paragraph (b) to read as follows:

§ 17.40 Species-specific rules—mammals.

* * * * *

(b) Grizzly bear (*Ursus arctos horribilis*)—

(1) *Definitions*. As used in in paragraph (b) of this section:

Authorized agency means a Federal, State, or Tribal agency designated by the U.S. Fish and Wildlife Service in a memorandum of understanding (MOU) or Technical Letter of Assistance (TLA) to assist in implementing all or part of the specified actions in paragraph (b)(3) of this section.

Conservation Strategy means an interagency document detailing the habitat and population management mechanisms that will achieve and maintain demographic and habitat objectives, which would include mortality thresholds; remain in place after grizzly bears are no longer listed under the Act; and demonstrates the adequacy, continuity, and continued agency application of population and habitat management regulatory mechanisms in order to maintain populations.

Designated Agent means an employee of an authorized agency, who, as a part of their official duties, normally handles

large carnivores, and when acting in the course of their official duties, may engage in actions that result in take consistent with this rule.

Deterrence means an intentional, nonlethal action to haze, disrupt, or annoy a grizzly bear out of close proximity to people or property to promote human safety, prevent conflict, or protect property, and does not cause death or lasting bodily injury to the grizzly bear.

Grizzly bear means any member of the species *Ursus arctos horribilis* within the lower-48 States, as described in 50 CFR 17.11(h), including any part, offspring, dead body, part of a dead body, or product of such species.

Grizzly bear involved in conflict means a grizzly bear that has caused substantial property damage, obtained anthropogenic foods not associated with bear-baiting (e.g., pet food, livestock feed, garbage), killed or injured lawfully present livestock, domestic animals in proximity to human-occupied areas, or working dogs, damaged beehives, breached an intact structure or electrified perimeter to obtain fruit or crops (e.g., greenhouse, garden, orchard, field, stackyard or grain bin), shown repeated and persistent signs of habituation in proximity to human-occupied areas (e.g., has been repeatedly hazed or previously relocated), exhibited aggressive behavior (i.e., not acting in defense of offspring or food or in response to a surprise encounter), or has been involved in a human-grizzly encounter resulting in human injury or loss of human life.

Habituation means the decrease of an animal's flight response following repeated exposure to inconsequential stimuli.

Human food-conditioned bear means a bear that has learned to associate people, human activities, human-use areas, or food storage receptacles with anthropogenic food as a result of repeatedly accessing anthropogenic foods without negative consequences.

Human-occupied areas means any structures or areas currently used or inhabited by humans (e.g., homes, residential areas, occupied campgrounds or trailheads, job sites).

Incidental take means take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity; it must be unintentional and not due to negligent conduct. The act of taking a grizzly bear that is wrongfully or mistakenly identified as another species is not considered incidental take and may be referred to appropriate authorities for prosecution.

Lasting bodily injury/injured means any permanent damage or injury that

limits a grizzly bear's ability to effectively move, obtain food, or defend itself for any length of time.

Livestock means cattle, sheep, pigs, horses, mules, goats, domestic bison, alpacas, llamas, and donkeys. Livestock excludes poultry, bees, and dogs (working or otherwise) not in close proximity to human-occupied areas or to lawfully present livestock.

Management Plan means a document developed by a Federal, State, or Tribal wildlife management agency detailing their agency's grizzly bear management program that will support the long-term viability of the species and is consistent with current interagency conservation strategies or other multi-state or multi-agency agreements.

Management Tier means one of two tiers, Tier 1 and Tier 2, which would be defined in an MOU between an authorized agency and the Service. Tier 1 and Tier 2 identify additional exceptions to take associated with Federal, State, or Tribal management and regulated trapping of other species provided for a particular geographic area once conservation strategies and Federal, State, or Tribal management plans are finalized for Tier 1 and demographic objectives are also met for Tier 2.

Memorandum of Understanding (MOU) means a document Federal, State, or Tribal agencies may enter into with the Service to authorize additional exceptions for grizzly bear management consistent with the two management tiers (Tier 1 and Tier 2) under this rule. Public zoological institutions will also need an MOU to accept wild grizzly bears.

Mortality threshold means a level of annual mortality established in a conservation strategy to help ensure the grizzly bear population within a given geographic area remains above a minimum population size. Mortality thresholds are expressed as a percent of the population, pertain to mortality from all sources, and include overall mortality as well as independent female and male mortality levels.

Non-target means a grizzly bear (a) caught during a conflict capture and handling effort that is not the bear responsible for the specific conflict, or (b) captured during research efforts directed at another species.

Occupied Range means an estimate of the roughly contiguous area within which bears have established residency or have demonstrated habitat use. Estimated occupied range represents a minimum known area of occupancy. It does not include occasional forays outside the estimated range or low-density peripheral areas and therefore

does not represent the total known extent of occurrences.

Prior authorization from the Service means a representative from the U.S. Fish and Wildlife Service, as specified in a current MOU, or TLA, has agreed with the proposed management action prior to the action being taken.

Self-Defense means a person acting to protect themselves, or any other individual, from bodily harm.

Sick means affected with disease or ill health.

Technical Letter of Assistance (TLA) means a letter issued by the Service describing and clarifying terms and conditions for take by authorized agencies.

Tier 1 means the first of two management tiers that applies where authorized agencies have adopted conservation strategies and Federal, State, or Tribal management plans that have been approved by the Service through an MOU, but populations have yet to reach demographic objectives as specified in a conservation strategy.

Tier 2 means the second of two management tiers that applies where authorized agencies have adopted conservation strategies and Federal, State, or Tribal management plans that have been approved by the Service through an MOU, and where populations have met demographic objectives as specified in a conservation strategy.

(2) *Prohibitions.* With the exception of designated experimental population areas for the grizzly bear where grizzly bears have been reintroduced and the species is subject to the prohibitions specified for grizzly bear experimental populations in § 17.84, the following prohibitions that apply to endangered wildlife also apply to grizzly bear in the lower-48 States. Except as provided under paragraph (b)(3) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife. This includes take associated with mistaken identity (e.g., while black bear hunting). The act of taking a grizzly bear that is wrongfully identified as another species is prohibited and may be referred to appropriate authorities for prosecution.

(iii) Possession, delivery, carriage, transport, or shipment of unlawfully or lawfully taken grizzly bears.

(iv) Interstate or foreign commerce in the course of commercial activity, as set

forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(3) *Exceptions from prohibitions.* The following exceptions to the prohibitions apply to the grizzly bear in the lower-48 States:

(i) *Employees or agents of the U.S. Fish and Wildlife Service*—Notwithstanding § 17.21(c)(1), and unless otherwise specified, any employee or agent of the Service may, when acting in the course of their official duties, take a grizzly bear.

(ii) *Import and Export*—Except as provided in paragraphs (b)(3)(ii)(A–C) of this section, no person shall import or export any grizzly bear into the lower-48 United States.

(A) Federal, State, or Tribal agencies may import live grizzly bears into the lower-48 States.

(B) Public zoological institutions (see 50 CFR 10.12) with an MOU with the Service may import or export live grizzly bears or their parts and products into or out of the lower-48 States.

(C) Federal, State, or Tribal agencies may import or export grizzly bear parts and products for scientific, cultural, law enforcement, educational, or research purposes.

(iii) *Possession*—Except as provided in paragraphs (b)(3)(iii)(A–C) of this section, no person shall possess a grizzly bear in the lower-48 States.

(A) Federal, State, and Tribal agencies with authorization to possess from the Service may possess, deliver, carry, transport, or ship parts and products of grizzly bears.

(B) Public zoological institutions (see 50 CFR 10.12) with an MOU with the Service may possess live grizzly bears (e.g., orphaned cubs) obtained from the wild.

(C) Museums and other nonprofit institutions with authorization to possess from the Service may possess, deliver, carry, transport, or ship grizzly bear parts and products for cultural, education, information, and outreach purposes. Parts and products may only be possessed by entities or nonprofit (501(c)(3)) organizations whose primary stated purposes are cultural, education or research. Parts and products shall not be traded, transferred, or disposed without prior authorization from the Service and may not be used in advocacy or lobbying efforts.

(iv) *Interstate or foreign commerce*—A public zoological institution (see 50 CFR 10.12) dealing with other public zoological institutions may sell grizzly bears or offer them for sale in interstate or foreign commerce, and may, in the course of commercial activity, deliver,

receive, carry, transport, or ship grizzly bears in interstate or foreign commerce with prior authorization from the Service.

(v) *Permits*—Any person may conduct activities as authorized by a valid permit under § 17.32.

(vi) *Scientific, genetic, or population augmentation purposes*—An authorized agency may collect samples from a grizzly bear in the wild. Additionally, any designated agent may live-capture and tag, collar, and transport a grizzly bear consistent with this grizzly bear 4(d) rule and a current TLA or MOU if such action is necessary for scientific, genetic, or population augmentation purposes. The following conditions apply to this exception:

(A) Take that results in a grizzly bear mortality or grizzly bear lasting bodily injury must be reported to the Service within 48 hours or as soon as practical given remote conditions.

(B) In the absence of an MOU or TLA, a permit under § 17.32 is required.

(vii) *Defense of life*—Any person may take a grizzly bear in defense of their own life or the lives of others. Grizzly bears taken in self-defense or in defense of human life must be reported by the person who has taken the bear or their designee within 48 hours of occurrence or as soon as practical given remote conditions. Take must be reported to the Office of Law Enforcement, U.S. Fish and Wildlife Service, in the appropriate region (see 50 CFR 2.2 for regional office information), and to appropriate State and Tribal authorities. The grizzly bear may only be retained, disposed of, or salvaged with the consent of, and consistent with directions from, the Office of Law Enforcement.

(viii) *Aiding sick or injured grizzly bears*—Take is excepted for authorized agencies aiding grizzly bears determined to be sick or injured to the extent they are unable to effectively move, obtain food, or defend themselves for any length of time (i.e., lasting bodily harm) if the necessary actions are conducted in a humane manner. Take associated with orphaned cubs must have prior authorization from the Service except in geographic areas where Tier 2 set forth under paragraph (b)(3)(xiv)(D) applies. Take must be reported to the Service within 48 hours or as soon as practical given remote conditions.

(ix) *Disposal of or salvage of a dead grizzly bear*—Take is excepted for authorized agencies to dispose of a dead grizzly bear or salvage a dead grizzly bear that may be useful for scientific study. Take must be reported to the Service within 48 hours or as soon as practical given remote conditions.

(x) *Incidental take from research and nonlethal management of other species by authorized agencies*—Incidental take associated with research and nonlethal management of other species by an authorized agency identified in a TLA from, or an MOU with, the Service is excepted.

(xi) *Deterrence*—Take in the form of harassment is excepted for individuals to conduct deterrence of grizzly bears for the purposes of avoiding human-bear conflicts or to discourage bears from using areas near homes and other human-occupied areas under the following conditions:

(A) Any deterrence must be conducted in accordance with the Service's grizzly bear hazing guidelines.

(B) Any person using deterrence methodologies must not intentionally cause lasting bodily injury or mortality to the grizzly bear.

(C) All grizzly bear mortalities or incidents resulting in lasting bodily injury must be reported to the Service within 48 hours or as soon as practical given remote conditions.

(D) Authorized agencies may use additional tools, including contracted services, as described in a TLA, or an MOU with the Service.

(E) In geographic areas under Tier 2, as set forth in paragraph (b)(3)(xiv)(D), additional exceptions for deterrence techniques will be determined by the applicable Federal, State, or Tribal laws and regulations.

(xii) *Management activities*—Take associated with management activities is excepted for authorized agencies, with prior authorization from the Service, to avoid human-bear conflicts, prevent habituation, improve grizzly bear survival, release or relocate non-targets, or aid in law enforcement investigations, given:

(A) Efforts are made to eliminate potential sources of conflict, when applicable and reasonably possible, by securing attractants, using deterrence, and/or live-capturing and releasing the bear unharmed in a remote area.

(B) Authorized agencies may relocate bears as a preemptive action for the purpose of preventing conflict that appears imminent or breaking habituated behavior of grizzly bears lingering near human-occupied areas.

(C) Any relocations shall be coordinated with the Service and appropriate land-management agencies.

(D) Lethal control of a grizzly bear involved in conflict requires prior authorization from the Service.

(E) *Monitoring and reporting requirements for management activities*—Authorized agencies must submit an annual report to the Service

documenting the location, date, and type of all take resulting in the capture, relocation, or mortality of a grizzly bear within a calendar year on or by February 15 of the subsequent year. The Service will annually review monitoring reports and changes in Federal, State, or Tribal management.

(xiii) *Incidental take associated with regulated trapping of other species*—In geographic areas and temporal periods defined in a TLA from the Service, incidental take associated with regulated trapping of other species is excepted, provided those activities are covered by the TLA and conducted in accordance with Federal, State, and Tribal laws and regulations.

(A) The Service will consider the best available information, including but not limited to, current distributions, verified locations outside of current distributions, known denning seasons within a given geographic area, verified grizzly bear activity outside of the den during denning seasons, and potential impacts to populations to define the geographic areas and temporal periods in the TLA.

(B) *Monitoring and reporting requirements for incidental take exceptions*—Authorized agencies must submit an annual report to the Service documenting the location, date, and type of all take resulting in the capture, relocation, or mortality of a grizzly bear within a calendar year on or by February 15 of the subsequent year. The Service will annually review monitoring reports and changes in Federal, State, or Tribal management.

(xiv) *Additional exceptions for management activities and incidental take under Tier 1 and Tier 2*—Additional take exceptions related to Federal, State, and Tribal grizzly bear management activities and incidental take under this rule will be determined in accordance with either Tier 1 or Tier 2 as defined by this rule.

(A) Federal, State, and Tribal agencies responsible for grizzly bear management may request Tier 1 or Tier 2 status from the Service for a particular geographic area within their jurisdiction if they meet the following conditions:

(1) *Conditions for Tier 1*: The following conditions must be in place for the Service to approve a request from a Federal, State, or Tribal agency for Tier 1 status:

(a) An MOU with the Service that: documents the Service's determination that an associated conservation strategy and Federal, State, or Tribal management plan meet the relevant criteria for a specific management tier (including appropriate population management mechanisms in accordance

with this rule); identifies the management tier for the applicable agency within a given geographic area; establishes designated agents; outlines terms and conditions for take; and defines monitoring and reporting requirements.

(2) *Conditions for Tier 2*: The following conditions must be in place for the Service to approve a request from a Federal, State, or Tribal agency for Tier 2 status:

(a) An MOU with the Service that: documents the Service's determination that an associated conservation strategy and Federal, State, or Tribal management plan meet the relevant criteria for a management tier (including appropriate population management mechanisms in accordance with this rule); identifies the management tier for the applicable agency within a given geographic area; establishes designated agents; outlines terms and conditions for take; and defines monitoring and reporting requirements; and

(b) The grizzly bear population defined in the MOU has achieved demographic objectives identified in the conservation strategy.

(B) For agencies that are in Tier 1 or Tier 2, failure to meet any or all of the conditions described for Tier 1 and Tier 2 as set forth in paragraph (b)(3)(xiv)(A), will initiate a review by the Service and may result in the Service revoking their management tier status. The Service may also initiate a review if any change in Federal, State, or Tribal laws, rules, regulations, or management plans or practices, or other circumstances depart significantly from the potential to achieve demographic objectives or mortality thresholds detailed in a conservation strategy.

(C) Tier 1—The following additional exceptions apply to geographic areas identified in an MOU with the Service as Tier 1.

(1) *Management activities excepted under Tier 1*—Take associated with management activities is excepted under the same conditions set forth in paragraph (b)(3)(xii).

(2) *Incidental take associated with regulated trapping of other species excepted under Tier 1*—Incidental take associated with regulated trapping of other species is excepted, provided trapping is conducted in accordance with Federal, State, or Tribal laws and regulations.

(3) *Monitoring and reporting requirements under Tier 1*—Authorized agencies must submit an annual report to the Service documenting the location, date, and type of all take resulting in the capture, relocation, or mortality of a grizzly bear within a calendar year on or

by February 15 of the subsequent year. The Service will annually review monitoring reports and changes in Federal, State, or Tribal management.

(4) The Service may revoke Tier 1 designations for the following reasons:

(a) If changes in Federal, State, or Tribal laws, rules, regulations, or management plans or practices depart significantly from objectives detailed in a conservation strategy;

(b) If substantial grizzly bear mortality associated with incidental take or management actions occurs in areas within the occupied range but where specific mortality thresholds do not exist.

(D) Tier 2—The following exceptions apply to geographic areas identified in an MOU with the Service as Tier 2.

(1) *Management activities excepted under Tier 2*—Take associated with management activities is excepted under applicable Federal, State, and Tribal laws and regulations.

(a) Excepted deterrence techniques will be determined by the applicable Federal, State, or Tribal laws and regulations.

(b) When aiding sick or injured grizzly bears, authorized agencies may take orphaned cubs without prior authorization from the Service.

(c) Service oversight, excluding Service law enforcement investigations, will be carried out consistent with the monitoring and reporting requirements for Tier 2 set forth below in paragraph (b)(3)(iv)(D)(3).

(2) *Incidental take excepted under Tier 2*—Incidental take is excepted, provided those activities are conducted in accordance with Federal, State, or Tribal laws and regulations.

(3) *Monitoring and reporting requirements under Tier 2*—Authorized agencies must submit an annual report to the Service for a given geographic area documenting the location, date, and type of all take resulting in the capture, relocation, or mortality of a grizzly bear within a calendar year on or by February 15 of the subsequent year. Additionally, this report must include demographic monitoring reports. The Service will annually review monitoring reports and changes in Federal, State, or Tribal management.

(4) The Service may revoke Tier 2 designations for the following reasons:

(a) The population falls below demographic objectives identified in the conservation strategy for one year;

(b) Occupancy of females with young falls below objectives set forth in strategies or plans;

(c) Female mortality exceeds thresholds for two consecutive years;

(d) Overall mortality exceeds

thresholds for two consecutive years; or
(e) Changes in Federal, State, or Tribal laws, rules, regulations, or management plans or practices, or other circumstances depart significantly from the potential to achieve demographic objectives or mortality thresholds detailed in a conservation strategy.

* * * * *

Brian R. Nesvik,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2026–14450 Filed 7–15–26; 11:15 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 679 and 680

RIN 0648–BO21

Fisheries of the Exclusive Economic Zone off Alaska; Amendment 129 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area; Amendment 58 to the Fishery Management Plan for Bering Sea Aleutian Islands King and Tanner Crabs; Economic Data Reporting Requirements Removal

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

ACTION: Notice of availability of fishery management plan amendments; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) submitted amendment 129 to the Fishery Management Plans for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and amendment 58 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP) to the Secretary of Commerce for review. If approved, amendments 129 and 58 would remove requirements for fishery participants to submit Economic Data Reports (EDRs) each year, reducing cost recovery fees and eliminating redundant reporting requirements. Amendments 129 and 58 are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the BSAI FMP, the Crab FMP, and other applicable laws.

DATES: Comments must be received no later than September 15, 2026.

ADDRESSES: A plain language summary of the proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2026-0463>. You may submit comments on this document, identified by NOAA–NMFS–2026–0463, by either of the following methods:

- **Electronic Submission:** Submit electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2026–0463 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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.

Electronic copies of amendment 129 to the BSAI FMP and amendment 58 to the Crab FMP, the draft Regulatory Impact Review prepared for this action (the Analysis), and the draft Categorical Exclusion prepared for this action may be obtained from <https://www.regulations.gov> or from the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>.

FOR FURTHER INFORMATION CONTACT: Stephanie Warpinski, 907–586–7228

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed amendment 129 to the BSAI FMP and amendment 58 to the Crab FMP are available for public review and comment.

The Council prepared, and the Secretary approved, the BSAI FMP and Crab FMP under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The BSAI FMP and Crab FMP are implemented by regulations governing U.S. fisheries at 50 CFR parts 600, 679, and 680. The Council is authorized to prepare and recommend an FMP amendment for the conservation and management of a fishery covered under the FMP.

Background

Amendment 129 to the BSAI FMP would remove the EDR requirement for participants in the Amendment 80 Program in section 3.7.5.9 of the FMP. The Amendment 80 Program is a limited access privilege program (LAPP) that allocates specific BSAI non-pollock groundfish species and apports prohibited species catch limits among trawl fishery sectors. By authorizing the formation of harvesting cooperatives for the trawl catcher/processor fleet, the program encourages a shift away from the “race for fish” toward more efficient, safe, and economically stable operations. The EDR for the Amendment 80 Program was implemented to assess the economic effects of the Amendment 80 Program on various components of the fishery, including skippers and crew to inform future management actions.

Amendment 58 to the Crab FMP would remove the EDR requirements for participants in the Bering Sea and Aleutian Islands Crab Rationalization Program (Crab Program) in section 3.4.10 of the FMP. The Crab Program is a LAPP that allocates the total allowable catch of nine BSAI crab species among harvesters and processors. By replacing a “race for fish” with a quota system, the program aims to increase safety, improve economic stability, and promote long-term conservation of the

fishery. The EDR for the crab EDR was to collect cost, revenue, ownership, and employment data on a periodic basis (based on scientific requirements) to provide information to study the impacts of the Crab Program as well as collecting data that could be used to analyze the economic and social impacts of future FMP amendments on industry, regions, and localities.

The Council recommended amendments 129 and 58 due to the inconsistent application of EDRs across LAPPs, the limited utility of EDRs to fishery management, and the high cost and reporting burden of EDRs to fishery participants and the high cost of maintaining EDRs to the Federal government. Currently, only three of the eight LAPPs in the North Pacific collect EDR data. By recommending removal of EDR requirements, the Council aims to consistently alleviate reporting requirements for programs. In addition, the EDR data does not inform decisions to open or close fisheries and is therefore not used in the active management of any fishery for which it is collected. As such, in recommending the removal of the EDRs, the Council deemed that the data collections are not necessary and do not provide sufficient value considering the costs and reporting burden to fishery participants. In its purpose and need statement, the Council also noted that it sought to minimize costs to the Federal government, which would also be accomplished by the elimination of the EDRs.

The Council and NMFS recognize that fishery participants are experiencing rising operational costs across all North Pacific LAPPs. By removing EDR requirements through amendment 129 and 58, NMFS attempts to reduce the associated annual cost and time burden estimate for participants and reduce agency costs associated with

underutilized data collections. Since the EDR program has been in effect, there has been variability in the useability of the data. Through public testimony, fishery participants stated that the data generated limited and nuanced utility in informing management decisions relative to their costs.

NMFS is soliciting public comments on proposed amendments 129 and 58 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement amendments 129 and 58 following NMFS’s evaluation of the proposed rule under the Magnuson-Stevens Act.

Respondents do not need to submit the same comments on amendments 129 and 58 and the proposed rule. All relevant written comments received by the end of the applicable comment period on proposed amendments 129 and 58, whether specifically directed to the FMP amendments or the proposed rule, will be considered by NMFS in the approval/disapproval decision for amendments 129 and 58 and addressed in the response to comments in the final decision. Comments received after the end of the comment period for proposed amendments 129 and 58 may not be considered in the approval/disapproval decision on amendments 129 and 58. To be certain of consideration, comments would need to be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: July 15, 2026.

Shannon Bettridge,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–14524 Filed 7–16–26; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 91, No. 136

Friday, July 17, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc No. AMS–SC–26–0991]

Export Fruit Acts; Notice of Request for Renewal of a Recordkeeping Burden

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to request for renewal a recordkeeping burden for a currently approved information collection for the Export Fruit Acts covering exports of apples and grapes.

DATES: Comments on this notice must be received by September 15, 2026.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments can also be submitted to the Docket Clerk electronically by email: MarketingOrderComment@usda.gov or via the internet at: <https://www.regulations.gov>. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. Comments submitted in response to this notice will be included in the record, will be made available to the public, and may be viewed at: <https://www.regulations.gov>. Please be advised that comments are posted to [regulations.gov](https://www.regulations.gov) without change.

FOR FURTHER INFORMATION CONTACT: Taylor Johnson, Marketing Specialist, or Matthew Pavone, Chief, Rulemaking Services Branch, Market Development

Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–8085, or email: Taylor.Johnson3@usda.gov or Matthew.Pavone@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Export Fruit Regulations—Export Apple Act (7 CFR part 33) and the Export Grape and Plum Act (7 CFR part 35).

OMB Number: 0581–0143.

Expiration Date of Approval: December 31, 2026.

Type of Request: Renewal of a recordkeeping burden.

Abstract: Fresh apples and grapes grown in the United States shipped to any foreign destination must meet minimum quality and other requirements established by regulations issued under the Export Apple Act (7 U.S.C. 581–590) and the Export Grape and Plum Act (7 U.S.C. 591–599) (Acts), which are codified under 7 CFR part 33 and 7 CFR part 35, respectively. Both Acts were designed to promote foreign trade in the export of apples, grapes, and plums grown in the United States; to protect the reputation of American-grown commodities; and to prevent deception or misrepresentation of the quality of such products moving through foreign commerce. The Acts have been in effect since 1933 (apples) and 1960 (grapes). Currently, plums are not regulated under the Export Grape and Plum Act.

The Secretary of Agriculture is authorized to oversee the implementation of the Acts and issue regulations regarding the Acts accordingly. Regulations issued under the Acts cover exports of fresh apples and grapes grown in the United States and shipped to foreign destinations (except grapes shipped to Canada or Mexico and apples shipped in bulk bins to Canada). Certain limited quantity provisions may exempt some shipments from this information collection. Regulations issued under the Acts (§ 33.11 for apples and § 35.12 for grapes) require that the U.S. Department of Agriculture (USDA) officially inspect and certify that each export shipment of fresh apples and grapes complies with quality and shipping requirements effective under the Acts.

The information collection requirements in this request are essential to carry out the intent and

administration of the Acts and the information collection burden for this action is primarily in the form of recordkeeping. The currently approved collection under OMB No. 0581–0143 authorizes the use of an “Export Form Certificate” (SC–205). Federal or Federal-State Inspection Program (FSIP) inspectors use the Export Form Certificate to certify inspection of the shipment for exports bound for non-Canadian destinations. The certificate is not completed by exporters and is not filed with USDA by exporters. The certificates are retained by each exporter to verify their compliance with the Acts. To monitor compliance with regulations, shippers are required to maintain and provide, upon USDA's request, a paper or electronic copy of the SC–205 when needed. Based on amended procedures in 2016 that were approved by OMB for information collection purposes, carriers, which transport goods on behalf of shippers, are no longer required to maintain a copy of the SC–205.

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.108 hours per response.

Respondents (Recordkeepers): Apple and grape export shippers and carriers.

Estimated Number of Respondents: 200 (150 shippers and carriers of exported apples and 50 shippers and carriers of exported grapes).

Estimated Total Annual of Responses: 90,000.

Estimated Number of Responses per Respondent: 450.

Estimated Total Annual Burden on Respondents: 9,750.

Comments are invited on: (1) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on those who respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request

for OMB approval. All comments will also become a matter of public record.

Erin Morris

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–14455 Filed 7–16–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–83–2026]

Foreign-Trade Zone (FTZ) 37, Notification of Proposed Production Activity; Oerlikon Metco (US) Inc.; (Surface Coatings and Application Equipment); Westbury, New York

Oerlikon Metco (US) Inc. submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Westbury, New York within Subzone 37H. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on June 29, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz.

The proposed finished products include: aluminum oxide powder; chromium oxide powder; titanium oxide powder; yttrium stabilized zirconium oxide; sealants; mixtures of oxides and carbides; and, thermal spray coating machines (duty rate ranges from duty-free to 5.5%).

The proposed foreign-status materials/components include: tungsten carbide; contact grease; dry lubricant; Teflon spray; graphite atomizer; coolants; non-agglomerated carbides with metallic binders; water conditioning chemicals; plastic hoses; plastic hoses without fittings; plastic hoses with fittings; plastic parts for thermal-spray coating machines; plastic bottles; rubber connecting hoses; timing belts; rubber buffers for discharge funnels; ceramic insulating disks for gas distribution; ceramic insulating rings for gas distribution; glass sheets used in thermal spray coating; glass filter mats; round steel sire used for welding; stainless steel wire used for thermal spray coating; nickel alloy steel tubes;

steel seals; steel hoppers; steel screws; steel nuts; steel retaining rings; steel seal shafts; steel bolts; steel tension springs; steel pressure springs; steel sound absorbers; bronze alloy wire; copper bushings; copper adapters; nickel alloy power; nickel power with additions of chrome, aluminum, and bentonite; 14 gauge nickel wire; aluminum alloy powder with addition of silica and polyester; aluminum wire, of non-alloyed aluminum, cross section higher than 7 mm; aluminum insulating rings; aluminum container for powders; zinc aluminum alloy wire; tin wire; cobalt alloy powder; titanium alloy powder; chrome wire; ceramic metals (cermets) in powder form; hexagon keys with handle; teaching tool sets; quick clamping levers; non-alloy steel wire for welding or spray-coating; base metal wire for welding; base metal wire; drive unit for powder disc; steel shafts; rotary pumps; pressure transducers; electric fan; ceiling fans; fluid and electrical feedthrough; chillers; filter inserts for thermal spray coating machines; equipment rearing housings; equipment maintenance kits; hard drives; monitors; printed circuits; stirrers; powder feed tubes; flanged valves; gas switches; pressure regulators; solenoid valves; mechanical supply assemblies; groove ball bearings; sealing rings; steel planetary gears; toothed drive belts; pressure sensing switches; DC motors with gear for blunger drives; servo drives; AC servo motors; control transformers; transformers; power supply interface modules; electrical throttles; swivel axle guns; sealing lips for thermal spray coating machines; heating jackets; interfaces switches for thermal spray coating machines; RFIDs; service tools (software kits); transmitters; capacitors; ceramic capacitors; resistors; valve connectors; fuses; programmed relays; programmable controllers; key fobs and door interlocks, switch selectors; plug connectors and cable lugs; stirrer components; computer parts controlling thermal spray machines; interface modules; signal lamps; over-voltage limiters; amplifiers and converters; ignition devices; nozzles for thermal spray coating; cables and connectors for thermal spray coating; steel gauges; digital mass flow controllers and sensors for air and liquids; pressure transmitters and manometers; conductivity meters; flow switches; gas flow measuring modules; alignment valves; voltmeters; optical sensing heads; voltage frequency transducers; thermostats; diagnostic sets for thermal spray coating machines; and, powder

injectors (duty rate ranges from duty-free to 15%).

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 26, 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: July 14, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–14424 Filed 7–16–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–232, A–557–836, A–552–856]

Stationary and Portable Air Compressors From the People's Republic of China, Malaysia, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 17, 2026.

FOR FURTHER INFORMATION CONTACT:

Jinny Ahn at (202) 482–0339 (the People's Republic of China (China)), Anne Entz at (202) 482–3845 (Malaysia), and Patrick Barton at (202) 482–0012 (the Socialist Republic of Vietnam (Vietnam)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 20, 2026, the U.S. Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of stationary and portable air compressors (air compressors) from

China, Malaysia, and Vietnam.¹ Currently, the preliminary determinations are due no later than October 7, 2026.

Postponement of Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) the petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On July 6, 2026, the petitioner² submitted a timely request that Commerce postpone the preliminary determinations in these LTFV investigations.³ The petitioner stated that it requested postponement because, *inter alia*, “this extension would allow petitioner’s counsel and other interested parties sufficient time to analyze the respondents’ questionnaire responses and provide comments on those responses.”⁴

For the reason stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.*, 190 days after the date on which these investigations were initiated). As a result, Commerce will issue its preliminary determinations no later than November 27, 2026.⁵ In

accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: July 10, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–14491 Filed 7–16–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–016]

Certain Passenger Vehicle and Light Truck Tires From the People’s Republic of China: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2024–2025

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that producers/exporters subject to this review made sales of subject merchandise at less than normal value during the period of review (POR), August 1, 2024, through July 31, 2025. In addition, we are rescinding the review with respect to 19 companies. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable July 17, 2026.

FOR FURTHER INFORMATION CONTACT: Eric Chen, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2860.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 2025, based on timely requests for review, in accordance with 19 CFR

351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on certain passenger vehicle and light truck (PVL) tires from the People’s Republic of China (China).¹ On October 15, 2025, Pirelli Tyre Co., Ltd. (Pirelli Tyre) timely withdrew its request for review.² On December 22, 2025, Qingdao Keter International Co., Limited (Keter) timely withdrew its request for review.³ Further, we intend to refer the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC’s (petitioner’s) concerns to CBP.⁴

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceeding by 47 days.⁵ 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.⁶ On July 2, 2026, Commerce extended the deadline for the preliminary results by three days.⁷ Accordingly, the deadline for these preliminary results is now July 13, 2026.

Scope of the Order

The merchandise covered by the scope of this *Order* is PVL tires from China. For a complete description of the scope of the *Order*, see Appendix I.

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 46173 (September 25, 2025) (Initiation Notice); see also *Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 47902 (August 10, 2015) (*Order*).

² See Pirelli Tyre’s Letter, “Pirelli’s Withdrawal Request for AD Review,” dated October 15, 2025.

³ See Keter’s Letter, “Withdrawal of Request for Administrative Review,” dated December 22, 2025 (Keter Withdrawal).

⁴ See Petitioner’s Letters, “Petitioner’s Comments on Customs Entry Data,” dated December 18, 2025; and “Petitioner’s Comments and Rebuttal Information on Customs Entry Documents for Yongsheng,” dated May 1, 2026.

⁵ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁶ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁷ See Memorandum, “Extension of Deadline for Preliminary Results of 2024–2025 Antidumping Duty Administrative Review,” dated July 2, 2026.

¹ See *Stationary and Portable Air Compressors from the People’s Republic of China, Malaysia, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 91 FR 31406 (May 27, 2026).

² The petitioner is MAT Industries, LLC.

³ See Petitioner’s Letter, “Petitioner’s Request to Postpone Preliminary Determinations,” dated July 6, 2026.

⁴ *Id.* at 2.

⁵ Postponing the preliminary determination to 190 days after initiation would place the deadline on Thursday, November 26, 2026, a federal holiday.

Commerce’s practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested a review withdraws its request within 90 days of the date of publication of notice of initiation. As noted above, Pirelli Tyre and Keter timely withdrew their review requests and no other party requested an administrative review of these companies. Therefore, we are rescinding this administrative review with respect to these companies, pursuant to 19 CFR 351.213(d)(1).

Further, pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order where it concludes that there were no suspended entries of subject merchandise during the POR.⁸ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.⁹ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the calculated antidumping duty assessment rate for the review period.¹⁰

We received timely filed no-shipment certifications letter from: (1) Qingdao Fullrun Tyre Corp., Ltd. (Qingdao Fullrun), (2) Qingdao Nama Industrial Co., Ltd. (Qingdao Nama), (3) Shandong Haohua Tire Co., Ltd. (Shandong Haohua), (4) Shandong Yongsheng Rubber Group Co., Ltd. (Yongsheng), and (5) Triangle Tyre Co., Ltd.

⁸ See, e.g., *Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

⁹ See 19 CFR 351.212(b)(1).

¹⁰ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F.Supp.3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Tariff Act of 1930, as amended (the Act), the U.S. Court of International Trade (CIT) held that “{w}hile the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended”; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102 (July 8, 2021), and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that “for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate”).

(Triangle).¹¹ Because the CBP data we placed on the record indicated that Triangle and Yongsheng may have had entries during the POR,¹² in April and May 2026, we obtained CBP entry documentation for Triangle and Yongsheng, which we placed on the record.¹³ Because this information indicates that Triangle and Yongsheng had knowledge that their merchandise was destined for the United States, we preliminarily determine that Triangle and Yongsheng had reviewable entries during the POR.¹⁴

On May 14, 2026, Commerce notified all interested parties of its intent to rescind the instant review regarding the companies listed in Appendix II (including Qingdao Fullrun, Qingdao Nama, and Shandong Haohua) because there were no reviewable, suspended entries of subject merchandise from these companies during the POR and invited interested parties to comment.¹⁵ We only received comments on this memorandum from Yongsheng, which was not listed, arguing that it did not sell or ship subject merchandise to the United States during the POR.¹⁶ Therefore, in the absence of any suspended entries of subject merchandise from the 17 companies listed in Appendix II during the POR, we are rescinding this administrative review for these companies, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce considers China to be a non-market economy (NME) country.¹⁷

¹¹ See Triangle's Letter, “Notice of No Sales,” dated October 13, 2025; see also Yongsheng's Letter, “Notice of No Sales,” dated October 13, 2025; Qingdao Fullrun's Letter, “No Sales Certification,” dated October 28, 2025; Shandong Haohua's Letter, “No Sales Certification,” dated October 28, 2025; and Qingdao Nama's Letter, “Submission of Nama's No Shipment Certification,” dated November 3, 2025.

¹² See Memorandum, “Release of Customs Entry Data,” dated December 11, 2025.

¹³ See Memorandum, “Release of U.S. Customs and Border Protection Entry Documents for Yongsheng,” dated April 24, 2026; see also Memorandum, “Release of U.S. Customs and Border Protection Entry Documents for Triangle,” dated May 15, 2026.

¹⁴ For the details of our analysis of these entries, which involves business proprietary information, see Memorandum, “2024–2025 Antidumping Duty Administrative Review of Passenger Vehicle and Light Truck Tires from the People's Republic of China: Business Proprietary Information Accompanying the Federal Register Notice for the Preliminary Results,” dated concurrently with this notice (BPI Memorandum) at 1–3.

¹⁵ See Memorandum, “Notice of Intent to Rescind Review, In Part,” dated May 14, 2026.

¹⁶ See Yongsheng's Letter, “Comments on Notice of Intent to Rescind Review, In Part,” dated May 21, 2026.

¹⁷ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of*

in accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, for these preliminary results, we treated China as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

Separate Rate Determinations

In a proceeding involving an NME country, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.¹⁸ Commerce notified parties in the *Initiation Notice* that “{t}he deadline and requirement for submitting a Separate Rate Application {{SRA}} applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.”¹⁹ Also in the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in this administrative review.²⁰ This process requires exporters to submit an SRA and to demonstrate the absence of both *de jure* and *de facto* government control over their export activities.²¹ In the *Initiation Notice*, Commerce required that all firms listed in the notice “that wish to qualify for separate rates status in the administrative reviews involving NME countries must complete, as appropriate, either a {SRA} or {separate rate certification (SRC)} . . .”²²

Commerce's policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an

Sales at Less-Than-Fair-Value and Postponement of Final Determination, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum (PDM) at 7–8 (citing Memorandum, “China's Status as a Non-Market Economy,” dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

¹⁸ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).

¹⁹ See *Initiation Notice*, 90 FR at 46174.

²⁰ *Id.*

²¹ For a description of our practice, see Enforcement and Compliance's Policy Bulletin No. 05.1, regarding “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries,” (April 5, 2005), available on Commerce's website at <https://www.trade.gov/enforcement-and-compliance-policy-bulletins-0>.

²² See *Initiation Notice*, 90 FR at 46174.

exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.²³ Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under the test established in *Sparklers from China*²⁴ and further developed in *Silicon Carbide from China*.²⁵ In accordance with this separate rate test, Commerce will assign a separate rate in an NME proceeding if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities.²⁶ If, however, Commerce determines that a company is wholly foreign owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades from China* proceedings and its determinations therein.²⁷ In particular, in litigation involving the *Diamond Sawblades from China* proceeding, the CIT found Commerce's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity exercised control over the respondent exporter.²⁸ Following

the CIT's reasoning, in recent proceedings, we have concluded that where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the government exercises or has the potential to exercise control over the company's operations generally.²⁹ This may include control over, for example, the selection of board members and management, key factors in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with our normal separate rate practice, any ability to control, or possess an interest in controlling, the operations of the company including the selection of board members, management, and the profit distribution of the company by a government entity is subject to Commerce's rebuttable presumption that all companies within the NME country are subject to government control.

In order to demonstrate eligibility for separate rate status, Commerce normally requires an exporter for which a review was requested, and which was assigned a separate rate in a previous completed segment of the proceeding and which remains active for that exporter, to submit an SRC stating that it continues to meet the criteria for obtaining a separate rate.³⁰ For an exporter that was not assigned a separate rate in a previously completed segment of the proceeding and which remains active for that exporter, to demonstrate eligibility, Commerce requires an SRA.³¹ A company that submits an SRA or SRC and which is subsequently selected for examination must respond to all parts of Commerce's questionnaire

in order to be eligible for a separate rate.³²

In the *Initiation Notice*, Commerce stated that submission of SRAs and SRCs were due 14 days after publication of the notice, *i.e.*, October 9, 2025.³³ Moreover, Commerce specifically noted that “{t}he deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.”³⁴ We timely received an SRC from Keter;³⁵ however, as discussed above, Keter subsequently timely withdrew its request for review.³⁶ No other company provided an SRA or SRC, including the companies remaining under review (*i.e.*, Shandong Zhongyi Rubber Co., Ltd. (Zhongyi), Triangle, and Yongsheng). As such, consistent with Commerce's practice for when a party fails to submit an SRA or SRC, we preliminarily find that Triangle, Yongsheng, and Zhongyi are ineligible for a separate rate, and, therefore, are part of the China-wide entity.³⁷ Commerce's practice with respect to an exporter that fails to submit an SRA or SRC has been upheld by the U.S. Court of Appeals for the Federal Circuit.³⁸ Commerce further notes that the companies remaining under review failed to submit an SRA or SRC, meaning there are no remaining companies subject to review, including

²³ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers from China*).

²⁴ *Id.*

²⁵ See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide from China*).

²⁶ *Id.*

²⁷ See *Final Results of Redetermination Pursuant to Court Remand, Diamond Sawblades and Parts Thereof from the People's Republic of China*, Consol. Court No. 09–00511, Slip Op. 12–147 (CIT November 30, 2012), dated May 6, 2013, available at <https://access.trade.gov/FinalRemandRedetermination>, in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F.Supp.2d 1343 (CIT 2012) (*Advanced Technology I*), *aff'd* *Advanced Technology & Materials Co. v. United States*, 938 F.Supp.2d 1342 (CIT 2013), *aff'd* *Advanced Technology & Materials Co. v. United States*, Court No. 2014–1154 (Fed. Cir. 2014); see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 77098 (December 20, 2013), and accompanying PDM at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum at Comment 1 (collectively, *Diamond Sawblades from China*).

²⁸ See, *e.g.*, *Advanced Technology I*, 885 F.Supp.2d at 1349 (CIT 2012) (“The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it.”); *Id.*, 885 F.Supp.2d at 1351 (“Further

substantial evidence of record does not support the inference that SASAC's [state-owned assets supervision and administration commission] ‘management’ of its ‘state-owned assets’ is restricted to the kind of passive-investor *de jure* ‘separation’ that Commerce concludes.”) (footnotes omitted); *Id.*, 885 F.Supp.2d at 1355 (“The point here is that ‘government control’ in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a ‘degree’ of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to ‘day-to-day decisions of export operations,’ including terms, financing, and inputs into finished product for export.”); *Id.*, 885 F.Supp.2d at 1357 (“AT&M itself identifies its ‘controlling shareholder’ as CISRI [owned by SASAC] in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.”) (footnotes omitted).

²⁹ See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying PDM at 5–9.

³⁰ See *Initiation Notice*, 90 FR at 46174.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ See Keter's Letter, “Separate Rate Certification,” dated October 9, 2025.

³⁶ See Keter Withdrawal.

³⁷ See *e.g.*, *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012–2013*, 80 FR 40998 (July 14, 2015) (treating a company as part of the China-wide entity for failure to submit an SRA, and explaining that “{t}he failure to provide a separate rate certification is not a ministerial error, but rather, a failure to comply with {Commerce}'s well established separate rate methodology.”); see also, *e.g.*, *Hydrofluorocarbon Blends from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2019–2020*, 86 FR 49516, 49517 (September 3, 2021) (finding that PureMann, Inc. (PureMann), the sole company subject to the review, did not file an SRA and did not demonstrate its eligibility for separate rate status and that, therefore, PureMann was part of the China-wide entity).

³⁸ See *Repwire LLC v. United States*, 628 F.Supp.3d 1288 (CIT 2023), *aff'd* 2025 WL 2399398 (Fed. Cir. Aug. 19, 2025) (finding that “Commerce's actions were reasonable and supported by substantial evidence” in a case in which Commerce retracted its issuance of the initial questionnaire and found that Jin Tiong Electrical Materials Manufacturer PTE. Ltd. was part of the China-wide entity due to its failure to submit a timely SRA).

the China-wide entity.³⁹ As a result, Commerce did not need to limit examination or select respondents. Furthermore, because no company or the China-wide entity were eligible for examination in this review, Commerce did not issue a questionnaire.

The China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.⁴⁰ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, the entity is not under review, and the entity's rate (*i.e.*, 76.46 percent)⁴¹ is not subject to change.

Preliminary Results of Review

Because Triangle, Yongsheng, and Zhongyi failed to timely file either an SRA or SRC in this review, we preliminarily find that these companies are ineligible for a separate rate and, as such, are part of the China-wide entity. As a result, there is no decision memorandum accompanying this notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we preliminarily find that Triangle, Yongsheng, and Zhongyi are a part of the China-wide entity, there are no calculations to disclose.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.⁴² Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the

date for filing case briefs.⁴³ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.⁴⁴

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.⁴⁵ Further, we request that interested parties limit their public, executive summary of each issue to no more than 450 words, not including citations. We intend to use the public, executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public, executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).⁴⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.⁴⁷

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

For the companies listed in Appendix II for which the review is being rescinded, Commerce will instruct CBP

to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate for estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

For the final results, if we continue to treat Triangle, Yongsheng, and Zhongyi as part of the China-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 76.46 percent to all entries of subject merchandise during the POR which were produced and/or exported by those companies.

If a timely summons is filed at the CIT, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for previously investigated or reviewed China and non-China exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all China exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the existing rate for the China-wide entity of 76.46 percent; and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its

³⁹ See *Initiation Notice*, 90 FR at 46180.

⁴⁰ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

⁴¹ See *Order*, 80 FR 47902 at 47904.

⁴² See 19 CFR 351.309.

⁴³ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

⁴⁴ See 19 CFR 351.309(c)(2) and (d)(2).

⁴⁵ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

⁴⁶ See *APO and Service Procedures*.

⁴⁷ See 19 CFR 351.310(d).

analysis of issues raised in case and rebuttal briefs, within 120 days of publication of these preliminary results of review in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 13, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Order

The scope of the *Order* is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by the *Order* may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol "DOT" on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars

LT—Identifies a tire intended primarily for service on light trucks

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a "P" or "LT" prefix, and all tires with an "LT" suffix in their sidewall markings are covered by this *Order* regardless of their intended use.

In addition, all tires that lack a "P" or "LT" prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the passenger car section or light truck section of the *Tire and Rim Association Yearbook*, as updated annually, unless the tire falls within one of the specific exclusions set out below

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope. Specifically excluded from the scope are the following types of tires:

(1) racing car tires; such tires do not bear the symbol "DOT" on the sidewall and may be marked with "ZR" in size designation;

(2) new pneumatic tires, of rubber, of a size that is not listed in the passenger car section or light truck section of the *Tire and Rim Association Yearbook*;

(3) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(4) non-pneumatic tires, such as solid rubber tires;

(5) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) the size designation and load index combination molded on the tire's sidewall are listed in Table PCT-1B ("T" Type Spare Tires for Temporary Use on Passenger Vehicles) of the *Tire and Rim Association Yearbook*,

(b) the designation "T" is molded into the tire's sidewall as part of the size designation, and,

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by *Tire and Rim Association Yearbook*, and the rated speed is 81 MPH or a "M" rating;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) the size designation molded on the tire's sidewall is listed in the ST sections of the *Tire and Rim Association Yearbook*,

(b) the designation "ST" is molded into the tire's sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is "For Trailer Service Only" or "For Trailer Use Only",

(d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the *Tire and Rim Association Yearbook* for the relevant ST tire size, and

(e) either

(i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by *Tire and Rim Association Yearbook*, and the rated speed does not exceed 81 MPH or an "M" rating; or

(ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the *Tire and Rim Association Yearbook*; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the *Tire and Rim Association Year Book*, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the *Tire and Rim Association Year Book*;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) the size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the *Tire and Rim Association Yearbook*,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not for Highway Service" or "Not for Highway Use",

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the *Tire and Rim Association Yearbook*, and the rated speed does not exceed 55 MPH or a "G" rating, and

(d) the tire features a recognizable off-road tread design.

The products covered by the *Order* are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.90.2050, 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.30, 8708.70.45.45, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

Companies Rescinded From Administrative Review

Companies With No Suspended Entries:

1. Qingdao Fullrun Tyre Corp., Ltd.
2. Qingdao Lakesea Tyre Co., Ltd.
3. Qingdao Landwinner Tyre Co., Ltd.
4. Qingdao Nama Industrial Co., Ltd.
5. Qingdao Nexen Tire Corporation
6. Qingzhou Detai International Trading Co., Ltd.
7. Riversun Industry Limited
8. Shandong Changfeng Tyres Co., Ltd.
9. Shandong Guofeng Rubber Plastics Co., Ltd.
10. Shandong Haohua Tire Co., Ltd.
11. Shandong Qilun Rubber Co., Ltd.
12. Shandong Yongtai Group Co., Ltd.

13. Shandong Yonking Rubber Co., Ltd.
14. Shengtai Group Co., Ltd.
15. Techking Tires Limited
16. Weihai Zhongwei Rubber Co., Ltd.
17. Windforce Tyre Co., Limited
Companies Withdrawn from Review Request:
1. Pirelli Tyre Co., Ltd.
2. Qingdao Keter International Co., Limited
[FR Doc. 2026–14423 Filed 7–16–26; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE
International Trade Administration
[A–122–873]

Fresh Mushrooms From Canada: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.
SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that fresh mushrooms from Canada are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is July 1, 2024, to June 30, 2025. Interested parties are invited to comment on this preliminary determination.
DATES: Applicable July 17, 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
This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation

on January 8, 2026.¹ On May 4, 2026, Commerce postponed the preliminary determination of this investigation by 50 days, and the revised deadline is now July 13, 2026.²
For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.³ A list of the topics discussed in the Preliminary Decision Memorandum is attached as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.
Scope of the Investigation
The merchandise subject to this investigation is fresh mushrooms from Canada. For a complete description of the scope of the investigation, *see* Appendix I.
Scope Comments
In accordance with the *Preamble* to Commerce’s regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope). Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁵ Commerce is soliciting comments on potential modifications to the scope language as it appeared in the *Initiation Notice*. *See* Preliminary Scope Decision Memorandum.

Methodology
Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export price and constructed export price in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.
All-Others Rate
Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated weighted-average dumping margin, *i.e.*, the all-others rate, for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.
In this investigation, Commerce calculated estimated weighted-average dumping margins for Champ’s Fresh Farms Inc. and Loveday Mushroom Farms Ltd. (collectively, Champs), Farmers’ Fresh Mushrooms, Inc. (Farmers’ Fresh), and Highline Produce Limited and Highline Mushrooms West Ltd. (collectively, Highline), that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents, based on publicly-ranked figures provided by the respondents.⁶
Preliminary Determination
Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter or producer	Estimated weighted-average dumping margin (percent)
Champ’s Fresh Farms Inc./Loveday Mushroom Farms Ltd	8.71

¹ See *Fresh Mushrooms from Canada: Initiation of Less Than Fair Value Investigation*, 91 FR 663 (January 8, 2026) (*Initiation Notice*).

² See *Fresh Mushrooms from Canada: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 91 FR 23966 (May 4, 2026).

³ See Memorandum, “Decision Memorandum for the Preliminary Affirmative Determination of Sales

at Less Than Fair Value in the Investigation of Fresh Mushrooms from Canada,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ See Memorandum, “Less-Than-Fair-Value Investigation and Countervailing Duty Investigation

of Fresh Mushrooms from Canada: Preliminary Scope Decision Memorandum,” dated concurrently with, and hereby adopted by, this notice (Preliminary Scope Decision Memorandum).

⁶ For a complete analysis of the data, *see* Memorandum, “Preliminary Calculation of All-Others Rate,” dated concurrently with this determination.

Exporter or producer	Estimated weighted-average dumping margin (percent)
Farmers' Fresh Mushrooms, Inc./Farmers' Fresh Farm Management Ltd./Five Star Mushrooms Ltd./Ross Land Mushroom Farm Ltd./1134017 B.C. Ltd./Truong Holdings Inc	2.00
Highline Produce Limited/Highline Mushrooms West Ltd	11.80
All Others	8.26

Suspension of Liquidation and Cash Deposit Requirements

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit for estimated antidumping duties, as follows: (1) the cash deposit rate for subject merchandise exported by respondents will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not a company identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. However, in the companion CVD investigation of fresh mushrooms from Canada, Commerce preliminarily found no export subsidies; accordingly, we did not make an export subsidy offset to the estimated weighted-average dumping margins in this preliminary determination.⁷

These suspension of liquidation instructions and cash deposit requirements will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation.⁸ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.⁹ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁰

⁸ See 19 CFR 351.309(c)(1)(i); see also 19 CFR 351.303 (for general filing requirements).

⁹ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2).

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.¹¹ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹²

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner.

¹¹ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹² See *APO and Service Procedures*.

⁷ See *Fresh Mushrooms from Canada: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 91 FR 28571 (May 18, 2026), and accompanying Preliminary Decision Memorandum.

Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Between June 16 and 18, 2026, pursuant to 19 CFR 351.210(e), Champs, Farmers' Fresh and Highline requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹³ On June 18, 2026, the petitioners¹⁴ timely requested that Commerce postpone the deadline for the final determination in the event of a negative preliminary determination.¹⁵ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

¹³ See Champs' Letter, "Champ's Mushrooms' Request for Postponement of the Department's Antidumping Duty Final Determination," dated June 16, 2026; see also Farmers' Fresh's Letter, "Farmers' Fresh Request to Postpone Final Determination," dated June 18, 2026; and Highline's Letter, "Request for Postponement of Final Determination and Extension of Provisional Measures," dated June 17, 2026.

¹⁴ The petitioners are the Fresh Mushrooms Fair Trade Coalition and its individual members.

¹⁵ See Petitioners' Letter, "Petitioners' Request to Postpone the Final Determinations," dated June 18, 2026.

Dated: July 13, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is fresh mushrooms of the genus *Agaricus* (fresh mushrooms). This includes, but is not limited to, fresh mushrooms of the species *Agaricus bisporus*, which are commonly referred to as button mushrooms, chestnut mushrooms, cremini or crimini mushrooms, baby bellas, portabella or portobello mushrooms, table mushrooms, or as white or browns. Fresh mushrooms include whole mushrooms, as well as mushrooms that have been sliced, diced, or separated into stems and pieces prior to importation. Fresh mushrooms may also be imported in bulk or loose form, or may be imported in individual containers packaged for retail sale. The scope of this investigation includes all fresh mushrooms of the genus *Agaricus*, whether or not organic, and irrespective of age, cut, color, size, species, or packaging.

Subject merchandise may be cleaned, washed, inspected, subjected to metal detection, sliced, diced, or de-stemmed, and/or vacuum cooled prior to importation, but otherwise undergoes minimal further processing. The scope of this investigation covers fresh mushrooms of the genus *Agaricus* regardless of end use, including both mushrooms destined for the fresh market and mushrooms intended for food processing.

Fresh mushrooms of the genus *Agaricus* are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 0709.51.0100. Although the HTSUS statistical reporting number is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Affiliation and Collapsing
- VI. Discussion of the Methodology
- VII. Currency Conversion
- VIII. Recommendation

[FR Doc. 2026–14422 Filed 7–16–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–233, C–557–837, C–552–857]

Stationary and Portable Air Compressors From the People's Republic of China, Malaysia, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 17, 2026.

FOR FURTHER INFORMATION CONTACT:

Jonathan Hall-Eastman and Maria Teresa Aymerich at (202) 482–6467 and (202) 482–0499, respectively (the People's Republic of China (China)), Ted Pearson and Ethan Lewis at (202) 482–2631 and (202) 482–4046, respectively (Malaysia), and Henry Wolfe and Laurel Smalley at (202) 482–0574 and (202) 482–3456, respectively (the Socialist Republic of Vietnam (Vietnam)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 20, 2026, the U.S. Department of Commerce (Commerce) initiated countervailing duty (CVD) investigations of imports of stationary and portable air compressors from China, Malaysia, and Vietnam.¹ Currently, the preliminary determinations are due no later than July 24, 2026.

Postponement of Preliminary Determinations

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination in a CVD investigation until no later than 130 days after the date on which Commerce initiated the investigation if: (A) the petitioner makes a timely request for a postponement;² or

¹ See *Stationary and Portable Air Compressors from the People's Republic of China, Malaysia, and the Socialist Republic of Vietnam*, 91 FR 31425 (May 27, 2026).

² See MAT Industries, LLC's Letter, "Petitioner's Request to Postpone Preliminary Determinations,"

(B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination.

Commerce has determined that parties involved in these proceedings are cooperating because parties have submitted responses to Commerce's Quantity and Value (Q&V) questionnaires,³ requested extensions of time to respond to questionnaires,⁴ and/or submitted portions of questionnaire responses.⁵ In addition, we find that these investigations are extraordinarily complicated within the meaning of section 703(c)(1)(B)(i) of the Act and that Commerce requires additional time to reach its preliminary determinations.

Section 703(c)(1)(B)(i)(I) of the Act provides that "the number and complexity of the alleged countervailable subsidy practices" is a consideration in determining whether a case is extraordinarily complicated. In these cases, Commerce is investigating an unusually high number of alleged subsidy programs in China, Malaysia, and Vietnam and will require additional time to analyze the questionnaire responses and issue appropriate requests for clarification and additional information, particularly regarding

questions of affiliation and cross-ownership and program use by the respondents. In accordance with section 703(c)(1)(B) of the Act, Commerce is postponing the due date for the preliminary determination of this investigation to 130 days after the date on which this investigation was initiated, *i.e.*, September 28, 2026.⁶ Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination.

Notification to Interested Parties

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: July 9, 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. 2026-14498 Filed 7-16-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-915]

Light-Walled Rectangular Pipe and Tube From the People's Republic of China: Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review; 2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were provided to Hangzhou Ailong Metal Products Co., Ltd. (Hangzhou Ailong), a producer/exporter of light-walled rectangular pipe and tube (LWR pipe and tube) from the People's Republic of China (China). The period of review (POR) is January 1, 2024, through December 31, 2024. In addition, Commerce is rescinding this review, in part, with respect to 40 companies. Interested parties are invited to comment on these preliminary results.

⁶ Postponing the preliminary determination to 130 days after initiation would place the deadline on Sunday, September 27, 2026, a weekend. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

DATES: Applicable July 17, 2026.

FOR FURTHER INFORMATION CONTACT: Rebecca Janz, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2972.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the countervailing duty (CVD) order on LWR pipe and tube from China.¹ On December 10, 2025, Commerce selected Hangzhou Ailong as the mandatory respondent in this review.²

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.³ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁴ Accordingly, the deadline for these preliminary results is now July 10, 2026.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁵ A list of topics included in the Preliminary Decision Memorandum is provided as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS, which is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 46173 (September 25, 2025); see also *Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Countervailing Duty Order*, 73 FR 45405 (August 5, 2008) (*Order*).

² See Memorandum, "Respondent Identification," dated December 10, 2025.

³ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁴ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁵ See Memorandum, "Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Light-Walled Rectangular Pipe and Tube from the People's Republic of China; 2024," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

dated July 6, 2026. The petitioner in these proceedings is MAT Industries, LLC. In its letter, the petitioner requested that Commerce use its authority to postpone these preliminary determinations because interested parties are cooperating and these investigations are extraordinarily complicated.

³ See, e.g., Chongqing Hybest Tools Group Co., Ltd.'s Letter, "Response to Quantity and Value Questionnaire," dated June 12, 2026; see also FNA (Zhejiang) Co., Ltd.'s Letter, "Quantity & Value Questionnaire Response," dated June 10, 2026; Greenworks (Jiangsu) Co., Ltd.'s Letter, "Response to Quantity and Values Questionnaire," dated June 11, 2026; HongKong Sun Rise Trading Ltd.'s Letter, "Response to Quantity and Values Questionnaire," dated June 11, 2026; Jiangsu Jinfeida Power Tools Co., Ltd.'s Letter, "Quantity and Value Questionnaire," dated June 10, 2026; Suzhou Alton Electrical & Mechanical Industry Co., Ltd.'s Letter, "Response to Quantity and Value Questionnaire," dated June 12, 2026; Suzhou Yifeng Technology Co., Ltd.'s Letter, "Response to Quantity and Value Questionnaire," dated June 12, 2026; Yancheng Jianlong Mechanoelectron Manufacture Co., Ltd.'s Letter, "Quantity & Value Questionnaire Response," dated June 12, 2026; HongKong Sun Rise Trading Limited's Letter, "Response to Quantity and Values Questionnaire," dated June 11, 2026; and Hybest Vietnam, Limited Liability Company's Letter, "Response to Quantity & Value Questionnaire," dated June 9, 2026.

⁴ See Alton Intelligent Technology Sdn. Bhd. (Alton Malaysia)'s Letter, "Extension Request for Response to Section III Identifying Affiliated Companies," dated June 18, 2026; see also Alton Malaysia's Letter, "Extension Request for Response to First Supplemental Questionnaire," dated July 2, 2026.

⁵ See Alton Malaysia's Letter, "Response to Section III Identifying Affiliated Companies Questionnaire," dated June 29, 2026.

Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The product covered by the *Order* is LWR pipe and tube from China. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce’s practice to rescind an administrative review of a CVD order where it concludes that there were no suspended entries of subject merchandise during the POR.⁶ Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate calculated for the POR.⁷ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the CVD rate calculated for the POR.⁸ Commerce notified all interested parties of its intent to rescind this administrative review regarding the companies listed in Appendix II.⁹ No party commented on this memorandum. In the absence of any suspended entries of subject merchandise from these companies during the POR, we are rescinding this administrative review for the companies listed in Appendix II, in accordance with 19 CFR 351.213(d)(3).

⁶ See, e.g., *Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Rescission of Countervailing Duty Administrative Review*; 2024, 90 FR 48043 (October 3, 2025).
⁷ See 19 CFR 351.212(b)(2).
⁸ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F.Supp.3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Tariff Act of 1930, as amended (the Act), the U.S. Court of International Trade held that “[w]hile the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended”; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102, and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that “for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate”).
⁹ See Memorandum, “Notice of Intent to Rescind, in Part,” dated March 4, 2026.

Methodology

Commerce is conducting this administrative review in accordance with 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.¹⁰ For a full description of the methodology underlying our conclusions, including our reliance, in part, on facts otherwise available with adverse inferences pursuant to sections 776(a) and (b) of the Act, see the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rate exists for the POR, January 1, 2024, through December 31, 2024:

Company	Subsidy rate (percent <i>ad valorem</i>)
Hangzhou Ailong Metal Products Co., Ltd	76.07

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied facts available with adverse inferences to the individually examined company, in accordance with section 776 of the Act, there are no calculations to disclose.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.¹¹ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the

¹⁰ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.
¹¹ See 19 CFR 351.309.

date for filing case briefs.¹² Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹³ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.
As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.¹⁴ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁵
Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party’s name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.¹⁶
Assessment Rates
Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review.
¹² See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).
¹³ See 19 CFR 351.309(c)(2) and (d)(2).
¹⁴ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.
¹⁵ See *APO and Service Procedures*.
¹⁶ See 19 CFR 351.310(d).

For the companies listed in Appendix II for which the review is being rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding Hangzhou Ailong no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.107(e), Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review, as follows: (1) the cash deposit rate for the company listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates assigned, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise has a company-specific estimated subsidy rate assigned, the applicable cash deposit rate will be that company's company-specific rate; and (4) the cash deposit rate for all other producers and exporters will be continue to be 15.28 percent, the all-others subsidy rate established in the investigation.¹⁷ These cash deposit instructions, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is extended, Commerce intends to issue the final results of this administrative review, which will include the results of Commerce's analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 10, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Rescission of Administrative Review, in Part
- IV. Scope of the *Order*
- V. Diversification of China's Economy
- VI. Use of Facts Otherwise Available and Application of Adverse Inferences
- VII. Recommendation

Appendix II

Companies for Which Commerce Is Rescinding the Administrative Review

1. Baoli Iron & Steel Co., Ltd.
2. Best Hope Mold & Plastic (Shanghai)
3. Chinh Dai Steel Technology Company
4. China North New Material Co., Ltd.
5. DRM Steel Group Co., Ltd.
6. Foshan Yingshi Chuangli Mechanical
7. Fuzhou Tong Gebei Import & Export Co.
8. Hangzhou Well-Trans Supply Chain Ma
9. Hoa Phat Steel Pipe Company Limited
10. Huaruitai Steel Company Limited
11. Hubei Yimeiyuan International Trade
12. Inventec (Chongqing) Corporation
13. Jaway Metal Co., Ltd.
14. Jiangmen Leader Hardware
15. Maytun International Corp.
16. Ningbo Wicksen Imp. Exp. Co., Ltd.
17. Nvent Electrical Products China Co.
18. Qingdao New Taosheng Metal
19. Royal Steel Pipe Co., Ltd.
20. Seah Steel Vina Corporation
21. Shandong Huaping Steel Group Co., Ltd.
22. Shandong Hwy Steel Co., Ltd.
23. Shandong Jiugang Tisco
24. Shanghai GWT International Trading
25. Shenzhen Guangshunkai Trading Co.
26. Shenzhen Jinlishen Trading Co., Ltd.
27. Shenzhen Meiheyu Technology Co. Ltd.
28. Suzhou Jintuyuan Intl Trading
29. Tangshan Runying International Trade
30. Tianjin Bao Steel Co., Ltd.
31. Tianjin Baode Steel Co., Ltd.
32. Tianjin Ironstar Industry Co., Ltd.

33. Tianjin Mingyu Weiye Steel Trade Co.
34. Vina One Steel Manufacturing Corp.
35. Vinlong Stainless Steel (Vietnam)
36. WJ-Lean Technology Company Limited
37. Xiamen Yulongxuan Sculpture
38. Xiamen Yunfa Steel Pipes Industrial
39. Xi'an Dongmeng Steel Co., Ltd.
40. Yiwu Dt Supply Chain Mana

[FR Doc. 2026–14418 Filed 7–16–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843]

Certain Lined Paper Products From India: Final Results of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain lined paper products (lined paper) from India were sold in the United States at less than normal value during the period of review (POR), September 1, 2023, through August 31, 2024.

DATES: Applicable July 17, 2026.

FOR FURTHER INFORMATION CONTACT: Samuel Brummitt, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7851.

SUPPLEMENTARY INFORMATION:

Background

On February 26, 2026, Commerce published the *Preliminary Results* of this review in the **Federal Register** and invited interested parties to comment on those results.¹ For a summary of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.² Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). On June 12, 2026, we extended the

¹ See *Certain Lined Paper Products from India: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 9559 (February 26, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review of Certain Lined Paper Products from India; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹⁷ See *Order*, 73 FR at 45406.

deadline for these final results to July 10, 2026.³

Scope of the Order ⁴

The product covered by this *Order* is lined paper from India. For a complete description of the scope, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached at an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which 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>.

Changes Since the Preliminary Results

Based on minor corrections we accepted during the verification of Navneet’s questionnaire responses, we made certain adjustments to Navneet’s margin calculations for these final results, as detailed in the Issues and Decision Memorandum.

Rates for Companies Not Selected for Individual Examination

For the rate for non-selected respondents in an administrative review, generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Under section 735(c)(5)(A) of the Act, the all-others rate is normally “an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated,

excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.”

In this administrative review, we calculated estimated weighted-average dumping margins for Lotus Global and Navneet that are not zero, *de minimis*, or based entirely on facts otherwise available. Thus, in accordance with section 735(c)(5)(B) of the Act, we are assigning to the companies not individually examined a margin of 1.69 percent, which is the weighted average of the estimated weighted-average dumping margins calculated for Lotus Global and Navneet based on publicly ranged U.S. sales values.⁵ The companies not selected for individual examination are listed in Appendix II.

Final Results of Review

Commerce determines that the following weighted-average dumping margins exist for the period September 1, 2023, through August 31, 2024:

Producer or exporter	Weighted-average dumping margin (percent)
Lotus Global Private Limited/LGPL Paper Industries Private Limited ⁶	5.29
Navneet Education Ltd	0.75
Non-Individually Examined Companies ⁷	1.69

Disclosure

Commerce intends to disclose the calculations performed to interested parties for these final results within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rate

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b)(1), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Pursuant to 19 CFR 351.212(b)(1), where the respondent reported the entered value of its U.S.

sales, we calculated importer-specific antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales of each importer and dividing each of these amounts by the total entered value associated with those sales. Where the respondent did not report entered value, we calculated a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total quantity associated with those sales. To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also calculated an importer-specific *ad valorem* ratio based on estimated entered values.

Where either the respondent’s weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce’s “automatic assessment” will apply to entries of subject merchandise during the POR produced by the mandatory respondents for which the companies did not know that the merchandise they sold to an intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate

³ See Memorandum, “Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2023–2024,” dated June 12, 2026.
⁴ See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People’s Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People’s Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia, 71 FR 56949 (September 28, 2006) (Order).
⁵ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents;

(B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company’s publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, *e.g.*, Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and

Decision Memorandum at Comment 1. As complete publicly ranged sales data were available, Commerce based the rate for the non-examined companies on the publicly ranged sales data of the mandatory respondents. See Preliminary Decision Memorandum at “Companies Not Selected For Individual Examination;” see also Memorandum, “Calculation of the Rate for Non-Selected Respondents,” dated concurrently with this notice.
⁶ In the Preliminary Results, we collapsed Lotus Global Private Limited and its affiliate LGPL Paper Industries Private Limited, and have treated these companies as a single entity. See Preliminary Results, 91 FR at 9560.
⁷ See Appendix II for a full list of the companies not individually examined in this review.

if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the companies identified above in the “Final Results of Review” section will be equal to the company-specific weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a company not covered in this administrative review but covered in a completed prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or completed prior segment of this proceeding but the producer is, the cash deposit rate will be the company-specific rate established for the most recently-completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 3.91 percent, the rate established in the investigation of this proceeding.⁸ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping and/or countervailing duties has occurred and

the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an 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(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(1).

Dated: July 10, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results
- V. Discussion of the Issues
 - Comment 1: Lotus Global’s Packing Costs
 - Comment 2: ITC Limited’s Withdrawal of its Request for Review
- VI. Recommendation

Appendix II

Non-Individually Examined Companies Receiving a Review-Specific Rate

1. Cellpage Ventures Private Limited
2. ITC Limited
3. Pioneer Stationery Private Limited
4. PP Bafna Ventures Private Limited

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–850]

Polypropylene Corrugated Boxes From the Socialist Republic of Vietnam: Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing the antidumping duty (AD) order on polypropylene corrugated boxes from the Socialist Republic of Vietnam (Vietnam).

DATES: Applicable July 17, 2026.

FOR FURTHER INFORMATION CONTACT: Alex Cipolla, 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) 482–4956.

SUPPLEMENTARY INFORMATION:

Background

On May 20, 2026, Commerce published its affirmative *Final Determination* in the less-than-fair-value (LTFV) investigation of polypropylene corrugated boxes from Vietnam in accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended (the Act).¹ On July 6, 2026, the ITC notified Commerce of its final affirmative determination that an industry in the United States is materially injured by reason of dumped imports of polypropylene corrugated boxes from Vietnam, within the meaning of section 735(b)(1)(A)(i) of the Act.²

Scope of the Order

The products covered by this order are polypropylene corrugated boxes from Vietnam. For a complete description of the scope of the order, see the appendix to this notice.

AD Order

Based on the above-referenced affirmative final determination by the ITC, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing this AD order. Because the

¹ See *Polypropylene Corrugated Boxes from the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances*, 91 FR 29457 (May 20, 2026) (*Final Determination*).

² See ITC’s Letter, “Notification of Final Determination,” dated July 6, 2026.

⁸ See *Order*, 71 FR at 56952.

ITC determined that an industry in the United States is materially injured by reason of imports of polypropylene corrugated boxes from Vietnam, unliquidated entries of such merchandise from Vietnam, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise on all relevant entries of polypropylene corrugated boxes from Vietnam. Antidumping duties will be assessed on unliquidated entries of polypropylene corrugated boxes from Vietnam entered, or withdrawn from warehouse, for consumption on or after December 31, 2025, the date of publication of the *Preliminary Determination*,³ but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination, as further described below.

Critical Circumstances

In addition, the ITC found that critical circumstances do not exist with respect to imports of polypropylene corrugated boxes from Vietnam. As a result, we intend to instruct CBP to lift the suspension of liquidation and to refund all cash deposits for estimated antidumping duties with respect to entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after October 2, 2025 (i.e., 90 days prior to the date of publication of the affirmative *Preliminary Determination*), but before December 31, 2025 (i.e., the date of publication of the *Preliminary Determination*).⁴

Suspension of Liquidation and Cash Deposits

In accordance with section 736 of the Act, Commerce intends to instruct CBP to reinstitute the suspension of liquidation of polypropylene corrugated boxes from Vietnam, effective on the date of publication of the ITC's final

³ See *Polypropylene Corrugated Boxes from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 90 FR 61377 (December 31, 2025) (*Preliminary Determination*).

⁴ *Id.*

affirmative injury determination in the **Federal Register**. Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated customs duties on subject merchandise, a cash deposit equal to the rates listed in the tables below. These instructions suspending liquidation and cash deposit requirements will remain in effect until further notice.

ESTIMATED WEIGHTED-AVERAGE DUMPING MARGINS	
Producer or exporter	Weighted-average dumping margin (percent)
Vietnam-Wide Entity	* 130.58

* Rate based on facts available with adverse inferences.

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. In the underlying investigation, Commerce published the LTFV *Preliminary Determination* on December 31, 2025. Therefore, the six-month period beginning on the date of publication ended on June 28, 2026. Pursuant to section 737(b) of the Act, the collection of cash deposits will begin on the date of publication of the ITC's final injury determinations.

Therefore, in accordance with section 733(d) of the Act, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of polypropylene corrugated boxes from Vietnam entered, or withdrawn from warehouse, for consumption on or after June 29, 2026, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume

on the date of publication of the ITC's final determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

Commerce published the *Final Rule* and the *Procedural Guidance* in the **Federal Register** on September 20, 2021, and September 27, 2021, respectively.⁵ The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.⁶

In accordance with the *Procedural Guidance*, for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at <https://access.trade.gov/>, within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called "AISL-Annual Inquiry Service List."⁷

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service

⁵ See *Regulations to Improve Administration and Enforcement on Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (*Final Rule*); and *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

⁶ *Id.*

⁷ This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A-000-000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as "AISL-January Anniversary." Note that there will be only one annual inquiry service list per case number, and the anniversary month will be pre-populated in ACCESS.

list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance*,⁸ the new annual inquiry service list will be in place until the following year, when the Opportunity Notice for the anniversary month of the order is published.

Commerce may update an annual service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website.

Special Instructions for Petitioner and Foreign Governments

In the *Final Rule*, Commerce stated that, "after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow."⁹ Accordingly, as stated above, the petitioner and foreign governments should submit their initial entries of appearance after publication of this notice in order to appear in the first annual inquiry service lists for this order for which they qualify as interested parties. Pursuant to 19 CFR 351.225(n)(3), the petitioner and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioner and the foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the AD order with respect to polypropylene corrugated boxes from Vietnam, pursuant to section 736(a) of the Act. Interested parties can find a list of AD and countervailing duty orders currently in effect at <https://www.trade.gov/data-visualization/adcvd-proceedings>.

This AD order is published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: July 8, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The merchandise subject to this order is polypropylene corrugated boxes. Polypropylene corrugated boxes are boxes, bins, totes, or other load-bearing containers made for holding goods, that are made of corrugated polypropylene sheets, also known as polypropylene hollow core sheets, polypropylene fluted sheets, polypropylene twin wall sheets, or multi wall sheets. Such polypropylene sheets are "corrugated," "fluted," or "hollow core," meaning the inside of the sheet contains channels or pockets of air which make the sheets lightweight, while retaining strength and durability. Polypropylene corrugated boxes are typically produced from a plastic resin consisting of 50 percent or more polypropylene. Polypropylene corrugated boxes are covered by the scope irrespective of the particular mix of polypropylene homo-polymer, polypropylene co-polymer, recycled or virgin polypropylene, or ancillary chemicals such as electrostatic agents or flame retardants. Polypropylene corrugated boxes are formed by corrugated polypropylene sheets cut to length, die-cut into specific box shapes, and may be cut or scored to allow each side of the box to be folded into shape. Polypropylene corrugated boxes may include a tab or attached portion of polypropylene corrugated sheet (commonly referred to as a "manufacturer's joint") that has been cut, slotted, or scored to facilitate the formation of the box by stapling, gluing, welding, or taping the sides together to form a tight seal. One-piece polypropylene corrugated boxes are die-cut or otherwise formed so that the top, bottom, and sides form a single, contiguous unit. Two-piece polypropylene corrugated boxes are those with a folded bottom and a folded top as separate pieces. Multi-piece polypropylene corrugated boxes are those with separate bottoms and tops that are fitted to a single folded piece comprising the sides of the box. Polypropylene corrugated boxes may be printed with ink or digital designs.

The subject merchandise includes polypropylene corrugated boxes with or without handles, with or without lids or tops, with or without reinforcing wire, whether in a one-piece, two-piece, or multi-piece configuration, and whether folded into shape or in an unfolded form. The subject merchandise includes all polypropylene corrugated boxes regardless of size, shape, or dimension. The subject merchandise also includes polypropylene corrugated box lids or tops when imported separately from polypropylene corrugated boxes.

The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under statistical reporting number 3923.10.9000. Although the HTSUS statistical reporting number is provided for convenience and

customs purposes, the written description of the merchandise is dispositive.

[FR Doc. 2026-14421 Filed 7-16-26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-028]

Hydrofluorocarbon Blends From the People's Republic of China: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2024-2025

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that producers/exporters subject to this review made sales of subject merchandise at less than normal value during the period of review (POR), August 1, 2024, through July 31, 2025. In addition, we are rescinding the review with respect to T.T. International Co., Ltd. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable July 17, 2026.

FOR FURTHER INFORMATION CONTACT: Caroline Carroll, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4948.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 2025, based on a timely request for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on hydrofluorocarbon (HFC) blends from the People's Republic of China (China).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)

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 46173 (September 25, 2025) (*Initiation Notice*); see also *Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order*, 81 FR 55436 (August 19, 2016) (*Order*).

² See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁸ See *Procedural Guidance*, 86 FR at 53206.

⁹ See *Final Rule*, 86 FR at 52335.

during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.³

Scope of the Order

The products subject to the *Order* are HFC blends. See Appendix I for the full description of the scope.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order where it concludes that there were no suspended entries of subject merchandise during the POR.⁴ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.⁵ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the calculated antidumping duty assessment rate for the review period.⁶ Commerce notified all interested parties of its intent to rescind the instant review for T.T. International Co., Ltd. (TTI) because there were no reviewable, suspended entries of subject merchandise from TTI during the POR and invited interested parties to comment.⁷ We received no comments on this memorandum. In the absence of any suspended entries of subject merchandise from TTI during the POR,

we are rescinding this administrative review for TTI, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce considers China to be a non-market economy (NME) country.⁸ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, for these preliminary results, we treated China as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

Separate Rate Determinations

In a proceeding involving an NME country, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.⁹ Commerce notified parties in the *Initiation Notice* that “[t]he deadline and requirement for submitting a Separate Rate Application {(SRA)} applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.”¹⁰ Also in the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in this administrative review.¹¹ This process requires exporters to submit an SRA and to demonstrate the absence of both *de jure* and *de facto* government control over their export activities.¹² In the *Initiation Notice*, Commerce required that all firms listed in the notice “that wish to qualify for separate rates status

in the administrative reviews involving NME countries must complete, as appropriate, either a {SRA} or {separate rate certification (SRC)} . . .”¹³

Commerce's policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.¹⁴ Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers from China*¹⁵ and further developed in *Silicon Carbide from China*.¹⁶ In accordance with this separate rate test, Commerce will assign a separate rate in an NME proceeding if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, however, Commerce determines that a company is wholly foreign owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades from China* proceedings and its determinations therein.¹⁷ In particular, in litigation involving the *Diamond Sawblades from China* proceeding, the U.S. Court of International Trade (CIT) found Commerce's existing separate rates analysis deficient in the circumstances

³ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁴ See, e.g., *Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

⁵ See 19 CFR 351.212(b)(1).

⁶ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F.Supp.3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that “[w]hile the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended”; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102 (July 8, 2021), and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that “for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate”).

⁷ See Memorandum, “Notice of Intent to Rescind Review, In Part,” dated March 9, 2026.

⁸ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair-Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum (PDM) at 7–8 (citing Memorandum, “China's Status as a Non-Market Economy,” dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

⁹ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).

¹⁰ See *Initiation Notice*, 90 FR at 46174.

¹¹ *Id.*

¹² For a description of our practice, see Enforcement and Compliance's Policy Bulletin No. 05.1, regarding “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries,” (April 5, 2005), available on Commerce's website at <https://www.trade.gov/enforcement-and-compliance-policy-bulletins-0>.

¹³ See *Initiation Notice*, 90 FR at 46174.

¹⁴ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers from China*).

¹⁵ *Id.*

¹⁶ See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide from China*).

¹⁷ See *Final Results of Redetermination Pursuant to Court Remand, Diamond Sawblades and Parts Thereof from the People's Republic of China*, Consol. Court No. 09–00511, Slip Op. 12–147 (CIT November 30, 2012), dated May 6, 2013, available at <https://access.trade.gov/FinalRemandRedetermination>, in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F.Supp.2d 1343 (CIT 2012) (*Advanced Technology I*), *aff'd* *Advanced Technology & Materials Co. v. United States*, 938 F.Supp.2d 1342 (CIT 2013), *aff'd* *Advanced Technology & Materials Co. v. United States*, Court No. 2014–1154 (Fed. Cir. 2014); see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 77098 (December 20, 2013), and accompanying PDM at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum at Comment 1 (collectively, *Diamond Sawblades from China*).

of that case, in which a government-owned and controlled entity exercised control over the respondent exporter.¹⁸ Following the CIT's reasoning, in recent proceedings, we have concluded that where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the government exercises or has the potential to exercise control over the company's operations generally.¹⁹ This may include control over, for example, the selection of board members and management, key factors in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with our normal separate rate practice, any ability to control, or possess an interest in controlling, the operations of the company including the selection of board members, management, and the profit distribution of the company by a government entity is subject to Commerce's rebuttable presumption that all companies within the NME country are subject to government control.

In order to demonstrate eligibility for separate rate status, Commerce normally requires an exporter for which a review was requested, and which was assigned a separate rate in a previous completed segment of the proceeding and which remains active for that exporter, to submit an SRC stating that it continues to meet the criteria for obtaining a separate rate.²⁰ For an exporter that was not assigned a separate rate in a previously completed segment of the

proceeding and which remains active for that exporter, to demonstrate eligibility, Commerce requires an SRA.²¹ A company that submits an SRA or SRC and which is subsequently selected for examination must respond to all parts of Commerce's questionnaire in order to be eligible for a separate rate.²²

In the *Initiation Notice*, Commerce stated that submission of SRAs and SRCs were due 14 days after publication of the notice, *i.e.*, October 9, 2025.²³ Moreover, Commerce specifically noted that “[t]he deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.”²⁴ The twelve companies listed in the appendix to this notice failed to submit an SRA. As such, consistent with Commerce's practice for when a party fails to submit an SRA or SRC, we preliminarily find that the twelve companies listed in the appendix to this notice are not eligible for a separate rate, and, therefore, are part of the China-wide entity.²⁵ Commerce's practice with respect to an exporter that fails to submit an SRA or SRC has been upheld by the U.S. Court of Appeals for the Federal Circuit.²⁶ Commerce further notes that, because no company in submitted a SRA or SRC, there are no remaining companies subject to review, including the China-wide entity.²⁷ As a result, Commerce did not need to limit

examination or select respondents. Furthermore, because no company or the China-wide entity were eligible for examination in this review, Commerce did not issue a questionnaire.

The China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.²⁸ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, the entity is not under review, and the entity's rate (*i.e.*, 216.37 percent)²⁹ is not subject to change.

Preliminary Results of Review

Because the 12 companies listed in Appendix II failed to timely file either an SRA or SRC in this review, we preliminarily find that these companies are ineligible for a separate rate and, as such, are part of the China-wide entity.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in preliminary results within 10 days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we preliminarily find the companies listed in the appendix to this notice are a part of the China-wide entity, and subject to the China-wide entity rate, there are no calculations to disclose.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.³⁰ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.³¹ Interested

¹⁸ See, e.g., *Advanced Technology I*, 885 F.Supp.2d at 1349 (CIT 2012) (“The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it.”); *Id.*, 885 F.Supp.2d at 1351 (“Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} ‘management’ of its ‘state-owned assets’ is restricted to the kind of passive-investor de jure ‘separation’ that Commerce concludes.”) (footnotes omitted); *Id.*, 885 F.Supp.2d at 1355 (“The point here is that ‘government control’ in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a ‘degree’ of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to ‘day-to-day decisions of export operations,’ including terms, financing, and inputs into finished product for export.”); *Id.*, 885 F.Supp.2d at 1357 (“AT&M itself identifies its ‘controlling shareholder’ as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.”) (footnotes omitted).

¹⁹ See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances*, in Part, 79 FR 53169 (September 8, 2014), and accompanying PDM at 5–9.

²⁰ See *Initiation Notice*, 90 FR at 46174.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ See e.g., *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012–2013*, 80 FR 40998 (July 14, 2015) (treating a company as part of the China-wide entity for failure to submit an SRA, and explaining that “[t]he failure to provide a separate rate certification is not a ministerial error, but rather, a failure to comply with {Commerce}'s well established separate rate methodology.”); see also, e.g., *Hydrofluorocarbon Blends from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2019–2020*, 86 FR 49516, 49517 (September 3, 2021) (finding that PureMann, Inc. (PureMann), the sole company subject to the review, did not file an SRA and did not demonstrate its eligibility for separate rate status and that, therefore, PureMann was part of the China-wide entity).

²⁶ See *Reppure LLC v. United States*, 628 F.Supp.3d 1288 (CIT 2023), *aff'd* 2025 WL 2399398 (Fed. Cir. August 19, 2025) (finding that “Commerce's actions were reasonable and supported by substantial evidence” in a case in which Commerce retracted its issuance of the initial questionnaire and found that Jin Tiong Electrical Materials Manufacturer PTE. Ltd. was part of the China-wide entity due to its failure to submit a timely SRA).

²⁷ See *Initiation Notice*, 90 FR at 46180.

²⁸ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

²⁹ See *Order*, 81 FR at 55438.

³⁰ See 19 CFR 351.309.

³¹ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*,

parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.³²

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.³³ Further, we request that interested parties limit their public, executive summary of each issue to no more than 450 words, not including citations. We intend to use the public, executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public, executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).³⁴

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.³⁵

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

For the TTI for which the review is being rescinded, Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate for estimated

antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

For the final results, if we continue to treat the companies identified in the appendix to this notice as part of the China-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 216.37 percent to all entries of subject merchandise during the POR which were produced and/or exported by those companies.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

If a timely summons is filed at the CIT, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for previously investigated or reviewed Chinese and non-Chinese exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the existing rate for the China-wide entity of 216.37 percent; and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in case and rebuttal briefs, within 120 days of publication of these preliminary results of review in the

Federal Register, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 9, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Order

HFC blends covered by the scope are R-404A, a zeotropic mixture consisting of 52 percent 1,1,1-Trifluoroethane, 44 percent Pentafluoroethane, and 4 percent 1,1,1,2-Tetrafluoroethane; R-407A, a zeotropic mixture of 20 percent Difluoromethane, 40 percent Pentafluoroethane, and 40 percent 1,1,1,2-Tetrafluoroethane; R-407C, a zeotropic mixture of 23 percent Difluoromethane, 25 percent Pentafluoroethane, and 52 percent 1,1,1,2-Tetrafluoroethane; R-410A, a zeotropic mixture of 50 percent Difluoromethane and 50 percent Pentafluoroethane; and R-507A, an azeotropic mixture of 50 percent Pentafluoroethane and 50 percent 1,1,1-Trifluoroethane also known as R-507. The foregoing percentages are nominal percentage identified above.³⁶

Any blend that includes an HFC component other than R-32, R-125, R-143a, or

³⁶ R-404A is sold under various trade names, including Forane® 404A, Genetron® 404A, Solkane® 404A, Klea® 404A, and Suva® 404A. R-407A is sold under various trade names, including Forane® 407A, Solkane® 407A, Klea® 407A, and Suva® 407A. R-407C is sold under various trade names, including Forane® 407C, Genetron® 407C, Solkane® 407C, Klea® 407C and Suva® 407C. R-410A is sold under various trade names, including EcoFluor R410, Forane® 410A, Genetron® R410A and AZ-20, Solkane® 410A, Klea® 410A, Suva® 410A, and Puron®. R-507A is sold under various trade names, including Forane® 507, Solkane® 507, Klea® 507, Genetron® AZ-50, and Suva® 507. R-32 is sold under various trade names, including Solkane® 32, Forane® 32, and Klea® 32. R-125 is sold under various trade names, including Solkane® 125, Klea® 125, Genetron® 125, and Forane® 125. R-143a is sold under various trade names, including Solkane® 143a, Genetron® 143a, and Forane® 125.

88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

³² See 19 CFR 351.309(c)(2) and (d)(2).

³³ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

³⁴ See *APO and Service Procedures*.

³⁵ See 19 CFR 351.310(d).

R-134a is excluded from the scope of the *Order*.

Excluded from the *Order* are blends of refrigerant chemicals that include products other than HFCs, such as blends including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), hydrocarbons (HCs), or hydrofluoroolefins (HFOs).

Also excluded from the *Order* are patented HFC blends, including, but not limited to, ISCEON® blends, including MO99TM (R-438A), MO79 (R-422A), MO59 (R-417A), MO49PlusTM (R-437A) and MO29TM (R-422D), Genetron® PerformaxTM LT (R-407F), Choice® R-421A, and Choice® R-421B.

HFC blends covered by the scope of the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3824.78.0020 and 3824.78.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.³⁷

Appendix II

Companies Preliminarily Determined To Be Part of the China-Wide Entity

1. A-Gas (Shanghai) Chemical Co., Ltd
2. Best Inc. Limited
3. Dongyang Weihua Refrigerants Co., Ltd.
4. Foshan Midea Carrier
5. Jinhua Slihe Chemical Co. Limited
6. Ningbo Icer Ie Co. Ltd.
7. Superfy Industrial Limited
8. TSR Worldwide Limited
9. Quzhou Rongqiang Chem Co., Ltd.
10. Qingdao Shingchem New Material Co.
11. Zhejiang Boxin Import & Export Co.
12. Zhejiang Jinze Refrigerant Co., Ltd

[FR Doc. 2026–14470 Filed 7–16–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration [A–570–104]

Alloy and Certain Carbon Steel Threaded Rod From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2024–2025

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that exporters of alloy and certain carbon steel threaded rod (steel threaded rod) from the People's Republic of China (China) sold subject merchandise in the United States at prices below normal value during the period of review April 1, 2024, through March 31, 2025.

DATES: Applicable July 17, 2026.

FOR FURTHER INFORMATION CONTACT:

Alexander Stephens, 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) 482–0114.

SUPPLEMENTARY INFORMATION:

Background

On March 19, 2026, Commerce published the preliminary results of this administrative review of the antidumping duty order on steel threaded rod from China in the **Federal Register** and invited interested parties to comment.¹ We received no comments from interested parties on the *Preliminary Results* and have made no changes to the *Preliminary Results*. Accordingly, no decision memorandum accompanies this **Federal Register** notice. The *Preliminary Results* are hereby adopted in these final results. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order²

The merchandise subject to the *Order* is alloy and certain carbon steel threaded rod from China. For a

¹ See *Alloy and Certain Carbon Steel Threaded Rod from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2024–2025*, 91 FR 13282 (March 19, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See *Alloy and Certain Carbon Steel Threaded Rod from the People's Republic of China: Antidumping Duty Order*, 85 FR 19929 (April 9, 2020) (*Order*).

complete description of the scope of the *Order*, see the *Preliminary Results*.³

Affiliation and Single Entity Treatment

Commerce continues to determine that Ningbo Dingtuo Imp. & Exp. Co., Ltd., and Ningbo Jinding Fastening Piece Co., Ltd. are a single entity (collectively, Jinding Single Entity).⁴

Separate Rates

Commerce continues to determine that the Jinding Single Entity, Ningbo Dongxin High-Strength Nut Co., Ltd., and Zhejiang Junyue Standard Part Co., Ltd., are eligible to receive a separate rate in this administrative review.⁵

Dumping Margin for Non-Selected Separate Rate Companies

Commerce continues to assign the non-selected separate rate respondents a dumping margin equal to the Jinding Single Entity's dumping margin.⁶

China-Wide Entity

As stated in the *Preliminary Results*, because no party requested a review of the China-wide entity in this review, the China-wide entity is not under review and the China-wide entity's rate, *i.e.*, 48.91 percent, is not subject to change.⁷

Final Results of Review

We determine that the following weighted-average dumping margin exists for the period April 1, 2024, through March 31, 2025, for the following respondents:

Exporter	Weighted-average dumping margin (percent)
Ningbo Dingtuo Imp. & Exp. Co., Ltd.; Ningbo Jinding Fastening Piece Co., Ltd. ⁸	0.74
Rate for Non-Selected Separate Rate Respondents	
Ningbo Dongxin High-Strength Nut Co., Ltd	0.74

³ See *Preliminary Results* PDM at 3–5.

⁴ See *Preliminary Results*, 91 FR 13283.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*; see also *Order*, 85 FR at 19930, adjusted for export subsidies as outlined in *Alloy and Certain Carbon Steel Threaded Rod from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2021–2022*, 88 FR 18117 (March 27, 2023).

⁸ Commerce continues to determine that the Jinding Single Entity sold subject merchandise in the United States at prices below normal value. Further, because the Jinding Single Entity includes the two companies which were selected for individual examination in this administrative review, it is the only party for which a weighted-average dumping margin has been calculated. See *Preliminary Results*, 91 FR at 13284, n.19.

³⁷ See *Order*. Certain merchandise has been the subject of affirmative anti-circumvention determinations by Commerce, pursuant to section 781 of the Tariff Act of 1930, as amended (the Act). As a result, the circumventing merchandise is included in the scope of the *Order*. See *Hydrofluorocarbon Blends from the People's Republic of China: Final Negative Scope Ruling on Gujarat Fluorochemicals Ltd.'s R-410A Blend; Affirmative Final Determination of Circumvention of the Antidumping Duty Order by Indian Blends Containing Chinese Components*, 85 FR 61930 (October 1, 2020); *Hydrofluorocarbon Blends from the People's Republic of China: Final Scope Ruling on Unpatented R-421A; Affirmative Final Determination of Circumvention of the Antidumping Duty Order for Unpatented R-421A*, 85 FR 34416 (June 4, 2020); and *Hydrofluorocarbon Blends from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order; Unfinished R-32/R-125 Blends*, 85 FR 15428 (March 18, 2020).

Exporter	Weighted-average dumping margin (percent)
Zhejiang Junyue Standard Part Co., Ltd	0.74

Disclosure

Normally, Commerce discloses to interested parties the calculations of the final results of an administrative review within five days of a public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we have made no changes to the *Preliminary Results*, there are no calculations to disclose.

Assessment Rates

Consistent with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered this review. Because the Jinding Single Entity's weighted-average dumping margin is not zero or *de minimis*, *i.e.*, less than 0.50 percent, we intend to instruct CBP to liquidate entries at the importer-specific assessment rate for antidumping duties based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).⁹

Where the Jinding Single Entity did not report entered value, we intend to calculate a per-unit importer or customer-specific assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of those sales.¹⁰ We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate calculated in the final results of this review is not zero or *de minimis*. Where the Jinding Single Entity's *ad valorem* weighted-average dumping margin is zero or *de minimis*, or an importer-specific assessment rate is zero or *de minimis*,¹¹ we will instruct CBP to liquidate the

appropriate entries without regard to antidumping duties. For entries that were not reported in the U.S. sales data submitted by the Jinding Single Entity, but that entered under the case number of the Jinding Single Entity (*i.e.*, at the individually examined exporter's cash deposit rate), Commerce will instruct CBP to liquidate such entries at the rate for the China-wide entity.

For all non-selected separate rate respondents subject to this review, we will instruct CBP to liquidate all entries of subject merchandise that entered the United States during the POR at the rate calculated for the Jinding Single Entity as listed above.

These final results of administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by these final results of this review and for future deposits of estimated duties, where applicable.¹² For the individually calculated respondent and non-selected separate rate respondents under review, Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of administrative review for shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided in section 751(a)(2)(C) of the Act: (1) for the subject merchandise exported by the companies listed above that have a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this administrative review, *i.e.*, 0.74 percent; (2) for previously investigated or reviewed Chinese and non-Chinese exporters of subject merchandise not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the China-

wide entity, *i.e.*, 48.91 percent; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

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, 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 subject to sanction.

Notification to Interested Parties

Commerce is issuing and publishing these final results of this review in accordance with sections 751(a)(1)(B) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: July 13, 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. 2026-14417 Filed 7-16-26; 8:45 am]

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⁹ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8102-03 (February 14, 2012).

¹⁰ *Id.*

¹¹ See 19 CFR 351.106(c)(2).

¹² See section 751(a)(2)(C) of the Act.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-979, C-570-980]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from First Solar, Inc., Hanwha Q CELLS USA Inc., Talon PV, Swift Solar, Great Lakes Solex PR, LLC, DYCM Power, LLC, Suniva Inc., and Silfab Solar Inc. (collectively, the requesters), the U.S. Department of Commerce (Commerce) is initiating a country-wide circumvention inquiry to determine whether imports of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), that have been completed in Ethiopia using parts and components manufactured in the People's Republic of China (China), that are then subsequently exported from Ethiopia to the United States or are completed or assembled, using additional inputs from China, into modules in Vietnam and then exported to the United States are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on solar cells from China.

DATES: Applicable July 17, 2026.

FOR FURTHER INFORMATION CONTACT:

Justin Enck at (202) 482-1614 and Mark Ross at (202) 482-4794 Trade Remedy Counseling and Initiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:**Background**

On May 12, 2026, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(i), the requesters filed a circumvention inquiry request alleging that solar cells and modules completed in Ethiopia using parts and components manufactured in China are circumventing the AD and CVD orders on solar cells from China¹ and,

accordingly, should be included within the scope of the *Orders*.²

On May 27, 2026, Toyo Solar Manufacturing One Member PLC and Vietnam Sunergy Joint Stock Company (collectively, TOYO) submitted comments and clarifying factual information in response to the circumvention inquiry request.³ On May 27, 2026, Origin Solar Manufacturing PLC also submitted comments and clarifying factual information in response to the circumvention inquiry request.⁴ On June 1, 2026, the requesters requested that TOYO resubmit the public version of its comments and clarifying factual information.⁵ On June 4, 2026, Commerce issued a request for TOYO to resubmit its comments and clarifying factual information.⁶ On June 4, 2026, Commerce extended the initiation deadline from June 11 to July 13, 2026, in accordance with 19 CFR 351.226(d)(1).⁷ On June 8, 2026, TOYO resubmitted its comments and clarifying factual information.⁸ On June 10, 2026, the requesters submitted comments in response to TOYO's comments and clarifying factual information.⁹ On June 12 and 25, 2026, Commerce issued supplemental questionnaires to the requesters.¹⁰ On June 16 and 29, 2026, the requesters responded to Commerce's requests for information.¹¹

Scope of the Orders

The products covered by these *Orders* are crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon

photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials. For a full description of the scope of the *Orders*, see the Circumvention Initiation Checklist.¹²

Merchandise Subject to the Circumvention Inquiry

The circumvention inquiry covers solar cells and modules completed in Ethiopia using parts and components from China, that are subsequently exported from Ethiopia and imported into the United States, and solar cells completed in Ethiopia using parts and components from China, that are completed or assembled, using additional inputs from China, into modules in Vietnam and subsequently exported from Vietnam and imported into the United States.

Initiation of Circumvention Inquiry

Section 351.226(d) of Commerce's regulations states that if Commerce determines that a request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c), then Commerce "will accept the request and initiate a circumvention inquiry." Section 351.226(c)(1) of Commerce's regulations, in turn, requires that each circumvention inquiry request allege "that the elements necessary for a circumvention determination under section 781 of the Act exist" and be "accompanied by information reasonably available to the interested party supporting these allegations." The requesters alleged circumvention pursuant to section 781(b) of the Act (merchandise completed or assembled in other foreign countries).

Section 781(b)(1) of the Act provides that Commerce may find circumvention of an order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting a circumvention inquiry, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an AD or CVD order; (B) before importation into the United States, such imported merchandise is completed or assembled in another

Countervailing Duty Order, 77 FR 73017 (December 7, 2012) (collectively, *Orders*).

² See Requesters' Letter, "Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930," dated May 12, 2026 (Circumvention Inquiry Request).

³ See TOYO's Letter, "Comments and Information Regarding the Adequacy of the Anti-Circumvention Petition," dated May 27, 2026.

⁴ See Origin Solar's Letter, "Origin Solar's Comments Regarding Adequacy," May 27, 2026.

⁵ See Requesters' Letter, "Request for TOYO and VSUN to Resubmit the Public Version of Their Comments," dated July 4, 2026.

⁶ See Commerce's Letter, "Resubmission of Comments and New Factual Information," dated June 4, 2026.

⁷ See Memorandum, "Extension of Circumvention Inquiry Initiation Deadline," dated June 4, 2026.

⁸ See TOYO's Letter, "Resubmission of Comments and Information Regarding the Adequacy of the Anti-Circumvention Petition," June 8, 2026.

⁹ See Requesters' Letter, "Response to Adequacy Comments on the Anti-Circumvention Inquiry Request," dated June 10, 2026.

¹⁰ See Commerce's Letters, "Ethiopia Assembly Circumvention Inquiry Request—Supplemental Questionnaire," dated June 12, 2026; and "Ethiopia Assembly Circumvention Inquiry Request—Second Supplemental Questionnaire," dated June 25, 2026.

¹¹ See Circumvention Inquiry Request Supplement; see also Second Circumvention Inquiry Request Supplement.

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012); see also *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China:*

¹² See Circumvention Initiation Checklist, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Circumvention Initiation Checklist), at Attachment I.

foreign country from merchandise which is subject to the order or is produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the administering authority determines that action is appropriate to prevent evasion of such order.

In determining whether the process of assembly or completion in a foreign country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country; (B) the level of research and development in the foreign country; (C) the nature of the production process in the foreign country; (D) the extent of production facilities in the foreign country; and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a foreign country is minor or insignificant.¹³ Accordingly, Commerce will evaluate each of these five factors as they exist in the foreign country, depending on the particular circumvention scenario.

In addition, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether it is appropriate under section 781(b)(1) of the Act to include merchandise assembled or completed in a foreign country within the scope of an AD or CVD order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise that was shipped to the foreign country is affiliated with the person who, in the foreign country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the foreign country have increased after the initiation of the investigation that resulted in the issuance of such order.

Analysis

Based on our analysis of the requesters' circumvention inquiry request, we determine that they have satisfied the criteria under 19 CFR 351.226(c), and thus, pursuant to 19 CFR 351.226(d)(1)(iii), we are initiating the requested circumvention inquiry. For a full discussion of the basis for our decision to initiate the circumvention inquiry, see the Circumvention Initiation Checklist. As explained in the Circumvention Initiation Checklist, the information provided by the requesters warrants initiating the circumvention inquiry on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts warranted initiation on a country-wide basis.¹⁴

Consistent with the approach in the prior circumvention inquiries that were initiated on a country-wide basis, Commerce intends to solicit information from certain companies in Ethiopia concerning their production of solar cells and modules and their shipments thereof to the United States.

Respondent Selection

Commerce intends to base respondent selection on U.S. Customs and Border Protection (CBP) data. Commerce intends to place the CBP data on each record within five days of the publication of this initiation notice, which will be available on Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. Comments regarding the CBP data and respondent selection should be submitted within seven days after placement of the CBP data on the record of the relevant inquiry.

Commerce intends to establish a schedule for questionnaire responses after respondent selection. A company's failure to completely respond to Commerce's requests for information may result in the application of facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), Commerce will notify CBP of the initiation and direct CBP to continue the suspension of liquidation of entries of products subject to the circumvention

inquiry that were already subject to the suspension of liquidation under the *Orders* and to apply the cash deposit rates that would be applicable if the products were determined to be covered by the scope of the *Orders*.

Should Commerce issue affirmative preliminary or final circumvention determinations, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(l)(2)–(4). In the event that Commerce issues affirmative preliminary or final circumvention determinations that the products are circumventing the *Orders*, Commerce will instruct CBP to continue the suspension of liquidation of previously suspended entries and to apply the applicable cash deposit rate. Commerce will also instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the notice of initiation of the circumvention inquiry pursuant to paragraphs (l)(2)(ii) and (l)(3)(ii). In addition, pursuant to paragraphs (l)(2)(iii)(A) and (l)(3)(iii)(A), Commerce may instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, prior to the date of initiation of the circumvention inquiry, but not for such entries prior to November 4, 2021, the effective date of these provisions in the *Final Rule*.¹⁵ These rules will not affect CBP's authority to take any additional action with respect to the suspension of liquidation or related measures for these entries, as stated in 19 CFR 351.226(l)(5).

Notification to Interested Parties

In accordance with 19 CFR 351.226(d) and section 781(b) of the Act, Commerce determines that the requesters' request for this circumvention inquiry satisfies the requirements of 19 CFR 351.226(c). Accordingly, Commerce is notifying all interested parties of the initiation of this circumvention inquiry to determine whether imports of solar cells and modules completed in Ethiopia using parts and components from China, that are subsequently exported from Ethiopia and imported into the United States, and solar cells completed in Ethiopia using parts and components from China, that are completed or assembled, using

¹³ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, Vol. 1 (1994), at 893.

¹⁴ See, e.g., *Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping Duty Order*, 88 FR 74150 (October 30, 2023).

¹⁵ See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300, 52345 (September 20, 2021) (*Final Rule*).

additional inputs from China, into modules in Vietnam and subsequently exported from Vietnam and imported into the United States are circumventing the *Orders*. In addition, we have included a description of the products that are subject to this inquiry, and an explanation of Commerce's decision to initiate this inquiry as provided in the accompanying Circumvention Initiation Checklist.¹⁶

In accordance with 19 CFR 351.226(e)(1), unless this circumvention inquiry is rescinded, in whole or in part, or extended, Commerce intends to issue its preliminary circumvention determination no later than 150 days from the date of publication of the notice of initiation of this circumvention inquiry in the **Federal Register**. Furthermore, in accordance with section 781(f) of the Act and 19 CFR 351.226(e)(2), unless this circumvention inquiry is rescinded, in whole or in part, or extended, Commerce intends to issue its final determination within 300 days from the date of publication of the notice of initiation of this circumvention inquiry in the **Federal Register**.

This notice is published in accordance with section 781(b) of the Act, and 19 CFR 351.226(d)(1)(iii).

Dated: July 13, 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. 2026-14416 Filed 7-16-26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-126]

Certain Non-Refillable Steel Cylinders 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 certain non-refillable steel cylinders (non-refillable cylinders) 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 July 17, 2026.

FOR FURTHER INFORMATION CONTACT: Alexander Cipolla, Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4956.

SUPPLEMENTARY INFORMATION:

Background

On May 11, 2021, Commerce published the *Order* in the **Federal Register**.¹ On April 1, 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, as amended (the Act).² On April 15, 2026, Commerce received a timely and complete notice of intent to participate in the sunset review from the domestic interested party³ within the deadline specified in the 19 CFR 351.218(d)(1)(i).⁴ The domestic interested party claimed interested party status within the meaning of section 771(9)(C) of the Act as a manufacturer of the domestic like product in the United States.⁵ On April 23, 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.⁶

On May 1, 2026, pursuant to 19 CFR 351.218(d)(3)(i), the domestic interested party filed a timely and adequate substantive response.⁷ Commerce did not receive a substantive response from any respondent interested party. On May 20, 2026, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁸ 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*.

¹ See *Certain Non-Refillable Steel Cylinders from the People's Republic of China: Amended Final Antidumping Duty Determination and Antidumping Duty and Countervailing Duty Orders*, 86 FR 25839 (May 11, 2021) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 16181 (April 1, 2026).

³ The domestic interested party is Worthington Enterprises, Inc. (Worthington).

⁴ See Domestic Interested Party's Letter, "Non-Refillable Steel Cylinders from China—Petitioner's Notice of Intent to Participate," dated April 15, 2026.

⁵ *Id.* at 2.

⁶ See Commerce's Letter, "Sunset Reviews Initiated on April 1, 2026," dated April 23, 2026.

⁷ See Domestic Interested Party's Letter, "Non-Refillable Steel Cylinders from China—Petitioner's Substantive Response to the Notice of Initiation," dated May 1, 2026 (Substantive Response).

⁸ See Commerce's Letter, "Sunset Reviews Initiated on April 1, 2026," dated May 20, 2026.

Scope of the Order

The products covered by this *Order* are non-refillable steel cylinders from China. For the full description of the scope of the *Order*, see the Issues and Decisions Memorandum.⁹

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* was to be revoked, is provided in the Issues and Decision Memorandum.¹⁰ 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 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), and 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 112.21 percent.

Notification Regarding Administrative Protective Orders (APOs)

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(c), and 777(i)(1) of the Act,

⁹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Antidumping Duty Order on Non-Refillable Steel Cylinders from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹⁰ *Id.*

¹⁶ See Circumvention Initiation Checklist.

and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: July 13, 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. 2026–14420 Filed 7–16–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Marine Recreational Information Program, Access-Point Angler Intercept Survey (APAIS)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on 1/22/2026 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Marine Recreational Information Program, Access-Point Angler Intercept Survey (APAIS).

OMB Control Number: 0648–0659.

Form Number(s): None.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 100,000.
Average Hours per Response: 0.083 (5 minutes).

Total Annual Burden Hours: 8,333.
Needs and Uses: This request is for extension of a currently approved information collection.

Marine recreational anglers are surveyed to collect catch and effort data, fish biology data, and angler socioeconomic characteristics. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended, regarding conservation and management of fishery resources.

Marine recreational fishing catch and effort data are collected through a combination of mail surveys, telephone surveys and on-site intercept surveys with recreational anglers. Amendments to the Magnuson-Stevens Fishery Conservation and Management Act (MSA) require the development of an improved data collection program for recreational fisheries. To partially meet these requirements, NOAA Fisheries designed and implemented a new Access-Point Angler Intercept Survey (APAIS) in 2013 to ensure better coverage and representation of recreational fishing activity.

The APAIS intercepts marine recreational fishers at public-access sites in coastal counties from Maine to Alabama, Hawaii, and Puerto Rico to obtain information about the just-completed day's fishing activity. Respondents are asked about the time and type of fishing, the angler's avidity and residence location, and details of any catch of finfish. Species identification, number, and size are collected for any available landed catch. Data collected from the APAIS are used to estimate the catch per angler of recreational saltwater fishers. These APAIS estimates are combined with estimates derived from independent but complementary surveys of fishing effort, the Fishing Effort Survey and the For-Hire Survey, to estimate total, state-level fishing catch, by species, and participation. These estimates are used in the development, implementation, and monitoring of fishery management programs by the NMFS, regional fishery management councils, interstate marine fisheries commissions, and state fishery agencies.

Affected Public: Individuals or Households.

Frequency: One-time, in-person interview.

Respondent's Obligation: Voluntary.
Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0659.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–14443 Filed 7–16–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Mission-Aransas National Estuarine Research Reserve; Notice of Public Meeting; Request for Comments

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of public meeting; opportunity to comment.

SUMMARY: The National Oceanic and Atmospheric Administration's (NOAA) Office for Coastal Management (OCM) will hold a hybrid-format public meeting to solicit input on the performance evaluation of the Mission-Aransas National Estuarine Research Reserve (MANERR). NOAA also invites the public to submit written comments.

DATES: NOAA will hold a hybrid-format public meeting from 6 p.m. to 7 p.m. Central Time (CT) on Wednesday, September 2, 2026 at Bay Education Center, 121 Seabreeze Drive, Rockport, Texas 78382. NOAA may close the meeting 10 minutes after the conclusion of public testimony and after responding to any clarifying questions from meeting participants. NOAA will consider all relevant written comments received by Monday, September 14, 2026.

ADDRESSES: Comments may be submitted by one of the following methods:

• **Hybrid-Format Public Meeting:** Provide oral comments in-person or virtually during the hybrid-format public meeting on Wednesday, September 2, 2026 at Bay Education Center, 121 Seabreeze Drive, Rockport, Texas 78382 by registering as a speaker at <https://forms.gle/aCjHznAA7JTaHved7>. Please register by Tuesday, September 1, 2026, at 6 p.m. (CT). Registration is requested but not mandatory, and you may change your mode of participation after registering. Virtual meeting registrants may remain anonymous by typing "Anonymous" in the "First Name" and "Last Name" fields on the registration form. The speaker lineup is based on the date and time of registration. If time allows, non-registered participants will be able to provide comments after registered speakers. At least one hour prior to the start of the September 2, 2026 hybrid-format meeting, NOAA will send an email to all registrants with instructions for attending the public meeting virtually and a reminder of the physical location: Bay Education Center, 121 Seabreeze Drive, Rockport, Texas. The virtual meeting link will be posted at least an hour prior to the public meeting. NOAA may close the meeting 10 minutes after the conclusion of public testimony and after responding to any clarifying questions from meeting participants.

• **Email:** Send written comments to Carrie Hall, Evaluator, NOAA Office for Coastal Management, at czma.evaluations@noaa.gov by Friday, September 11, 2026. Include "MANERR Comments on Performance Evaluation" in the subject line of the message. NOAA will accept anonymous comments; however, all comments NOAA receives are considered part of the public record, and the entirety of the comment, including the name of the commenter, email address, attachments, and other supporting materials, will be publicly accessible. Do not submit confidential business information or otherwise sensitive or personally identifiable information, such as account numbers and Social Security numbers. Comments that are not related to the performance evaluation of MANERR or that contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

FOR FURTHER INFORMATION CONTACT: Carrie Hall, Evaluator, NOAA Office for Coastal Management, by email at Carrie.Hall@noaa.gov or by phone at (240) 410-3422. Copies of the previous evaluation findings may be viewed and downloaded at <https://coast.noaa.gov/czm/evaluations/>. A copy of the

evaluation notification letter, reserve management plan, reserve site profile, and most recent progress report may be obtained upon request by contacting Carrie Hall.

SUPPLEMENTARY INFORMATION: Section 315(f) of the Coastal Zone Management Act (CZMA) requires NOAA to conduct periodic evaluations of federally approved National Estuarine Research Reserves. The evaluation process includes holding one or more public meetings, considering public comments, and consulting with interested Federal, State, and local agencies and members of the public. During the evaluation, NOAA will consider the extent to which the University of Texas at Austin has met the national objectives and adhered to the management plan approved by the Secretary of Commerce, the requirements of Section 315 of the CZMA, and the terms of financial assistance under the CZMA. When the evaluation is complete, OCM will place a notice in the **Federal Register** announcing the availability of the final evaluation findings.

Authority: 16 U.S.C. 1451 *et seq.*

Keelin S. Kuipers,

Acting Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2026-14456 Filed 7-16-26; 8:45 am]

BILLING CODE 3510-08-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF869]

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 Spiny Dogfish Advisory Panel will hold a public meeting.

DATES: The meeting will be held on Tuesday, August 4, 2026, from 4 p.m. until 6 p.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 Spiny Dogfish Advisory Panel will meet via webinar on Tuesday, August 4, 2026, from 4 p.m. until 6 p.m. The main purpose of the meeting is for the Advisory Panel to develop a fishery performance report. The Council primarily uses the fishery performance report to inform the specifications process. The Council will be reviewing previously adopted 2027 specifications for spiny dogfish, which would maintain the 2026 specifications into the 2027 fishing year.

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: July 15, 2026.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026-14474 Filed 7-16-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Final Evaluation Findings of Five State Coastal Management Programs and Seven National Estuarine Research Reserves

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given of the availability of final evaluation findings for five State and Territory coastal management programs (Minnesota, New Jersey, Puerto Rico, Rhode Island, and Wisconsin) and seven National Estuarine Research Reserves (Jacques Cousteau, Jobos Bay, North Inlet-Winyah Bay, Old Woman Creek, Padilla Bay, Rookery Bay, and Wells), which were prepared pursuant to Sections 312 and 315 of the Coastal Zone Management Act (CZMA).

ADDRESSES: Copies of these final evaluation findings may be found at https://coast.noaa.gov/czm/evaluations/evaluation_findings/index.html or requested by emailing czma.evaluations@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Michael Migliori, Manager, Evaluation and Compliance, NOAA Office for Coastal Management, at (443) 332–8936 or Michael.Migliori@noaa.gov.

SUPPLEMENTARY INFORMATION: NOAA’s Office for Coastal Management (OCM) has completed the coastal zone management program final evaluation findings for the States of Minnesota, New Jersey, Rhode Island, and Wisconsin and the Territory of Puerto Rico. The States and Territory were found to be implementing and enforcing their federally approved coastal zone management programs, addressing the national coastal management objectives identified in Section 303(2) of the CZMA and adhering to the programmatic terms of their financial assistance awards. In addition, OCM has completed the final evaluation findings for Jacques Cousteau, Jobos Bay, North Inlet–Winyah Bay, Old Woman Creek, Padilla Bay, Rookery Bay, and Wells Reserves. The Jacques Cousteau, North Inlet–Winyah Bay, Old Woman Creek, Padilla Bay, Rookery Bay, and Wells Reserves were found to be adhering to the terms of the reserves’ financial assistance awards and to the programmatic requirements of the CZMA, including the requirements of the CZMA’s Section 315(b)(2) and its implementing regulations. The Jobos Bay Reserve was found to be not fully adhering to the programmatic requirements of the CZMA and its implementing regulations in the operation of the Jobos Bay National Estuarine Research Reserve.

NOAA published notices in the **Federal Register** for public meetings and opportunities to submit public

comments on the evaluation of these State and Territory coastal zone management programs and National Estuarine Research Reserves. See Minnesota, July 14, 2025 (90 FR 31165); New Jersey, August 8, 2023 (88 FR 53476); Puerto Rico, August 2, 2023 (88 FR 50848); Rhode Island, August 22, 2024 (89 FR 67935); Wisconsin, May 24, 2024 (89 FR 45858); Jacques Cousteau, December 20, 2024 (89 FR 104097); Jobos Bay, May 30, 2023 (88 FR 34488); North Inlet–Winyah Bay, July 8, 2025 (90 FR 30053); Old Woman Creek, May 29, 2024 (89 FR 46375); Padilla Bay, July 9, 2024 (89 FR 56317); Rookery Bay, April 25, 2025 (90 FR 17422); and Wells, March 14, 2025 (90 FR 12145). NOAA addressed the public comments it received in the final evaluation findings.

Authority: 16 U.S.C. 1458, 1461(f); 15 CFR 921.40, 923.133.

Keelin S. Kuipers,
Acting Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.
[FR Doc. 2026–14457 Filed 7–16–26; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF872]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. The EFP would allow federally permitted fishing vessels to fish outside fishery regulations in support of exempted fishing activities proposed by the Commercial Fisheries Research Foundation (CFRF). Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before August 3, 2026.

ADDRESSES: You may submit written comments by email: nmfs.gar.efp@noaa.gov. Include in the subject line “CFRF Expanded Tilefish Fishery EFP.” All comments received are a part of the public record and may be posted for public viewing without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “anonymous” as the signature if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Christine Ford, Fishery Management Specialist, christine.ford@noaa.gov, 978–281–9185.

SUPPLEMENTARY INFORMATION: The applicant submitted a complete application for an EFP to conduct commercial fishing activities that the regulations would otherwise restrict. This EFP would exempt the participating vessels from the following Federal regulations:

TABLE 1—REQUESTED EXEMPTIONS		
CFR citation	Regulation	Need for exemption
50 CFR 648.295(c)	Landing condition	To allow at-sea processing of golden and blueline tilefish for conversion factor data collection and calculation.

TABLE 2—PROJECT SUMMARY	
Project title	Filling gaps and expanding opportunities in the tilefish fishery through fishermen-collected data
Project start	08/01/2026.
Project end	07/31/2027.
Project objectives	To pilot a targeted tilefish research fleet to establish a new data stream for these data-poor, commercially important species, and develop a conversion factor for whole fish to fillet.
Project location	Statistical Areas 533, 537, 613, 615, 616, 622, 623, 627, 628.
Number of vessels	Up to 3.
Number of trips	Up to 12/vessel; up to 36 total.

TABLE 2—PROJECT SUMMARY—Continued

Project title	Filling gaps and expanding opportunities in the tilefish fishery through fishermen-collected data
Trip duration (days)	1–4 days.
Total number of days	Up to 144 days.
Gear type(s)	Rod and reel; bottom longline.
Number of tows or sets	8–12 sets/day.
Duration of tows or sets	30 minutes to 2 hours.

Project Narrative

This project seeks to leverage the knowledge and experience of the commercial fishing industry to pilot a targeted tilefish research fleet to establish a new data stream for these data-poor, commercially important species. The expected outcomes of the project include the development of a model approach for fishery-dependent data collection involving the commercial fishing industry, as well as a consistent conversion factor, to inform a potential regulatory change that would allow commercial tilefish fishermen to process these species at sea. The specific objectives include: 1. Collect and communicate tilefish data (length and weight) in a cost-effective way using modern electronic technology and fishermen's time on the water, 2. contribute to the improvement of tilefish stock assessment, 3. extract and analyze biological data from images of individual tilefish, and 4. calculate an accurate and reproducible conversion factor that is representative of the ratio of fillet length and weight to whole fish length and weight.

The project would consist of 3 participants conducting field sampling once per month, during their regular fishing activity, for a total of 12 trips per vessel, and 36 total trips for the project duration. Participants would use their standard commercial tilefish rod and reel or bottom longline gear and be required to adhere to their existing whole-fish weight limits, depending on their specific tilefish permit. The overall goal for the project would be to sample 450–500 total tilefish (both golden and blueline combined); this would be an average of approximately 12–15 tilefish per vessel per trip. Participants would be required to keep the skin on all fillets, to enable identification between species. Fillets of each species would be stored separately from one another, in accordance with their regular catch handling activities. This project would not create additional catch or effort.

To record the size and length of individual fish and their resulting fillets, electronic monitoring camera systems would be installed aboard each participant vessel. The system would

have two cameras: One to obtain images with a field of view large enough to contain a mature golden tilefish, and one focused on a nearby weight scale. Once a tilefish was caught, it would be placed whole on a length board and scale beneath the camera. The captain would then fillet the fish in full view of the camera, place the fillets on the length board and scale, and record those measurements. After each trip, the video and associated data would be transferred for review and analysis by CFRF. Data would be used to calculate a conversion factor for whole fish to fillet for each species; the conversion factor would be calculated as a ratio of both halves of a fish fillet's length and weight compared against the whole fish's length and weight.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 15, 2026.

Shannon Bettridge,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–14502 Filed 7–16–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF850]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that NMFS has received two applications for renewal pursuant to the Endangered Species Act (ESA) for operation of the Snake River Sockeye Salmon Hatchery Program. The applications from the Idaho Department of Fish and Game (IDFG) and NMFS's Northwest Fisheries Science Center (NWFSC) include a Hatchery and Genetic Management Plan (HGMP). The HGMP describes the hatchery program operated by IDFG, NWFSC, Shoshone-Bannock Tribe (SBT), and Oregon Department of Fish and Wildlife (ODFW), and funded by the Bonneville Power Administration (BPA). This document serves to notify the public of the availability and opportunity to comment on the HGMP on the proposed hatchery program.

DATES: Comments must be received no later than 5 p.m. Pacific time on August 17, 2026.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2026–1784, by electronic submission:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2026–1784 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

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).

The HGMP available for public comment is available on the internet at: <https://www.fisheries.noaa.gov/action/snake-river-sockeye-salmon-production-program>.

FOR FURTHER INFORMATION CONTACT:

Andreas Raisch at (503) 230-5405 or by email at andreas.raisch@noaa.gov.

SUPPLEMENTARY INFORMATION:**ESA-Listed Species Covered in This Notice**

- Sockeye salmon (*Oncorhynchus nerka*): endangered, naturally and artificially propagated Snake River Sockeye Evolutionary Significant Unit (ESU);
- Chinook salmon (*O. tshawytscha*): threatened, naturally and artificially propagated Snake River Spring/Summer-run ESU;
- Steelhead (*O. mykiss*): threatened, naturally and artificially propagated Snake River Steelhead Distinct Population Segment.

Background

Section 9 of the ESA and Federal regulations prohibit the “taking” of a species listed as endangered or threatened. The term “take” is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may make exceptions to the take prohibitions in section 9 of the ESA for programs that are approved by NMFS under section 10(a)(1)(A) of the ESA (50 CFR 222.308).

The operators and funding agencies, including IDFG, SBT, ODFW, NMFS’s NWFSC and BPA, submitted an HGMP to NMFS pursuant to NMFS’ ESA Section 10(a)(1)(A) for hatchery activities in the Snake River basin.

The programs are intended to contribute to the survival and recovery of Snake River Sockeye salmon in the Snake River basin. The proposed program would maintain the Snake River sockeye salmon captive broodstock, collect and spawn adult sockeye salmon returning to the Snake River basin, rear juveniles, and release eggs, juveniles, and adult fish in upper Salmon River basin lakes, as well as into Tanner Creek, Oregon. Adult fish that return to Tanner Creek, would be transported to Eagle Fish Hatchery, Idaho for processing, and released to spawn upstream in Redfish and Pettit Lake. The proposed continuation of the program would indicate best management practices to minimize adverse effects on the ESU.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: July 14, 2026.

Jennifer Quan,

Regional Administrator, West Coast Region, National Marine Fisheries Service.

[FR Doc. 2026-14451 Filed 7-16-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Alaska License Limitation Program for Groundfish, Crab, and Scallops

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. Public comments were previously requested via the **Federal Register** on December 30, 2025, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: Alaska License Limitation Program for Groundfish, Crab, and Scallops.

OMB Control Number: 0648-0334.

Form Number(s): None.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 68.

Average Hours per Response: 1 hour for Application for the transfer of groundfish and crab LLP licenses; 1 hour for the Application for the transfer of scallop LLP licenses; 4 hours for the Transfer appeal.

Total Annual Burden Hours: 38.

Needs and Uses: This is a request for renewal of an approved information collection. The collection is sponsored by the National Marine Fisheries Service (NMFS), Alaska Regional Office (AKR) and is authorized under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) 16 U.S.C. 1801 *et seq.* and at 50 CFR parts 679 and 680.

This collection contains collection-of-information requirements necessary for the transfer of License Limitation Program (LLP) licenses for the commercial groundfish, crab, and scallop fisheries. The purpose of this collection is to determine whether a transfer is eligible and if endorsements

meet regulatory requirements for licensing and permits. An essential feature of the LLP is the ability for participants to transfer their LLP license. Without the ability to track the movement of LLP licenses, NMFS would be unable to effectively manage the LLP. The LLP restricts access to the commercial groundfish, crab, and scallop fisheries in the exclusive economic zone off Alaska, except for certain areas where alternative programs exist. The intended effect of the LLP is to limit the number of participants and reduce fishing capacity in fisheries off Alaska. More information on the LLP can be found on the NMFS Alaska Region website and at 50 CFR part 679.

An LLP license is required for vessels participating in directed fishing for LLP groundfish species in the Bering Sea and Aleutian Islands (BSAI) or Gulf of Alaska (GOA), or fishing in any BSAI LLP crab fisheries. An LLP license is also required for any vessel deployed in scallop fisheries in Federal waters off Alaska except for some diving operations.

Vessels participating in directed fishing for LLP groundfish species in the GOA or BSAI, or fishing in any BSAI LLP crab fisheries, must be named on a valid copy of the LLP license that is on board the vessel, with some exceptions. An LLP groundfish or crab license authorizes the license holder to deploy the vessel in fisheries in accordance with the specific area and species endorsements, the vessel and gear designations, the maximum length overall (MLOA) specified on the license, and any exemption from the MLOA specified on the license.

An LLP scallop license authorizes the person named on the license to catch and retain scallops in compliance with State of Alaska regulations using a vessel that does not exceed the MLOA specified on the license and the gear designation specified on the license. Unlike the LLP groundfish license, the scallop license is not vessel specific. A valid copy of the LLP scallop license must be on board the vessel.

For program definitions, refer to 50 CFR 679.2, for permit and licensing requirements for scallop refer to 50 CFR 679.4(g), for permit and licensing requirements for groundfish and crab refer to 50 CFR 679.4(k), and for prohibitions refer to 50 CFR 679.7(i). Additional information on the LLP can be found on the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/license-limitation-program-alaska>.

This collection contains the Application for the transfer of groundfish and crab LLP licenses, the

Application for the transfer of scallop LLP licenses, and the Transfer appeal. The applications for transfers are each filled by two respondents, the transferor and the transferee. The type of information collected includes information on the transferor, transferee, and the LLP license to be transferred, as well as information on the quota share to be transferred, the vessel currently named on the LLP license, the vessel to be named on the LLP license, and the ownership interest and transaction data. Information is collected as needed by the respondent and is used to determine whether a transfer is eligible and if endorsements meet regulatory requirements for licensing and permits. All of the forms can now be submitted electronically via email. There are no other changes to this collection.

Affected Public: Individuals or households; Business or other for-profit organizations.

Frequency: On occasion (as needed).

Respondent's Obligation: Required to Obtain or Retain Benefits.

Legal Authority: Magnuson-Stevens Act 16 U.S.C. 1801 *et seq.* and at 50 CFR parts 679 and 680.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0334.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–14460 Filed 7–16–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comments.

SUMMARY: The United States Patent and Trademark Office (hereafter "USPTO" or "Agency") 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 USPTO invites comments on the information collection renewal of 0651–0012, which helps the USPTO assess the impact of its information collection requirements and minimize the reporting burden to the public. Public comments were previously requested via the **Federal Register** on March 18, 2026, during a 60-day comment period (91 FR 13015). This notice allows for an additional 30 days for public comments.

DATES: To ensure consideration, you must submit comments regarding this information collection on or before August 17, 2026.

ADDRESSES: Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website, <https://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, 0651–0012. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT:

• This information collection request may be viewed at <https://www.reginfo.gov/>. Follow the instructions to view the Department of Commerce, USPTO information collections currently under review by OMB.

• **Email:** InformationCollection@uspto.gov. Include "0651–0012 information request" in the subject line of the message.

• **Mail:** Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

• **Telephone:** Diana Oleksa, Office of Enrollment and Discipline, 571–272–4097.

SUPPLEMENTARY INFORMATION:

Title: Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office.

OMB Control Number: 0651–0012.

Abstract: This collection of information is authorized by 35 U.S.C. 2(b)(2)(D), which permits the United States Patent and Trademark Office (USPTO) to establish regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the USPTO. This statute also permits the USPTO to require information from applicants that shows that they are of good moral character and reputation and have the necessary qualifications to assist applicants with the patent process and to represent them before the USPTO.

This information collection addresses submissions required by the regulations at 37 CFR 1.21 and 11.5–11.11, which set forth the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered patent attorney or agent before the USPTO. The Office of Enrollment and Discipline (OED) collects this information to determine the qualifications of individuals entitled to represent applicants before the USPTO in the preparation and prosecution of applications for a patent. The OED also collects this information to administer and maintain the public roster of attorneys and agents registered to practice before the USPTO, which is accessible through the USPTO website. This information collection is used by the USPTO to review applications for the examination for registration, and to determine whether an applicant may be added to the Register of Patent Attorneys and Agents. Additionally, it is used to determine whether an applicant may remain on the Register.

Since the prior renewal of this information collection, certain items have been changed and reordered. The USPTO is adding an item (Item 6—Undertaking Under 37 CFR 11.10(b)) to this information collection.

Additionally, the following items have been removed, as they have been declared exempt from the Paperwork Reduction Act by OMB under 5 CFR 1320.3(h)(1), 1320.3(h)(2), and 1320.3(h)(7):

- Registration Examination to Become a Registered Practitioner.
 - Reasonable Accommodation—PTO—158RA.
 - Change of Registration from Agent to Attorney—PTO—158.
 - Written Requests (Certificate of Good Standing, Disciplinary History).
- Forms:*
- PTO—107A: (Data Sheet—Register of Patent Attorneys and Agents).
 - PTO—107R: (Reinstatement—Data Sheet—Register of Patent Attorneys and Agents).
 - PTO—107S: (Registration Statement—Data Sheet—Register of Patent Attorneys and Agents).
 - PTO—158: (Application for Registration to Practice Before the United States Patent and Trademark Office).
 - PTO—158A: (Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident).
 - PTO—158T: (Application for Recognition to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Resident).
 - PTO—275: (Undertaking Under 37 CFR 11.10(b)).
 - PTO—1209: (Oath or Declaration).

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Individuals or households.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Estimated Number of Annual Respondents: 5,578 respondents between reporting and recordkeeping requirements. Since the publication of the 60-day notice, the USPTO has revised the estimated number of annual respondents and responses to show that the burden for these items is from the same respondent pool.

Estimated Number of Annual Responses: 5,578 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately 5 minutes (0.08 hours) to 45 minutes (0.75 hours) to complete. This includes the time to gather the necessary information, create the document, and submit the completed item to the USPTO. Additionally, the USPTO Office of

Enrollment and Discipline General Requirements Bulletin recommends that “an applicant should make and keep a copy of every document submitted to the Office in connection with an application for registration.” The USPTO estimates that it will take an applicant approximately 5 minutes (0.08 hours) to print and retain a copy of the submissions.

Estimated Total Annual Respondent Burden Hours: 2,775 hours. Since the publication of the 60-day notice, the USPTO has revised the estimated total annual respondent burden hours to account for the recordkeeping burden associated with each of the items in this information collection.

Estimated Total Annual Respondent Non-hourly Cost Burden: \$798,130.

Justin Isaac,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2026-14388 Filed 7-16-26; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Response to Office Action and Voluntary Amendment Forms

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comments.

SUMMARY: The United States Patent and Trademark Office (hereafter “USPTO” or “Agency”), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0050 (Response to Office Action and Voluntary Amendment Forms). The purpose of this notice is to allow 60 days for public comments preceding submission of the information collection to the Office of Management and Budget (OMB).

DATES: To ensure consideration, you must submit comments regarding this information collection on or before September 15, 2026.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email:* InformationCollection@uspto.gov. Include “0651-0050 comment” in the subject line of the message.

- *Federal eRulemaking Portal:* <https://www.regulations.gov/>.

- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

- *Telephone:* Emily Carlsen, Office of the Deputy Commissioner for Trademark Examination Policy, 571-272-2235.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Emily Carlsen, Senior Attorney Advisor, at: Office of the Deputy Commissioner for Trademark Examination Policy, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; 571-272-2235; or emily.carlsen@uspto.gov with “0651-0050 comment” in the subject line. Additional information about this information collection is also available at <https://www.reginfo.gov/public/> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Trademark Act (Act), 15 U.S.C. 1051 *et seq.*, which provides for the registration of trademarks, service marks, collective trademark and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the United States Patent and Trademark Office (USPTO). This information collection generally contains information that is not submitted with the initial trademark application but is associated with, or required for, the USPTO review of applications for registration.

In some cases, the USPTO issues Office actions to applicants who have applied to register a mark, to request information that was not provided with the initial submission but is required before the issuance of a registration. Also, the USPTO may determine that a mark is not entitled to registration, pursuant to one or more provisions of the Act. In such cases, the USPTO will issue an Office action advising the applicant of the refusal to register the mark. Applicants reply to these Office actions by providing the required information and/or by advancing legal arguments as to why the refusal of registration should be withdrawn.

The USPTO administers the Act through Title 37 of the Code of Federal Regulations. These rules allow the USPTO to request and receive information required to process applications. These rules also allow applicants to submit certain amendments to their applications.

Applicants may also supplement their applications and provide additional information by filing a Voluntary Amendment Not in Response to USPTO Office Action/Letter, a Request for Reconsideration after Final Action, a Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment, a Petition to Amend Basis Post-Publication, a Response to Suspension Inquiry or Letter of Suspension, or a Request for Extension of Time to File a Response.

II. Method of Collection

The USPTO prefers that items in this information collection be submitted

electronically via Trademark Center and TEAS. In limited circumstances, applicants may also be permitted to submit the information in paper form by mail or hand delivery.

III. Data

OMB Control Number: 0651-0050.

Forms:

- PTO-1771 (Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment)
- PTO-1772 (Petition to Amend Basis Post-Publication)
- PTO-1822 (Response to Suspension Inquiry or Letter of Suspension)
- PTO-1957 (Response to Office Action)
- PTO-1960 (Request for Reconsideration after Final Action)
- PTO-1966 (Voluntary Amendment Form)
- PTO-2313 (Request for Extension of Time to File a Response)

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private Sector.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Estimated Number of Annual Respondents: 431,900 respondents.

Estimated Number of Annual Responses: 431,900 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately 5 minutes (0.08 hours) to 50 minutes (0.83 hours) to complete. This includes the time to gather the necessary information, create the document, and submit the completed item(s) to the USPTO.

Estimated Total Annual Respondent Burden Hours: 309,962 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$170,479,100.

TABLE 1—TOTAL REPORTING BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate ¹ (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
1	Response to Office Action; PTO-1957.	300,000	1	300,000	0.83 (50 minutes)	249,000	\$550	\$136,950,000
2	Voluntary Amendment Not in Response to USPTO Office Action/Letter; PTO-1966.	25,000	1	25,000	0.58 (35 minutes)	14,500	550	7,975,000
3	Request for Reconsideration After Final Action; PTO-1960.	36,000	1	36,000	0.83 (50 minutes)	29,880	550	16,434,000
4	Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment; PTO-1771.	7,300	1	7,300	0.58 (35 minutes)	4,234	550	2,328,700
5	Petition to Amend Basis Post-Publication; PTO-1772.	1,600	1	1,600	0.58 (35 minutes)	928	550	510,400
6	Response to Suspension Inquiry or Letter of Suspension; PTO-1822.	19,000	1	19,000	0.42 (25 minutes)	7,980	550	4,389,000
7	Request for Extension of Time to File a Response; PTO-2313.	43,000	1	43,000	0.08 (5 minutes)	3,440	550	1,892,000
	Totals	431,900	.....	431,900	.....	309,962	.....	\$170,479,100

Estimated Total Annual Respondent Non-hourly Cost Burden: \$28,816,690. There are no capital start-up costs, maintenance costs, or recordkeeping costs associated with this information

collection. However, the USPTO estimates that the total annual non-hour cost burden for this information collection, in the form of filing fees and postage, is \$28,816,690.

Filing Fees

There are four filing fees associated with this information collection as listed in the table below:

TABLE 2—FILING FEES

Item No.	Fee code	Item	Estimated annual responses	Estimated cost	Estimated non-hourly cost burden
			(a)	(b)	(a) × (b) = (c)
1	7018	Insufficient information (Sections 1 and 44), per class	8,000	\$100	\$800,000
1	7019	Using the free-form text box instead of the Trademark ID Manual within Trademark Center to identify goods and services (Sections 1 and 44), per class.	110,000	200	22,000,000

¹ 2025 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law

Association (AIPLA); pg. F-35. The USPTO uses the average billing rate for intellectual property work in all firms which is \$550 per hour ([https://](https://www.aipla.org/home/news-publications/economic-survey/2025-report-of-the-economic-survey)

www.aipla.org/home/news-publications/economic-survey/2025-report-of-the-economic-survey).

TABLE 2—FILING FEES—Continued

Item No.	Fee code	Item	Estimated annual responses	Estimated cost	Estimated non-hourly cost burden
			(a)	(b)	(a) × (b) = (c)
5	7005	Petition to Amend Basis Post-Publication	1,599	400	639,600
5	6005	Petition to Amend Basis Post-Publication (paper)	1	500	500
7	7016	Extension of time for filing a response to a pre-registration of- fice action.	43,000	125	5,375,000
		Totals	162,600	.....	\$28,815,100

Postage Costs

Although the USPTO prefers that the items in this information collection be submitted electronically, responses may be submitted by mail through the United States Postal Service. The USPTO estimates that 120 of the items of this information collection may be submitted in themail. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail legal flat-rate envelope, will be \$13.25. Therefore, the USPTO estimates the total mailing costs for this information collection at \$1,590.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Agency’s estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection of information for those who intend 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.

All comments submitted in response to this notice are a matter of public record. The USPTO will include or summarize each comment in the request

to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be advised that the entire comment—including PII—may be made publicly available at any time. While one may request in a comment to withhold PII from public view, the USPTO cannot guarantee that it will be able to do so.

Justin Isaac,
Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.
[FR Doc. 2026–14389 Filed 7–16–26; 8:45 am]
BILLING CODE 3510–16–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file

associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. Each filing may be viewed on the Commission’s website at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited: NONE.		

¹ Memorandum communication with Advisory Council on Historic Preservation.

Docket Nos.	File date	Presenter or requester
<i>Exempt:</i> 1. P-14787-004	7-1-2026	FERC Staff. ¹

Dated: July 14, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-14466 Filed 7-16-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26-976-000.

Applicants: UGI Storage Company.

Description: Annual Report of Operational Purchases and Sales of UGI Storage Company.

Filed Date: 7/13/26.

Accession Number: 20260713-5200.

Comment Date: 5 p.m. ET 7/27/26.

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://](https://elibrary.ferc.gov/idmws/search/fercgensearch.asp)

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.

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: July 14, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-14465 Filed 7-16-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD26-4-000]

Cibola Renewables, LLC; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On July 1, 2026, and supplemented on July 13, 2026, Cibola Renewables, LLC,

filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA). The proposed Middle Rio Grande—Socorro Main Canal Hydrokinetic (Phase 1) Project would have an installed capacity of up to 84 kilowatts (kW) and would be located along the Middle Rio Grande Conservancy District's Socorro Main Canal, near Socorro, Socorro County, New Mexico.

Applicant Contact: Ryan Cook, 75 Fifth Street NW, Atlanta, Georgia 30308, 614-619-0038, ryan.cook@emrgy.com.

FERC Contact: Christopher Chaney, 202-502-6778, christopher.chaney@ferc.gov.

Qualifying Conduit Hydropower Facility Description: The project would consist of: (1) six 4-kW Modular Hydrokinetic Turbines and three 20-kW Check Turbines for a total capacity of up to 84 kW, and (2) and appurtenant facilities.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A)	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i)	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii)	The facility has an installed capacity that does not exceed 40 megawatts	Y
FPA 30(a)(3)(C)(iii)	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: The proposed Middle Rio Grande—Socorro Main Canal Hydrokinetic (Phase 1) Project will not alter the primary purpose of the conduit, which is for agricultural consumption. Therefore,

based upon the above criteria, Commission staff preliminarily determines that the operation of the project described above satisfies the requirements for a qualifying conduit hydropower facility, which is not

required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments, comments contesting whether the facility meets the qualifying criteria, and motions to

intervene: August 13, 2026, 5:00 p.m. Eastern Time.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the "COMMENTS," "COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY," or "MOTION TO INTERVENE," as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.¹ All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

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.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may send a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Locations of Notice of Intent: 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 website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (i.e., CD26-4) in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. Copies of the notice of intent can be obtained directly from the applicant. For assistance, call toll-free 1-866-208-3676 or email FERCOnlineSupport@ferc.gov. For TTY, call (202) 502-8659.

(Authority: 18 CFR 2.1.)

Dated: July 14, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-14489 Filed 7-16-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26-275-000.

Applicants: Buffalo Gap Repower, LLC.

Description: Buffalo Gap Repower, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/14/26.

Accession Number: 20260714-5117.

Comment Date: 5 p.m. ET 8/4/26.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL22-34-002.

Applicants: Office of the Ohio Consumers' Counsel v. American Electric Power Service Corporation, American Transmission Systems, Inc., and Duke Energy Ohio, LLC.

Description: Duke Energy Ohio, Inc. submits Request for Clarification, Alternative Motion for Extension of Time to Provide Refunds and Submit Refund Report, Request for Shortened Answer Period, and Request for Expedited Action.

Filed Date: 7/13/26.

Accession Number: 20260713-5230.

Comment Date: 5 p.m. ET 7/20/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-1437-017.

Applicants: Tampa Electric Company.

Description: Triennial Market Power Analysis for Southeast Region of Tampa Electric Company.

Filed Date: 6/30/26.

Accession Number: 20260630-5396.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER10-2566-015;

ER13-2322-011; ER13-2387-013.

Applicants: Duke Energy Florida, Inc., Duke Energy Progress, Inc., Duke Energy Carolinas, LLC.

Description: Triennial Updated Market Power Analysis for Southeast Region of Duke Energy Carolinas, LLC, et al.

Filed Date: 6/30/26.

Accession Number: 20260630-5398.

Comment Date: 5 pm ET 8/31/26.

Docket Numbers: ER10-2818-021;

ER10-2806-021.

Applicants: TransAlta Energy Marketing (U.S.) Inc., TransAlta Energy Marketing Corporation.

Description: Triennial Market Power Analysis for Southeast Region of TransAlta Energy Marketing Corp., et al.

Filed Date: 6/30/26.

Accession Number: 20260630-5403.

Comment Date: 5 pm ET 8/31/26.

Docket Numbers: ER10-2881-048;

ER10-2882-047; ER10-2883-045;

ER10-2884-045; ER16-2509-016;

ER17-2400-017; ER17-2401-017;

ER17-2403-017; ER17-2404-016.

Applicants: SP Butler Solar, LLC, Rutherford Farm, LLC, Georgia Power Company, Mississippi Power Company, Southern Power Company, Alabama Power Company.

Description: Triennial Market Power Analysis for Southeast Region of Alabama Power Company, et al.

Filed Date: 6/30/26.

Accession Number: 20260630-5401.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER16-2278-006.

Applicants: Cube Yadkin Generation LLC.

Description: Updated Market Power Analysis for Southeast Region of Cube Yadkin Generation LLC.

Filed Date: 6/30/26.

Accession Number: 20260630-5394.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER22-1745-003;

ER25-2589-001; ER15-1972-002;

ER22-1744-003; ER22-1751-003;

ER22-1748-003; ER22-69-006.

Applicants: Indeck Niles, LLC, Indeck-Oswego Limited Partnership, Indeck-Yerkes Limited Partnership, Indeck Energy Services of Silver Springs, Inc., Indeck Corinth Limited Partnership, Clean Energy Future—Trumbull, Indeck-Olean Limited Partnership.

Description: Triennial Market Power Analysis for Northeast Region of Clean Energy Future—Trumbull, et al.

¹ 18 CFR 385.2001-2005 (2025).

Filed Date: 6/30/26.
Accession Number: 20260630–5400.
Comment Date: 5 p.m. ET 8/31/26.
Docket Numbers: ER24–627–005.
Applicants: Mammoth North LLC.
Description: Compliance filing:
 Compliance to 13 with zero and new rate to be effective 6/30/2024.
Filed Date: 7/14/26.
Accession Number: 20260714–5118.
Comment Date: 5 p.m. ET 8/4/26.
Docket Numbers: ER24–2166–005.
Applicants: Invenergy Nelson Expansion LLC.
Description: Compliance filing:
 Compliance Filing of Reactive Power Rate Schedule to be effective 6/1/2024.
Filed Date: 7/14/26.
Accession Number: 20260714–5063.
Comment Date: 5 p.m. ET 8/4/26.
Docket Numbers: ER26–1971–001.
Applicants: Seabrook Solar, LLC.
Description: Tariff Amendment:
 Response to Deficiency Letter to be effective 6/1/2026.
Filed Date: 7/14/26.
Accession Number: 20260714–5103.
Comment Date: 5 p.m. ET 8/4/26.
Docket Numbers: ER26–3151–000.
Applicants: El Paso Electric Company.
Description: Informational Filing of 2025 Formula Rate Annual Update of El Paso Electric Company.
Filed Date: 7/13/26.
Accession Number: 20260713–5231.
Comment Date: 5 p.m. ET 8/3/26.
Docket Numbers: ER26–3152–000.
Applicants: SR Denmark, LLC.
Description: § 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be effective 7/15/2026.
Filed Date: 7/14/26.
Accession Number: 20260714–5048.
Comment Date: 5 p.m. ET 8/4/26.
Docket Numbers: ER26–3153–000.
Applicants: SR Magnolia, LLC.
Description: § 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be effective 7/15/2026.
Filed Date: 7/14/26.
Accession Number: 20260714–5050.
Comment Date: 5 p.m. ET 8/4/26.
Docket Numbers: ER26–3154–000.
Applicants: American Transmission Company LLC, Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing:
 American Transmission Company LLC submits tariff filing per 35.13(a)(2)(iii): 2026–07–14 SA 4800 ATC–WPL E&P (E0037) to be effective 9/13/2026.
Filed Date: 7/14/26.
Accession Number: 20260714–5054.
Comment Date: 5 p.m. ET 8/4/26.
Docket Numbers: ER26–3155–000.
Applicants: AFTW Storage, LLC.
Description: § 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be effective 7/15/2026.

Filed Date: 7/14/26.
Accession Number: 20260714–5056.
Comment Date: 5 p.m. ET 8/4/26.
Docket Numbers: ER26–3156–000.
Applicants: Blackwell Test Facility, LLC.
Description: § 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be effective 7/15/2026.
Filed Date: 7/14/26.
Accession Number: 20260714–5060.
Comment Date: 5 p.m. ET 8/4/26.
Docket Numbers: ER26–3157–000.
Applicants: E South Hero Co. LLC.
Description: § 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be effective 7/15/2026.
Filed Date: 7/14/26.
Accession Number: 20260714–5112.
Comment Date: 5 p.m. ET 8/4/26.
Docket Numbers: ER26–3158–000.
Applicants: Central Maine Power Company.
Description: § 205(d) Rate Filing:
 Amendment to Wholesale Distribution Access Tariff to be effective 9/1/2026.
Filed Date: 7/14/26.
Accession Number: 20260714–5123.
Comment Date: 5 p.m. ET 8/4/26.
Docket Numbers: ER26–3159–000.
Applicants: Westside Canal 2A, LLC.
Description: Tariff Amendment:
 Notice of Cancellation of Market-Based Rate Tariff to be effective 7/15/2026.
Filed Date: 7/14/26.
Accession Number: 20260714–5126.
Comment Date: 5 p.m. ET 8/4/26.
 Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES26–57–000.
Applicants: Sun Chief Solar Farm, LLC.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Sun Chief Solar Farm, LLC.
Filed Date: 7/13/26.
Accession Number: 20260713–5228.
Comment Date: 5 p.m. ET 8/3/26.
 The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.
 Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.
 eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: July 14, 2026.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2026–14464 Filed 7–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC26–127–000.
Applicants: Louisville Gas and Electric Company, Kentucky Utilities Company.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Louisville Gas and Electric Company, et al.
Filed Date: 7/9/26.
Accession Number: 20260709–5339.
Comment Date: 5 p.m. ET 7/30/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1915–014; ER23–1766–002; ER10–3066–007; ER10–3059–007; ER10–3278–006; ER10–1963–014; ER22–284–002; ER25–3498–001; ER25–1309–002; ER20–2060–005; ER10–3058–007; ER18–213–005; ER10–3065–007; ER10–2638–013.

Applicants: Waterbury Generation, LLC, Shoreham Energy, LLC, Pittsfield Generating Company, L P, Pinelawn Power, LLC, MPH Rockaway Peak, LLC, MPH Elwood, LLC, MPH Cross Island Power, LLC, MPH AL Pierce, LLC, Jamaica Bay Peaking Facility, LLC, Forked River Power LLC, Equus Power I, L.P., Edgewood Energy, LLC, Boott Hydropower, LLC, Bayswater Peaking Facility, LLC.

Description: Triennial Market Power Analysis for Northeast Region of Bayswater Peaking Facility, LLC, et al.
Filed Date: 6/30/26.

Accession Number: 20260630–5384.
Comment Date: 5 p.m. ET 8/31/26.
Docket Numbers: ER10–2193–007.

Applicants: H.Q. Energy Services (U.S.) Inc.

Description: Triennial Market Power Analysis for Northeast Region of H.Q. Energy Services (U.S.) Inc.

Filed Date: 6/30/26.

Accession Number: 20260630–5380.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER16–1720–033.

Applicants: Invenergy Energy Management LLC.

Description: Triennial Market Power Analysis for Northeast Region of Invenergy Energy Management LLC.

Filed Date: 6/30/26.

Accession Number: 20260630–5389.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER18–1915–002; ER18–1917–002; ER19–314–002; ER14–16–001; ER10–2795–015; ER19–1215–005; ER10–2875–015; ER12–281–012.

Applicants: Northampton Generating Company, L.P., Keystone Power LLC, Cricket Valley Energy Center, LLC, Conemaugh Power LLC, Burgess Biopower LLC, Bridgewater Power Company, L.P., Bowfin KeyCon Power, LLC, Bowfin KeyCon Energy, LLC.

Description: Triennial Market Power Analysis for Northeast Region of Bowfin KeyCon Energy, LLC, et al.

Filed Date: 6/30/26.

Accession Number: 20260630–5385.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER19–1865–006; ER19–2142–007; ER19–2143–007; ER19–1866–006; ER19–2148–008; ER19–1867–006; ER19–2147–007; ER19–2141–007; ER19–1868–006; ER19–1869–006; ER19–2145–007; ER19–2144–007; ER19–1870–006; ER19–2140–007; ER19–1871–006; ER19–1872–006; ER19–2146–007.

Applicants: Warren Generation, LLC, Tolna Power, LLC, Titus Power, LLC, Shawville Power, LLC, Shawnee Power, LLC, Sayreville Power, LLC, Portland Power, LLC, Orrtanna Power, LLC, Niles Power, LLC, New Castle Power, LLC, Mountain Power, LLC, Hunterstown Power, LLC, Heritage Power Marketing, LLC, Hamilton Power, LLC, Gilbert Power, LLC, Brunot Island Power, LLC, Blossburg Power, LLC.

Description: Updated Market Power Analysis for Northeast Region of Blossburg Power, LLC, et al.

Filed Date: 6/30/26.

Accession Number: 20260630–5379.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER20–711–005; ER17–1988–005; ER17–1984–005; ER23–2221–003.

Applicants: Big Savage, LLC, Highland North LLC, Patton Wind Farm, LLC, Cambria Wind, LLC.

Description: Triennial Market Power Analysis for Northeast Region of Cambria Wind LLC, et al.

Filed Date: 6/30/26.

Accession Number: 20260630–5381.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER22–2784–016; ER25–2211–003; ER25–396–002; ER22–2827–008; ER22–7–004; ER22–14–005; ER22–281–003; ER22–286–003; ER22–288–003; ER22–289–003; ER22–15–005; ER22–9–005; ER22–11–005; ER23–108–006; ER23–31–005; ER22–12–004; ER22–13–005; ER21–632–006; ER23–2967–006.

Applicants: Toms River Net Meter Solar, LLC, Toms River Merchant Solar, LLC, Regan Solar, LLC, Puckett Solar, LLC, Pattersonville Solar Facility LLC, MD Solar 2, LLC, Janis Solar, LLC, Grissom Solar, LLC, ELP Stillwater Solar, LLC, Dry Bridge Solar 4, LLC, Dry Bridge Solar 3, LLC, Dry Bridge Solar 2, LLC, Dry Bridge Solar 1, LLC, Darby Solar, LLC, Branscomb Solar, LLC, Bluegrass Solar, LLC, Bluebird Solar LLC, American Beech Solar LLC, MN8 Energy Marketing LLC.

Description: Triennial Market Power Analysis for Northeast Region of MN8 Energy Marketing LLC, et al.

Filed Date: 6/30/26.

Accession Number: 20260630–5388.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER23–2520–004; ER22–2422–005.

Applicants: SR Turkey Creek, LLC, SR Litchfield, LLC.

Description: Triennial Market Power Analysis for Northeast Region of SR Litchfield, LLC, et al.

Filed Date: 6/30/26.

Accession Number: 20260630–5386.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER25–1319–004; ER25–1321–003.

Applicants: Trade Post Solar LLC, Cadence Solar Energy LLC.

Description: Triennial Market Power Analysis for Northeast Region of Cadence Solar Energy LLC, et al.

Filed Date: 6/30/26.

Accession Number: 20260630–5392.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER25–2386–001; ER23–2740–001; ER22–2519–004; ER10–1790–026; ER14–2672–026; ER12–1825–039; ER13–33–011; ER23–1470–002; ER24–1243–001; ER23–1476–002; ER10–2481–008; ER11–2041–021; ER10–3196–006; ER26–2460–001; ER10–2273–006; ER11–2042–019; ER26–166–003.

Applicants: UGID Broad Mountain, LLC, Seneca Energy, II LLC, PEI Power II, LLC, Juliet Energy Project, LLC, PEI Power Corporation, Innovative Energy Systems, LLC, Ingenco Wholesale Power, L.L.C., Cottontail Solar 8, LLC, Honeysuckle Solar, LLC, Cottontail Solar 2, LLC, Collegiate Clean Energy,

LLC, EDF Industrial Power Services (CA), LLC, EDF Energy Services, LLC, BP Energy Company, Bellflower Solar 1, LLC, Arche Energy Project, LLC, Arche Energy Project Tenant, LLC.

Description: Triennial Market Power Analysis for Northeast Region of Arche Energy Project Tenant, LLC, et al.

Filed Date: 6/30/26.

Accession Number: 20260630–5391.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER25–3436–003.

Applicants: Bel Air Solar I, LLC.

Description: Triennial Market Power Analysis for Northeast Region of Bel Air Solar I, LLC.

Filed Date: 7/10/26.

Accession Number: 20260710–5235.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–2226–002.

Applicants: Oklahoma Gas and Electric Company.

Description: Compliance filing: Proposed Effective Date Amendment Filing to be effective 1/1/2025.

Filed Date: 7/14/26.

Accession Number: 20260714–5031.

Comment Date: 5 p.m. ET 8/4/26.

Docket Numbers: ER26–2273–001; ER16–1833–018.

Applicants: Sempra Gas & Power Marketing, LLC, Sempra Gas & Power Marketing, LLC.

Description: Triennial Market Power Analysis for Northeast Region of Sempra Gas & Power Marketing, LLC.

Filed Date: 6/30/26.

Accession Number: 20260630–5387.

Comment Date: 5 p.m. ET 8/31/26.

Docket Numbers: ER26–3148–000.

Applicants: Buffalo Solar Farm, LLC.

Description: Initial Rate Filing: Buffalo Solar Farm, LLC MBR Baseline Filing to be effective 7/14/2026.

Filed Date: 7/13/26.

Accession Number: 20260713–5183.

Comment Date: 5 p.m. ET 8/3/26.

Docket Numbers: ER26–3149–000.

Applicants: Puget Sound Energy, Inc.

Description: Tariff Amendment: Cancellation of Allocation Agreement with BPA to be effective 4/1/2026.

Filed Date: 7/13/26.

Accession Number: 20260713–5193.

Comment Date: 5 p.m. ET 8/3/26.

Docket Numbers: ER26–3150–000.

Applicants: American Transmission Company LLC, Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: American Transmission Company LLC submits tariff filing per 35.13(a)(2)(iii): 2026–07–14 SA 4798 ATC–WPL E&P (E0038) to be effective 9/13/2026.

Filed Date: 7/14/26.

Accession Number: 20260714–5032.

Comment Date: 5 p.m. ET 8/4/26.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES26–56–000.

Applicants: Upper Missouri G. & T. Electric Cooperative, Inc.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Upper Missouri G. & T. Electric Cooperative, Inc.

Filed Date: 7/13/26.

Accession Number: 20260713–5222.

Comment Date: 5 p.m. ET 8/3/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: July 14, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–14463 Filed 7–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12626–006]

Northern Illinois Hydropower, LLC; Notice of Availability of Environmental Assessment

The EA contains Commission staff's analysis of the potential environmental effects of the proposed amendment, alternatives to the proposed action, and concludes that the proposed amendment of the Dresden Island Lock and Dam Project would not constitute a

major federal action that would significantly affect the quality of the human environment.

The EA may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number (P–12626) in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

All comments must be filed by August 13, 2026, 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–12626–006.

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.

For further information, contact Rebecca Martin at 202–502–6012 or rebecca.martin@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: July 14, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–14487 Filed 7–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–548–000]

Guardian Pipeline, LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on July 1, 2026, Guardian Pipeline, L.L.C. (Guardian), 500 Woodward Avenue, Suite 2900, Detroit, Michigan 48226, filed an application under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting authorization for its Guardian 3 Expansion Project (G3 Expansion Project or Project) in Illinois and Wisconsin.

Specifically, as part of the G3 Expansion Project in Illinois, Guardian proposes: (i) construction of approximately 42.6 miles of 36-inch-diameter pipeline loop in Kendall and DeKalb Counties (Joliet Loop); (ii) construction of approximately 25.5 miles of 36-inch-diameter pipeline loop in DeKalb and McHenry Counties (Sycamore Loop); (iii) installation of two new 11,187 horsepower (HP) gas-fired compressor units at the existing Joliet Compressor Station in Will County; and (iv) modification of compression facilities at the existing Sycamore Compressor Station in DeKalb County.

Additionally, as part of the G3 Expansion Project in Wisconsin, Guardian proposes: (i) construction of a new 9,000 HP electric-driven Eden Compressor Station in Dodge County; (ii) removal of existing capacity controls at the Bluff Creek Compressor Station in Walworth County; and (iii) construction of the new Sheboygan Meter Station in Fond du Lac County, along with related appurtenances.

The Project will provide approximately 536,903 dekatherms per day of incremental firm transportation capacity in the Upper Midwest, particularly in Wisconsin. Guardian affirms that the Project is fully subscribed under executed binding precedent agreements with unaffiliated shippers. Guardian estimates the total Project cost to be approximately \$890 million and proposes incremental recourse rates and rolled-in rate treatment for the Project's fuel and electric power costs, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to

view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Any questions regarding the proposed project should be directed to E. Adina Owen, Chief Regulatory Officer & Assistant General Counsel, DT Midstream, Inc., 600 Travis St., Suite 3250, Houston, Texas 77002, by phone at (832) 712-5554, or by email at adina.owen@dtmidstream.com.

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,¹ within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Water Quality Certification

Guardian stated that a water quality certificate under section 401 of the Clean Water Act is required for the project from the Illinois Environmental Protection Agency. When available, Guardian should submit to the Commission a copy of the request for

certification for the Commission authorization, including the date the request was submitted to the certifying agency, and either (1) a copy of the certifying agency's decision or (2) evidence of waiver of water quality certification.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on August 4, 2026. How to file protests, motions to intervene, and comments is explained below.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation (OPP) at (202) 502-6595 or OPP@ferc.gov.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)² and 385.211³ of the Commission's regulations under the NGA, any person⁴ may file a protest to the application. Protests must comply with the requirements specified in section 385.2001⁵ of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on August 4, 2026.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP26-548-000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov

² 18 CFR 157.10(a)(4).

³ 18 CFR 385.211.

⁴ Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

⁵ 18 CFR 385.2001.

under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Comment on a Filing"; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP26-548-000).

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,⁶ has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently

⁶ 18 CFR 385.102(d).

¹ 18 CFR 157.9.

challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁷ and the regulations under the NGA⁸ by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on August 4, 2026. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP26–548–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Intervention." The eFiling feature includes a document-less intervention option; for more information, visit <https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf>; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP26–548–000.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either

by mail at: E. Adina Owen, Chief Regulatory Officer & Assistant General Counsel, DT Midstream, Inc., 600 Travis St., Suite 3250, Houston, Texas 77002, or by email (with a link to the document) at adina.owen@dtmidstream.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed⁹ motions to intervene are automatically granted by operation of Rule 214(c)(1).¹⁰ Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.¹¹ A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from OPP at (202) 502–6595 or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Intervention Deadline: 5:00 p.m. Eastern Time on August 4, 2026.

(Authority: 18 CFR 2.1)

⁹ The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

¹⁰ 18 CFR 385.214(c)(1).

¹¹ 18 CFR 385.214(b)(3) and (d).

Dated: July 14, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–14488 Filed 7–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD26–3–000]

Billing Procedures for Annual Charges for the Costs of Other Federal Agencies for Administering Part I of the Federal Power Act; Notice Reporting Costs for Other Federal Agencies' Administrative Annual Charges for Fiscal Year 2025

1. The Federal Energy Regulatory Commission (Commission) is required to determine the reasonableness of costs incurred by other Federal agencies (OFAs)¹ in connection with their participation in the Commission's proceedings under the Federal Power Act (FPA) Part I² when those agencies seek to include such costs in the administrative charges licensees must pay to reimburse the United States for the cost of administering Part I.³ The Commission's *Order on Remand and Acting on Appeals of Annual Charge Bills*⁴ determined which costs are eligible to be included in the administrative annual charges. This order also established a process whereby the Commission would annually request each OFA to submit cost data, using a form⁵ specifically designed for this purpose. In addition, the order established requirements for detailed cost accounting reports and other documented analyses to explain the cost assumptions contained in the OFAs' submissions.

2. The Commission has completed its review of the forms and supporting documentation submitted by the U.S. Department of the Interior (Interior), the U.S. Department of Agriculture (Agriculture), and the U.S. Department of Commerce (Commerce) for fiscal year (FY) 2025. This notice reports the costs the Commission included in its

¹ The OFAs include: the U.S. Department of the Interior (Bureau of Land Management, National Park Service, U.S. Fish and Wildlife Service, Office of the Solicitor, Office of Environmental Policy & Compliance); the U.S. Department of Agriculture (U.S. Forest Service); the U.S. Department of Commerce (National Marine Fisheries Service); and the U.S. Army Corps of Engineers.

² 16 U.S.C. 791a–823d (2018).

³ See *id.* § 803(e)(1) and 42 U.S.C. 7178 (2018).

⁴ 107 FERC ¶ 61,277, *order on reh'g*, 109 FERC ¶ 61,040 (2004).

⁷ 18 CFR 385.214.

⁸ 18 CFR 157.10.

administrative annual charges for FY 2026.

Scope of Eligible Costs

3. The basis for eligible costs that should be included in the OFAs' administrative annual charges is prescribed by the Office of Management and Budget's (OMB) Circular A-25—*User Charges* and the Federal Accounting Standards Advisory Board's Statement of Federal Financial Accounting Standards (SFFAS) Number 4—*Managerial Cost Accounting Concepts and Standards for the Federal Government*. Circular A-25 establishes Federal policy regarding fees assessed for government services and provides specific information on the scope and type of activities subject to user charges. SFFAS Number 4 provides a conceptual framework for federal agencies to determine the full costs of government goods and services.

4. Circular A-25 provides for user charges to be assessed against recipients of special benefits derived from federal activities beyond those received by the general public.⁶ With regard to licensees, the special benefit derived from federal activities is the license to operate a hydropower project. The guidance provides for the assessment of sufficient user charges to recover the *full* costs of services associated with these special benefits.⁷ SFFAS Number 4 defines full costs as the costs of resources consumed by a specific governmental unit that contribute directly or indirectly to a provided service.⁸ Thus, pursuant to OMB

requirements and authoritative accounting guidance, the Commission must base its OFA administrative annual charge on all direct and indirect costs incurred by agencies in administering Part I of the FPA. The special form the Commission designed for this purpose, the "Other Federal Agency Cost Submission Form," captures the full range of costs recoverable under the FPA and the referenced accounting guidance.⁹

5. Our guidance directs the OFAs to ensure that the costs are for FPA Part I activities and that the documented costs are segregated between activities covering municipal projects from those for non-municipal projects. This year, we also asked the OFAs to provide additional narrative descriptions of the type of work performed in administering FPA Part I (including a list of the projects for which work was performed during the covered period) and a detailed description of what managerial/administrative or other activities are included in the non-specific category.

Commission Review of OFA Cost Submittals

5. The Commission received cost forms and other supporting documentation from the Departments of the Interior, Agriculture, and Commerce. The Commission completed a review of each OFA's cost submission forms and supporting reports. In its examination of the OFAs' cost data, the Commission considered each agency's ability to demonstrate a system or process which effectively captured,

isolated, and reported FPA Part I costs as required by the "Other Federal Agency Cost Submission Form."

6. The Commission held a Technical Conference on April 23, 2026 to report its initial findings to licensees and OFAs. Representatives for several licensees and most of the OFAs attended the conference. Following the technical conference, a transcript was posted, and licensees had the opportunity to submit comments to the Commission regarding its initial review.

7. Idaho Falls Group (Idaho Falls) filed written comments¹⁰ noting that it appreciated that most of the OFAs provided extensive lists of projects, but that it would prefer that the OFAs provide narrative descriptions of the work done for each project rather than broad descriptions of the types of work performed among the projects listed. Idaho Falls also stated that it agreed with the disallowances announced at the technical conference and raised a few additional instances where it believed the Commission should decline to accept the costs presented. These issues are addressed in the Appendix to this notice.

8. After full consideration of the comments presented, and in accordance with the previously cited guidance, the Commission accepted as reasonable any costs reported via the cost submission forms that were clearly documented in the OFAs' accompanying reports and/or analyses. These documented costs will be included in the administrative annual charges for FY 2026.

Summary of Reported & Accepted Costs for Fiscal Year 2025

¹⁰ See Letter from Michael R. Pincus, Van Ness Feldman, to the Honorable Debbie-Anne A. Reese, FERC, Docket No. AD26-3-000 (filed May 21, 2026).

⁵ Other Federal Agency Cost Submission Form, available at <https://www.ferc.gov/docs-filing/forms.asp#ofa>.

⁶ OMB Circular A-25 § 6.

⁷ OMB Circular A-25 § 6.a.2.

⁸ SFFAS Number 4 ¶ 7.

⁹ For the past few years, the form has excluded "Other Direct Costs" to avoid the possibility of confusion that occurred in earlier years as to whether costs were being entered twice as "Other Direct Costs" and "Overhead."

	Municipal		Non-Municipal		TOTAL	
	Reported	Accepted	Reported	Accepted	Reported	Accepted
Department of Interior						
Bureau of Indian Affairs	-	-	-	-	-	-
Bureau of Land Management	-	-	94,565	93,948	94,565	93,948
Bureau of Reclamation	-	-	-	-	-	-
National Park Service	256,287	244,381	614,526	626,431	870,813	870,813
U.S. Fish and Wildlife Service	95,383	94,863	695,887	695,804	791,270	790,667
Office of the Solicitor	229,195	228,467	166,193	161,437	395,388	389,904
Office of Environmental Policy & Compliance	222,809	216,510	66,604	64,721	289,413	281,231
Office of Hearings and Appeals	-	-	-	-	-	-
Department of Agriculture						
U.S. Forest Service	302,284	302,284	1,354,246	1,354,246	1,656,530	1,656,530
Department of Commerce						
National Marine Fisheries Service	1,194,316	1,194,316	1,010,743	1,010,743	2,205,059	2,205,059
TOTAL	2,300,274	2,280,822	4,002,764	4,007,329	6,303,038	6,288,152

Figure 1

9. Figure 1 summarizes the total reported costs incurred by Interior, Agriculture, and Commerce with respect to their participation in administering Part I of the FPA. Additionally, Figure 1 summarizes the reported costs that the Commission determined were clearly documented and accepted for inclusion in its FY 2026 administrative annual charges.

Summary Findings of Commission's Costs Review

10. As presented in Figure 1, the Commission has determined that \$6,288,152 of the \$6,303,038 in total reported costs were reasonable and clearly documented in the OFAs' accompanying reports and/or analyses. Based on this finding, .2% of the total reported cost was determined to be unreasonable. The Commission notes the most significant issue with the documentation provided by the OFAs was the lack of detailed description of type of work performed and a list of projects for work performed during the fiscal year.

11. The cost reports that the Commission determined were clearly documented and supported could be traced to detailed cost-accounting reports, which reconciled to data provided from agency financial systems or other pertinent source documentation. A further breakdown of these costs is included in the Appendix to this notice, along with an explanation of how the Commission determined their reasonableness.

Points of Contact

12. If you have any questions regarding this notice, please contact Raven A. Rodriguez at (202) 502-6276.

Dated: July 14, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026-14490 Filed 7-16-26; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM-FAD-231]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202-993-3272 or <https://www.epa.gov/nepa>.

Weekly receipt of Environmental Impact Statements (EIS)

Filed July 6, 2026 10 a.m. EST Through July 13, 2026 10 a.m. EST

Pursuant to CEQ Guidance on 42 U.S.C. 4332

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search>.

EIS No. 20260081, Final, BLM, WY, Newcastle and Nebraska Proposed Resource Management Plans and Final Environmental Impact Statement, Review Period Ends: 08/17/2026, Contact: Tyson Finnicum 307-261-7521.

EIS No. 20260082, Final, USCG, MARAD, LA, Blue Marlin Offshore Port Project, Review Period Ends: 08/31/2026, Contact: Dr. Efrain Lopez 202-495-8867.

Dated: July 13, 2026.

Nancy Abrams,

Deputy Director, Federal Activities Division.

[FR Doc. 2026-14472 Filed 7-16-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2023-0317; FRL-11157-04-OAR]

Release of Draft Integrated Science Assessment To Support the Review of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is making available for public review the draft document titled, *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria, External Review Draft* ("draft ISA"). This document was prepared as part of the current review of the primary (health-based) national ambient air quality standards (NAAQS) for oxides of nitrogen. The draft ISA will be available on or about July 15, 2026.

DATES: Comments must be received on or before September 15, 2026.

ADDRESSES: You may send comments on this document, identified by Docket ID No. EPA-HQ-OAR-2023-0317, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.
- *Email:* a-and-r-Docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-

2023–0317 in the subject line of the message.

- **Mail:** U.S. Environmental Protection Agency, EPA Docket Center, Office of Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- **Hand Delivery or Courier:** EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this notice. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document. The draft ISA will be available on the EPA's website at <https://www.epa.gov/naaqs/nitrogen-dioxide-no2-primary-air-quality-standards>. The draft ISA will be accessible under “Integrated Science Assessments” for the current review.

FOR FURTHER INFORMATION CONTACT: For further information about this notice of availability, contact Dr. Alison Krajewski, Impacts and Ambient Standards Division, Mail Code: B243–01, Office of Clean Air Programs, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, NC 27711; telephone number: 919–541–7688; email address: krajewski.alison@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2023–0317, at <https://www.regulations.gov> (our preferred method), or the other methods identified above in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information for which disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points

you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

II. Information About the Draft Document

Two sections of the Clean Air Act (CAA) govern the establishment and revision of the NAAQS. Section 108 directs the Administrator to identify and list certain air pollutants and then issue “air quality criteria” for those pollutants. The air quality criteria are to “accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air . . .” (CAA section 108(a)(2)). Under CAA section 109, the EPA is to establish primary (health-based) and secondary (welfare-based) NAAQS for each pollutant for which the EPA has issued air quality criteria. CAA section 109(d)(1) requires periodic review and, if appropriate, revision of existing air quality criteria. Revised air quality criteria are to reflect advances in scientific knowledge on the effects of the pollutant on public health and welfare. Under the same provision, the EPA is also to periodically review and, if appropriate, revise the NAAQS, based on the revised air quality criteria.

The CAA additionally requires appointment of an independent scientific review committee that is to periodically review the existing air quality criteria and NAAQS and to recommend any new standards and revisions of existing criteria and standards as may be appropriate (CAA section 109(d)(2)(A)–(B)). Since the early 1980s, the requirement for an independent scientific review committee has been fulfilled by the Clean Air Scientific Advisory Committee (CASAC).¹

Presently the EPA is reviewing the health-based air quality criteria and primary NAAQS for oxides of nitrogen. The call for information for this review was issued in 2022.² The EPA's overall plan for this review is presented in

¹ Information about the CASAC, including a list of the current members, is available on the EPA's website (https://casac.epa.gov/ords/sab/r/sab_apex/casac/home?session=5800687587809).

² 87 FR 75625 (December 9, 2022).

Volume 2 of the Integrated Review Plan for the NAAQS for Primary Oxides of Nitrogen (IRP).³ As described in Volume 2 of the IRP, and following consultation with the CASAC and consideration of public comments, the EPA has prepared an external review draft of the ISA to support the review of the primary nitrogen dioxide (NO₂) NAAQS. NO₂ is the oxide of nitrogen most commonly evaluated in health effects studies, and it is the indicator species for the primary NAAQS.

The ISA, when finalized, together with additional technical and policy assessments, will provide the scientific foundation for the EPA's decisions on the adequacy of the current primary NO₂ NAAQS and, if appropriate, on potential alternative standards. The draft ISA will be available on or about July 15, 2026, on the EPA's website at <https://www.epa.gov/naaqs/nitrogen-dioxide-no2-primary-air-quality-standards>, accessible under “Integrated Science Assessments” for the current primary NO₂ NAAQS review. Comments on the draft ISA should be submitted to the docket, as described above, by September 15, 2026. The EPA will consider comments submitted in response to this notice when revising the draft ISA.

The EPA is also soliciting advice and recommendations from the CASAC through a review of the draft ISA at an upcoming public meeting of the CASAC. Information about this public meeting, including the dates and location, will be published as a separate notice in the **Federal Register**. Following the CASAC meeting, the EPA will consider comments received from the CASAC and the public in preparation of the final ISA.

The draft ISA does not represent, and should not be construed to represent, any final EPA policy, viewpoint, or determination.

Panagiotis Tsirigotis,

Director, Office of Clean Air Programs, Office of Air and Radiation.

[FR Doc. 2026–14459 Filed 7–16–26; 8:45 am]

BILLING CODE 6560–50–P

³ U.S. EPA (2024). Integrated Review Plan for the National Ambient Air Quality Standards for Oxides of Nitrogen. Volume 2: Planning for the Review and the Integrated Science Assessment. Office of Air Quality Planning and Standards and Office of Research and Development. Research Triangle Park, NC. U.S. EPA. EPA–452/R–24–010b. Available at: <https://www.epa.gov/system/files/documents/2024-03/no2-irp-volume-2march-2024.pdf>.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**Commission Meeting—Sunshine Act Notice**

TIME AND DATE: Tuesday, July 21, 2026, 10:00 a.m. Eastern Time.

PLACE: The meeting will be held at the Jacqueline A. Berrien Training Center, 131 M Street NE, Washington, DC 20507. The meeting will also be held as a listen-only audio. The public may attend in person or connect to the audio only by following the instructions that will be posted on www.eeoc.gov at least 24 hours before the meeting. ASL services will be available for those attending the meeting in person and a closed captioning link will be posted on our website prior to the meeting.

If you wish to attend the meeting in person, you must email commissionmeetingcomments@eeoc.gov to register by providing your name as it appears on your driver's license or other government-issued identification at least 24 hours prior to the meeting. You will be asked to show your ID upon arrival.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: The following items will be considered at the meeting:

- Draft Notice of Proposed Rulemaking—Rescission of EEO Reports (EEO–1, EEO–2, EEO–3, EEO–4, EEO–5, EEO–6) and Related Recordkeeping and Record Preservation Requirements

Note: In accordance with the Sunshine Act, the public will be able to observe the Commission's deliberations and voting. (In addition to publishing notices on Commission meetings in the **Federal Register**, the Commission also provides information about Commission meetings on its website, www.eeoc.gov and provides a recorded announcement one week in advance of future Commission meetings.) Public observation does not include participation. Observers seeking to take still photographs, video, or audio recordings of the meeting must seek permission by contacting the Executive Secretariat at commissionmeetingcomments@eeoc.gov at least 24 hours before the meeting to discuss the manner of recording and ensure it does not interfere with the meeting.

Please telephone (202) 921–2705, or email commissionmeetingcomments@eeoc.gov at any time for information on this meeting.

CONTACT PERSON FOR MORE INFORMATION: Raymond Windmiller, Executive Officer, (202) 921–2705.

Date: July 14, 2026.

Raymond D. Windmiller,

Executive Officer, Executive Secretariat.

[FR Doc. 2026–14444 Filed 7–15–26; 11:15 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0149, OMB 3060–0741; FR ID 357063]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before August 17, 2026.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the

information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0149.

Title: Part 63, Reducing Barriers to Network Improvements and Service Changes, Accelerating Network Modernization, WC Docket Nos. 25–208, 25–209, FCC 26–19.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents and Responses: 78 respondents; 90 responses.

Estimated Time per Response: 6–10 hours per response.

Frequency of Response: One-time reporting requirement and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 214 and 402 of the Communications Act of 1934, as amended.

Total Annual Burden: 648 hours.

Total Annual Cost: No Cost.

Needs and Uses: The Commission is seeking the Office of Management and Budget (OMB) approval for a revision of a currently approved collection to OMB. The Commission will submit this information collection to OMB after this 60-day comment period. Section 214 of the Communications Act of 1934, as amended, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communications; or (2) discontinue, reduce or impair service over a line of communications. *Part 63 of Title 47 of the Code of Federal Regulations (CFR)* implements Section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video which was approved under this OMB Control Number 3060–0149. In 2009, the Commission modified Part 63 to extend to providers of interconnected Voice of internet Protocol (VoIP) service the discontinuance obligations that apply to domestic non-dominant telecommunications carriers under Section 214 of the Communications Act of 1934, as amended. In 2014, the Commission adopted improved administrative filing procedures for domestic transfers of control, domestic discontinuances and notices of network changes, and among other adjustments, modified Part 63 to require electronic filing for applications for authorization to discontinue, reduce, or impair service under Section 214(a) of the Act.

In July 2016, the Commission concluded that applicants seeking to discontinue a legacy time division multiplexing (TDM)-based voice service as part of a transition to a new technology, whether internet Protocol (IP), wireless, or another type (technology transition discontinuance application) must demonstrate that an adequate replacement for the legacy service exists in order to be eligible for streamlined treatment and revised part 63 accordingly. The Commission concluded that an applicant for a technology transition discontinuance may demonstrate that a service is an adequate replacement for a legacy voice service by certifying or showing that one or more replacement service(s) offers all

of the following: (i) Substantially similar levels of network infrastructure and service quality as the applicant service; (ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications for individuals with disabilities remain available; and (iii) interoperability and compatibility with an enumerated list of applications and functionalities determined to be key to consumers and competitors (the “adequate replacement test”).

In November 2017, the Commission further modified the rules applicable to Section 214(a) discontinuance applications by (1) *expediting applications that “grandfather” low speed legacy services for existing customers*; (2) *expediting applications to discontinue previously grandfathered legacy data services*; and (3) *expediting applications to discontinue legacy voice or data services below 1.544 Mbps for which the carrier has had no customers and no request for service for at least a 30-day period immediately preceding submission of the application*.

In June 2018, the Commission again modified the rules applicable to Section 214(a) discontinuance applications. First, all carriers, whether dominant or non-dominant, that seek approval to grandfather data services below speeds of 25 Mbps download speed and 3 Mbps upload speed are subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days. Second, all carriers, whether dominant or nondominant, seeking authorization to discontinue data services below speeds of 25 Mbps download speed and 3 Mbps upload speed that have previously been grandfathered for a period of at least 180 days are subject to a uniform reduced public comment period of 10 days and an automatic grant period of 31 days, provided they submit a statement as part of their discontinuance application that they have received Commission authority to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application. The statement must reference the file number of the prior Commission authorization to grandfather the services the carrier then seeks to permanently discontinue. Third, carriers are no longer required to file an application to discontinue, reduce, or impair any service for which it has had no customers and no request for service for at least a 30-day period immediately preceding the discontinuance. Fourth, all carriers, whether dominant or nondominant, that seek approval to discontinue legacy voice service can

obtain further streamlined processing with a public comment period of 15 days and an automatic grant period of 31 days, provided (1) they offer a standalone interconnected VoIP service throughout the service area, and (2) at least one alternative stand-alone, facilities-based voice service is available from an unaffiliated provider throughout the affected service area (the “alternative options test”). Finally, all carriers, whether dominant or nondominant, that seek approval to grandfather legacy voice service are subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days. Certain rules are now modified as described below.

In March 2026, the Commission further modified the rules applicable to Section 214(a) discontinuance applications by: (1) adopting one consolidated rule applicable to all technology transitions discontinuance applications, whereby an application to discontinue a currently offered retail voice service as part of a technology transition is eligible for streamlined processing if the applicant certifies that one or more of five specified categories of replacement services is available in every location throughout the affected service area; (2) granting blanket section 214(a) authority for carriers to grandfather legacy voices services, lower-speed data telecommunications services (defined as those operating at speeds below 25/3 Mbps), and interconnected Voice over internet Protocol (VoIP) service provisioned over copper wire, thus eliminating the need for carriers to file a section 214(a) application when grandfathering these services; (3) adopting requirements providing that carriers seeking authority to discontinue a service supporting interconnection trunks or the exchange of traffic must specifically identify the service to be discontinued, not just the branded name of the service being discontinued, and that they must include in such discontinuance applications a statement that at least 90 days prior to the planned discontinuance filing, the carrier provided a designated point of contact with authority to facilitate the orderly transition from legacy facilities that support 911 to the 911 Authorities, 911 service providers, and directly interconnecting local exchange service providers that support essential functions within 911 networks, including delivering 911 traffic to selective routers for transmission to public safety answering points (PSAPs) in the affected service area for

coordination of the transition to ensure continued 911 connectivity, and a list of providers that received notice in the affected service area with which the carrier has coordinated and the date(s) of that coordination; (4) granting conditional forbearance relief from section 214(a) discontinuance requirements for resellers discontinuing resold services where the reseller's wholesale provider is engaging in a technology transitions discontinuance, with the condition that the discontinuing resellers provide reasonable notice to their customers; (5) applying the 31-day automatic grant period to all discontinuance applications; (6) setting forth content requirements for discontinuance applications; and (6) providing that a carrier may permanently discontinue a service after a showing that it has previously obtained emergency discontinuance authority for the service in question, that the service is one for which the requesting carrier has had no customers or reasonable requests for service during the 60-day period immediately preceding the permanent discontinuance, and that an adequate replacement service is available throughout the affected service area. The Commission also eliminated 47 CFR 63.66, 63.90, 63.100, 63.504, 63.601, and 63.602, and revised 47 CFR 63.60, 63.62, and 63.63 to account for any references or cross-references in those sections caused by the elimination of the previously enumerated rule provisions.

OMB Control Number: 3060–0741.

Title: Reducing Barriers to Network Improvements and Service Changes, Accelerating Network Modernization, WC Docket Nos. 25–209, 25–208.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4,452 respondents; 450,838 responses.

Estimated Time per Response: 0.5–4.5 hours.

Frequency of Response: On occasion reporting requirements; recordkeeping and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 222 and 251.

Total Annual Burden: 452,623 hours.

Total Annual Cost: No cost.

Needs and Uses: Section 251 of the Communications Act of 1934, as amended, 47 U.S.C. 251, is designed to accelerate private sector development and deployment of telecommunications

technologies and services by spurring competition. Section 222(e) is also designed to spur competition by prescribing requirements for the sharing of subscriber list information. These information collection requirements are designed to help implement certain provisions of sections 222(e) and 251, and to eliminate operational barriers to competition in the telecommunications services market. Specifically, these information collection requirements will be used to implement (1) local exchange carriers' (LECs) obligations to provide their competitors with dialing parity and non-discriminatory access to certain services and functionalities; (2) incumbent local exchange carriers' (ILECs) duty to make network information disclosures; and (3) numbering administration. In November 2017, the Commission adopted new rules concerning certain information collection requirements implemented under section 251(c)(5) of the Act, pertaining to network change disclosures. Most of the changes to those rules applied specifically to a certain subset of network change disclosures, namely notices of planned copper retirements. In addition, the changes removed a rule that prohibits incumbent LECs from engaging in useful advanced coordination with entities affected by network changes. In June 2018, the Commission revised its network change disclosure rules to (1) revise the types of network changes that trigger an incumbent LEC's public notice obligation, and (2) extend the force majeure provisions applicable to copper retirements to all types of network changes. On March 26, 2026, the Commission adopted a Report and Order that modified certain recordkeeping or reporting requirements that relate to the obligations of ILECs planning to retire copper communications facilities or make other changes to their networks that might impact interoperability. Specifically, the Commission: (1) eliminated all filing requirements in the Commission's network change disclosure rules and the Commission's process of issuing public notices for short-term network changes and copper retirements and the associated objection process for interconnected service providers, (2) required that the method of notice the incumbent LEC uses be publicly accessible, and (3) expanded the direct notice requirement for copper retirements and short-term network changes to include 911 service providers and directly interconnecting LECs that support essential functions within 911 networks, including

providers delivering 911 traffic to selective routers for transmission to public safety answering points. The changes were aimed at removing unnecessary regulatory barriers to the deployment of high-speed broadband networks while providing reasonable public notice of planned network changes to impacted stakeholders and ensuring continued 911 connectivity.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–14497 Filed 7–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0298; FR ID 356438]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before August 17, 2026.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of

your comment on the proposed information collection to Nicole Ongele, FCC, via email to PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0298.

Title: Part 61, Tariffs (Other than the Tariff Review Plan).

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 3,756 respondents; 4,581 responses.

Estimated Time per Response: 1 hour–50 hours.

Frequency of Response: On occasion, annual, biennial and one-time reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 151–155, 201–205, 208, 251–271, 403, 502 and 503 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. 151–155, 201–205, 208, 251–271, 403, 502 and 503.

Total Annual Burden: 170,314 hours.

Total Annual Cost: \$477,800.

Needs and Uses: This collection will be submitted as a revision of an existing collection in order to obtain Office of Management and Budget (OMB) approval for the full three-year clearance.

The information collected through a carrier’s tariff is used by the Commission and state commissions to determine whether services offered are just and reasonable as the Act requires. The tariffs and any supporting documentation and cost support are examined in order to determine if the services are offered in a just and reasonable manner. The information provided by local exchange carriers regarding detariffed services, including business data services, informs the Commission, customers, and interested parties of the detariffing. The information provided by internet Protocol Enabled Service (IPES) Providers pursuant to rules adopted in the Access Arbitrage Second Report and Order informs interested parties of an entities’ engagement in Access Stimulation.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–14495 Filed 7–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1168; FR ID 356890]

Information Collection Being Reviewed by the Federal Communications Commission Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as

required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission’s burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before September 15, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1168.

Title: Application for Mobility Fund Phase I Support—FCC Form 680.

Form Number: FCC Form 680.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents and Responses: 10 respondents and 10 responses.

Estimated Time per Response: 1.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory

authority for this information collection 47 U.S.C. 154, 254 and 303(r).

Total Annual Burden: 15 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission uses the information collected on FCC Form 680 to determine whether a winning bidder is qualified to receive Mobility Fund Phase I and Tribal Mobility Fund Phase I support. On November 18, 2011, the Commission released an order comprehensively reforming and modernizing the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation. *Connect America Fund et al., Order and Further Notice of Proposed Rulemaking*, FCC 11–161 (*USF/ICC Transformation Order*). In the *USF/ICC Transformation Order*, the Commission, among other things, created the Mobility Fund to ensure the availability of mobile broadband networks in areas where a private-sector business case is lacking. Phase I of the Mobility Fund provided one-time universal service support for the deployment of networks for mobile voice and broadband service, and a separate, complementary Tribal Mobility Fund Phase I provided one-time universal service support to accelerate the availability of mobile voice and broadband service on Tribal lands.

The Commission adopted rules to implement the reforms it adopted in the *USF/ICC Transformation Order*, including the rules in sections 1.21004(a), 54.1004, 54.1005, 54.1006, 54.1007, and 54.1008 which contain information collection requirements used to determine whether a winning bidder of Mobility Fund Phase I support and Tribal Mobility Fund Phase I support is qualified to receive such support.

Section 1.21004(a) of the Commission's rules requires each winning bidder in an auction for universal service support to apply for the support it won by the applicable deadline. Sections 54.1005(b) and 54.1006 require a winning bidder to submit, using FCC Form 680, ownership information, proof of its status as an Eligible Telecommunications Carrier, a detailed project description, any guarantee of performance that the Commission may require, and various certifications. Sections 54.1004(d)(3) and 54.1008(d) require a winning bidder to certify in its application that it has substantively engaged appropriate Tribal officials. In addition, sections 54.1007(a) and (b) require a winning

bidder to obtain and submit to the Commission an irrevocable standby letter of credit, which the winning bidder must maintain until at least 120 days after the winning bidder receives its final distribution of support.

The information collection requirements ensure that a winning bidder submits an application for the universal service support it won, and the Commission uses the information submitted in the application to determine whether the applicant is legally, technically, and financially qualified to receive such support. The requirement that a winning bidder obtain, submit, and maintain a letter of credit will secure a return of universal service funds from a winning bidder that defaults on its obligations and will protect the integrity of the universal service programs. Without such information, the Commission could not determine whether to disburse universal service support to a winning bidder or protect the government's interest in the funds allocated for Mobility Fund Phase I and Tribal Mobility Fund Phase I.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–14496 Filed 7–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0027, OMB 3060–0029; FR ID 356218]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before August 17, 2026.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the

information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

OMB Control Number: 3060–0027.

Type of Review: Extension of a currently approved collection.

Title: Application for Construction Permit for Commercial Broadcast Station, Form 2100, Schedule A—Application for Media Bureau Video Service Authorization; 47 CFR 73.3700(b)(1) and (b)(2) and § 73.3800, Post Auction Licensing; Form 2100, Schedule 301–FM—Commercial FM Station Construction Permit Application; Form 2100, Schedule 301–AM—AM Station Construction Permit Application.

Form Number: FCC Form 301; Form 2100, Schedule A; and Form 2100, Schedule 301–FM.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 3,092 respondents and 4,199 responses.

Estimated Time per Response: 0.075 to 6.25 hours.

Frequency of Response: On occasion reporting requirement; One time reporting requirement; Third party disclosure requirement.

Total Annual Burden: 12,435 hours.

Total Annual Cost: \$61,420,108.

Needs and Uses: The Commission is requesting an extension of this information collection in order to receive approval/clearance from the Office of Management and Budget (OMB) for three years. FCC Form 2100, Schedules 301–FM and 301–AM is used to apply for authority to construct a new commercial AM or FM broadcast station and to make changes to existing facilities of such a station. It may be used to request a change of a station's community of license by AM and non-reserved band FM permittees and licensees. In addition, FM licensees or permittees may request upgrades on adjacent and co-channels, modifications to adjacent channels of the same class,

and downgrades to adjacent channels. All applicants using this one-step process must demonstrate that a suitable site exists that would comply with allotment standards with respect to minimum distance separation and principal community coverage and that would be suitable for tower construction.

OMB Control Number: 3060–0029.

Title: FCC Form 2100, Schedule 340—Noncommercial Educational Station for Reserved Channel Construction Permit Application.

Form Number: FCC Form 2100, Schedule 340.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and State, local or Tribal government.

Number of Respondents and Responses: 2,820 respondents; 2,820 responses.

Estimated Time per Response: 0.5–6 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 6,603 hours.

Total Annual Cost: \$30,039,119.

Needs and Uses: Schedule 340 is used by licensees and permittees to apply for authority to construct a new noncommercial educational (NCE) FM and DTV broadcast station (including a DTS facility), or to make changes in the existing facilities of such a station. Schedule 340 is only used if the station will operate on a channel that is reserved exclusively for NCE use, or in the situation where applications for NCE stations on non-reserved channels are mutually exclusive only with one another. Also, Schedule 340 is used by Native American Tribes and Alaska Native Villages (Tribes), tribal consortia, or entities owned or controlled by Tribes when qualifying for the “Tribal Priority” under 47 CFR 73.7000, 73.7002. Additionally, Schedule 340 contains a third party disclosure requirement, pursuant to § 73.3580. This rule requires local public notice of the filing of all applications to construct a new full-service NCE FM or DTV broadcast station. Notice is given by an NCE applicant by posting notice of the

application filing on its station's website, its licensee's website, its parent entity's website, or on a publicly accessible, locally targeted website, for 30 consecutive days beginning within five business days of acceptance of the application for filing. Furthermore, the online notice must link to a copy of the application as filed, either in the station's Online Public Inspection File or in another Commission database. This recordkeeping information collection requirement is contained in OMB Control No. 3060–0214, which covers § 73.3527.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–14494 Filed 7–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institution effective as of the Date Closed as indicated in the listing.

SUPPLEMENTARY INFORMATION: This list (as updated from time to time in the **Federal Register**) may be relied upon as “of record” notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992, issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions that have been placed in liquidation, please visit the Corporation website at www.fdic.gov/bank/individual/failed/banklist.html, or contact the Chief, Receivership Oversight at RO@fdic.gov or at Division of Resolutions and Receiverships, FDIC, 600 North Pearl Street, Suite 700, Dallas, TX 75201.

INSTITUTIONS IN LIQUIDATION

FDIC Ref. No.	Bank name	City	State	Date closed
10552	Kentland Federal Savings and Loan Association	Kentland	IN	07/10/2026

Federal Deposit Insurance Corporation.
Dated at Washington, DC, on July 14, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026-14426 Filed 7-16-26; 8:45 am]

BILLING CODE 6714-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10394 and CMS-10544]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by August 17, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/

PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT:

William Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Application To Be a Qualified Entity to Receive Medicare Data for Performance Measurement/Reapplication/Annual Report Worksheet; *Use:* Section 10332 of the Patient Protection and Affordable Care Act (ACA) requires the Secretary to make standardized extracts of Medicare claims data under Parts A, B, and D available to "qualified entities" (QEs) for evaluating performance of providers of services and suppliers. implement the requirements outlined in the legislation,

CMS established the Qualified Entity Certification Program (QECF) to evaluate an organization's eligibility across three areas: (1) organizational and governance capabilities, (2) addition of claims data from other sources (as required in the statute), and (3) data privacy and security.

This collection covers the application through which organizations provide information to CMS to determine whether they will be approved as a qualified entity. This collection also covers the triennial re-application through which organizations provide information to CMS to determine whether they are approved to continue as a qualified entity and the QECF Annual Report Worksheet (ARW). *Form Number:* CMS-10394 (OMB control number: 0938-1144); *Frequency:* Yearly; *Affected Public:* Business or other for-profits; *Number of Respondents:* 40; *Total Annual Responses:* 70; *Total Annual Hours:* 5,800. (For policy questions regarding this collection contact Kari Gaare at kari.gaare@cms.hhs.gov).

2. *Type of Information Collection Request:* Re-instatement without change of a previously approved collection; *Title of Information Collection:* Good Cause Processes; *Use:* Section 1851(g)(3)(B)(i) of the Act provides that MA organizations may terminate the enrollment of individuals who fail to pay basic and supplemental premiums after a grace period established by the plan. Section 1860D-1(b)(1)(B)(v) of the Act generally directs us to establish rules related to enrollment, disenrollment, and termination for Part D plan sponsors that are similar to those established for MA organizations under section 1851 of the Act. Consistent with these sections of the Act, subpart B in each of the Parts C and D regulations sets forth requirements with respect to involuntary disenrollment procedures at 42 CFR 422.74 and 423.44, respectively. In addition, section 1876(c)(3)(B) establishes that individuals may be disenrolled from coverage as specified in regulations.

These good cause provisions authorize CMS to reinstate a disenrolled individual's enrollment without interruption in coverage if the non-payment is due to circumstances that the individual could not reasonably foresee or could not control, such as an unexpected hospitalization. At its

inception, the process of accepting, reviewing, and processing beneficiary requests for reinstatement for good cause was carried out exclusively by CMS. *Form Number:* CMS-10544 (OMB control number: 0938-1271); *Frequency:* Occasionally; *Affected Public:* Individuals and Households, Private Sector and Business or other for-profits; *Number of Respondents:* 54,789; *Total Annual Responses:* 54,789; *Total Annual Hours:* 36,490. (For policy questions regarding this collection contact AnhViet Nguyen at 667-290-9745 or anhviet.nguyen@cms.hhs.gov).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026-14394 Filed 7-16-26; 8:45 am]

BILLING CODE 4169-69-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-6739]

Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements for Cosmetic Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection activity requirements for cosmetic products.

DATES: Either electronic or written comments on the collection of information must be submitted by September 15, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 15, 2026. Comments received by mail/hand delivery/courier (for

written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. for "Agency Information Collection Activities; Proposed Collection; Comment Request; Cosmetic Labeling Requirements and Facility Registration and Cosmetic Product Listing Program." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential

information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-5733, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each

proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Requirements for Cosmetic Products

OMB Control Number 0910-0599—
Revision

This information collection supports implementation of statutory and regulatory requirements that govern cosmetic products, including requirements most recently established under the Modernization of Cosmetics Regulation Act of 2022 (MoCRA). MoCRA amended the Federal Food, Drug, and Cosmetic Act by adding, in

pertinent part, sections 604, 605, 607, 608, and 609 (21 U.S.C. 364b, 364c, 364e, and 364g), which establish or amend definitions and requirements related to adverse events, facility registration, cosmetic product listing, safety substantiation, and labeling. For purposes of this information collection, the relevant provisions of the Agency's regulations in Title 21 of the CFR are set forth in 21 CFR part 701, subparts A, B, and C (§§ 701.1–701.30), which establish cosmetic labeling requirements, including general provisions, package form requirements, and labeling requirements for specific ingredients.

The respondents to this information collection consist primarily of responsible persons as defined in section 604(4) of the FD&C Act, meaning the manufacturer, packer, or distributor of a cosmetic product whose name appears on the label of such cosmetic product in accordance with section 609(a) of the FD&C Act or section 4(a) of the Fair Packaging and Labeling Act.

The respondent totals and burden figures are based on facility registration, cosmetic product listing, and labeling data derived from multiple submission pathways, including Cosmetics Direct, the Electronic Submission Gateway (ESG) Next Generation (NextGen), Structured Product Labeling (SPL) authoring software, and paper submissions. Cosmetics Direct is an online submission tool that allows users to enter required data, generate an SPL submission, and submit facility registrations, product listing, and

associated renewals for cosmetic products directly to FDA. Alternatively, industry may use its own software to create an SPL-formatted submission and transmit the submission to FDA through the ESG.

To assist respondents with information collection and provide an alternative to the ESG NextGen electronic submission process, we have also developed Form FDA 5066, entitled "Registration of Cosmetic Product Facility," and Form FDA 5067, entitled "Cosmetic Product Listing," to be used for cosmetic product facility registrations and product listings, respectively. These forms are available electronically and in paper format at <https://www.fda.gov/cosmetics/registration-listing-cosmetic-product-facilities-and-products>.

We have also developed the guidance document, "Registration and Listing of Cosmetic Product Facilities and Products" (December 2024), available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-registration-and-listing-cosmetic-product-facilities-and-products>. The guidance document is intended to provide instruction in preparing and submitting registration and product listing information as required by section 607 of the FD&C Act. The guidance document discusses, among other things, who must register and list, when, and what information must be submitted to FDA.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

Information collection activity; FD&C Act section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Sec. 605(e)(1): adverse event recordkeeping	1,165	1.2	1,398	0.6 (36 minutes).	839
Sec. 607(a)(1): initial facility registrations	8,343	1	8,343	0.5 (30 minutes).	4,172
Sec. 607(a)(2) and (5): biennial facility registration renewals and abbreviated facility registration renewals.	2,107	1	2,107	0.17 (10 minutes).	358
Sec. 607(a)(4): facility registration updates	3,141	1	3,141	0.25 (15 minutes).	785
Sec. 607(f): post-hearing corrective action plan	5	1	5	10	50
Sec. 607(c)(1) & (2): initial cosmetic product listing	22,564	14.64	330,337	1	330,337
Sec. 607(c)(3): abbreviated cosmetic product listing renewals	25,190	1	25,190	0.10 (6 minutes).	2,519
Sec. 607(c)(5): cosmetic product listing updates	3,020	8.15	24,613	0.25 (15 minutes).	6,153
Sec. 608(a): safety substantiation recordkeeping	22,564	1	22,564	1	22,564
Total .....	.....	.....	417,698	.....	367,777

¹ There are no capital or operating and maintenance costs associated with the information collection.

Because 5 CFR 1320.3(m) defines a recordkeeping requirement to include

the reporting to the Federal government regarding such records, we have

denoted table 1 as recordkeeping burden, noting that applicable

requirements include the submission of information to FDA. We estimate a total burden of 367,777 hours associated with annual reporting and recordkeeping requirements cumulatively.

For facility registration activity, we assume approximately 8,343 annual respondents will engage in initial facility registration. Respondents are required to register their facility only once and based on internal trials and communication with industry, we estimate that registration will take approximately 30 minutes to complete for a total of 4,172 burden hours. Facility registration renewal occurs every two years. Therefore, the initial facility registration figure does not represent all currently active registrations and may appear low compared to the number of cosmetic product listing activity respondents. Differences in the timing of respondents completing initial facility registrations account for differences in respondent totals for initial facility registration, registration renewals, and registration updates. Additionally, renewals and updates typically involve less information input than the initial registration which accounts for their smaller average burden per response and total burden hours.

For cosmetic product listing activity, we assume a total of approximately

22,564 cosmetic product listing respondents and 25,190 cosmetic product listing renewal respondents. However, these figures may overestimate the total number of unique respondents because some respondents may both list new products in compliance with section 607(c)(1) and (2) of the FD&C Act and renew existing cosmetic product listings under section or update cosmetic product listings 607(c)(5) of the FD&C Act. Additionally, the total number of cosmetic product listing and listing renewal respondents will differ due to variation in the timing of respondents completing initial cosmetic product listings, as well as the voluntary nature of product listing renewals. For cosmetic product listing, we estimate an average of ~ 14.64 responses per respondent, which amounts to 330,337 responses, at an average rate of 1 hour response, for a total of 330,337 total burden hours. Like facility registration, cosmetic product listing renewals and updates typically involve less information input than the initial product listing which accounts for their smaller average burden per response and total burden hours.

Adverse event reporting is captured on FDA Form 3500A, and the associated data are collected under OMB Control Number 0910–0291 (FDA’s Adverse

Event and Product Experience Reporting Program: MedWatch and the Safety Reporting Portal). Under section 605(e)(1) of the FD&C Act, a responsible person must maintain a record for six years (three years for qualifying small businesses) for each adverse event report that they are required to submit. Accordingly, the adverse event recordkeeping estimates presented in Table 1 are aligned with the data collected under OMB Control Number 0910–0291. However, because that information collection combines cosmetics-related adverse event reports with food and infant formula adverse event reports, the actual number of cosmetics adverse event reports may be lower than the figure presented here. We will update the estimate if more precise data becomes available.

We estimate that each of the 22,564 respondents will maintain, on average, one safety substantiation record. Because section 608(a) requires responsible persons to maintain records supporting the “adequate substantiation of safety” of cosmetic products, and because responsible persons have discretion in determining which records satisfy this requirement, we estimate that each respondent will create and maintain at least one record for compliance purposes.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN ¹

Regulatory authority: information collection activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
21 CFR 701.3: declaration of ingredients in order of pre-dominance	5,738	21	120,498	1	120,498
21 CFR 701.11: statement of identity	5,738	24	137,712	1	137,712
21 CFR 701.12: name and place of business	5,738	24	137,712	1	137,712
21 CFR 701.13: net quantity of contents	5,738	24	137,712	1	137,712
FD&C sec. 609(a): contact information to send adverse event reports	5,738	24	137,712	1	137,712
FD&C sec. 609(c): professional use only	402	12	4,824	1	4,824
Total .....	.....	.....	676,170	.....	676,170

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

We estimate that 5,738 respondents will expend a total of 120,498–137,712 burden hours annually (21 CFR § 701.3, 701.11–13) including required disclosures on an average of 21–24 product labels per respondent. Similarly, we estimate 5,738 respondents will expend a total of 137,712 hours per label annually to ensure that an average of 24 product labels display requisite adverse event reporting information, and that 402 respondents will expend an average of 4,824 hours annually disclosing

requisite “professional use only” labeling on an average of 12 products.

Grace R. Graham,
Deputy Commissioner for Policy, Legislation, and International Affairs.
[FR Doc. 2026–14434 Filed 7–16–26; 8:45 am]
BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Food and Drug Administration
[Docket No. FDA–2026–N–6876]
Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Devices; Voluntary Improvement Program
AGENCY: Food and Drug Administration, HHS.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection activities associated with the Medical Device; Voluntary Improvement Program.

DATES: Either electronic or written comments on the collection of information must be submitted by September 15, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 15, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2026-N-6876 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Devices; Voluntary Improvement Program." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the

electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

Kelly Covington, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 240-402-5661, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Devices; Voluntary Improvement Program—21 CFR Part 820

OMB Control Number 0910-0922—Extension

This information collection supports Food and Drug Administration (FDA, us

or we) implementation of its Voluntary Improvement Program (VIP). Included among the strategic priorities of our Center for Devices and Radiological Health (CDRH) is promoting a culture of quality and organizational excellence. As communicated on our website at <https://www.fda.gov/medical-devices/quality-and-compliance-medical-devices/voluntary-medical-device-manufacturing-and-product-quality-pilot-program>, we conducted a pilot project pertaining to voluntary medical device manufacturing and product quality and have incorporated some of the successes and learnings into the VIP. The VIP oversees third-party appraisers who evaluate industry participants. The VIP is facilitated by the Medical Device

Innovation Consortium (MDIC), a public-private partnership that evaluates the capability and performance of a medical device manufacturer's practices using third-party appraisals, and is intended to guide improvement to enhance the quality of devices. As part of the VIP process, FDA receives information about participating device manufacturers' capability and performance for activities covered in third-party appraisals. The guidance document entitled, "*Fostering Medical Device Improvement: FDA Activities and Engagement with the Voluntary Improvement Program*," communicates our policy regarding participation in the VIP. Only eligible manufacturers of

medical devices regulated by CDRH whose marketing applications are reviewed under the applicable provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (including sections 510(k), 513, 515, and 520) may participate in the VIP. The guidance document was developed and issued consistent with our Good Guidance Practice regulations in 21 CFR 10.115, which provide for public comment at any time. The guidance document includes instruction to respondents regarding eligibility, FDA engagement with participants, submission criteria, and withdrawal or removal from the program. FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

Recommended information collection activity: <i>Fostering medical device improvement: FDA activities and engagement with the Voluntary Improvement Program</i>	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Site manufacturer application	1	300	300	0.08	24
Aggregate data reporting	1	4	4	8	32
Summary of site appraisal	1	300	300	20	6,000
Total					6,056

Our estimated burden for the information collection reflects an overall decrease of 2,009 hours and a corresponding decrease of 200 responses. We attribute this adjustment based on our device registration and listing data and informal feedback from stakeholders.

Grace R. Graham,
Deputy Commissioner for Policy, Legislation, and International Affairs.
[FR Doc. 2026–14436 Filed 7–16–26; 8:45 am]
BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No FDA–2026–N–7130]

Agency Information Collection Activities; Proposed Collection; Comment Request; Accreditation Scheme for Conformity Assessment Program

AGENCY: Food and Drug Administration, HHS.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency.

Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on Accreditation Scheme for Conformity Assessment (ASCA) Program.

DATES: Either electronic or written comments on the collection of information must be submitted by September 15, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 15, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically,

including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for

information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2026–N–7130 for “Agency Information Collection Activities; Proposed Collection; Comment Request; Accreditation Scheme for Conformity Assessment Program.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT:
Amber Barrett, Office of Operations,

Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension/reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Accreditation Scheme for Conformity Assessment Program

OMB Control Number 0910–0889—Extension

The FDA Reauthorization Act of 2017 (FDARA) (*Pub. L. 115–52*) amended section 514 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360d(d)) by adding a new subsection (d) entitled “Accreditation Scheme for Conformity Assessment.”

Section 514(d) of the FD&C Act required FDA to establish a pilot program under which testing laboratories may be accredited by accreditation bodies meeting criteria specified by FDA to assess the

conformance of a device within certain FDA-recognized standards. Determinations by accredited testing laboratories that a device conforms with an eligible standard included as part of the ASCA Program shall be accepted by FDA for the purposes of demonstrating such conformity unless FDA finds that a particular such determination shall not be so accepted.

The statute provides that FDA may review determinations by accredited testing laboratories, including by conducting periodic audits of such determinations or processes of accreditation bodies or testing laboratories.

Following such a review, or if FDA becomes aware of information materially bearing on safety or effectiveness of a device assessed by an accredited testing laboratory, FDA may take additional measures as determined appropriate, including suspension or withdrawal of accreditation of a testing laboratory or a request for additional information regarding a specific device.

FDA issued the final guidance “The Accreditation Scheme for Conformity Assessment (ASCA) Pilot Program” (<https://www.fda.gov/media/130901/download>) to discuss the goals and implementation of the voluntary ASCA Pilot Program (hereafter referred to as the ASCA Program in accordance with amendments made to section 514 of the FD&C Act by FDARA, and as part of the enactment of the Medical Device User Fee Amendments of 2017 (MDUFA IV)).

The establishment of the goals, scope, procedures, and a suitable framework for the voluntary ASCA Program supports the Agency’s continued efforts to use its scientific resources effectively and efficiently to protect and promote public health. FDA believes the voluntary ASCA Program may further encourage international harmonization of medical device regulation because it incorporates elements, where appropriate, from a well-established set of international conformity assessment practices and standards (e.g., ISO/IEC 17000 series). The voluntary ASCA Program does not supplant or alter any other existing statutory or regulatory requirements governing the decision-making process for premarket submissions.

Under the ASCA Program’s conformity assessment scheme, recognized accreditation bodies accredit testing laboratories using ASCA program specifications associated with each eligible standard and ISO/IEC 17025:2017: General requirements for the competence of testing and calibration laboratories. ASCA-accredited testing laboratories may

conduct testing to determine conformance of a device with at least one of the standards eligible for inclusion in the ASCA Program. When an ASCA-accredited testing laboratory conducts such testing, it may provide a complete test report to the device manufacturer. A device manufacturer who utilizes an ASCA-accredited testing laboratory to perform testing in accordance with the provisions of the ASCA Program can then include a declaration of conformity with supplemental documentation (including a summary test report) as part of a premarket submission to FDA. Testing performed by an ASCA-accredited testing laboratory can be used to support a premarket submission for any device if the testing was conducted using a standard eligible for inclusion in the ASCA Program and in accordance with the ASCA program specifications for that standard.

The ASCA Program includes participation from accreditation bodies, testing laboratories, device manufacturers, and FDA staff. Each of these entities plays a critical role in the ASCA Program to ensure that patients and healthcare providers have timely and continued access to safe, effective, and high-quality medical devices.

To participate in the ASCA Program, accreditation bodies and testing

laboratories apply to FDA to demonstrate that they have the qualifications for their respective roles within the program. An application includes agreement to terms of participation. For example, a participating accreditation body or testing laboratory agrees to attend training, regularly communicate with FDA, and support periodic FDA audits. FDA recognizes qualified applicants as participants. In its recognition, FDA will identify the scope of recognition of specific standards and test methods to which each participant may accredit or test as part of the ASCA Program.

After recognizing a testing laboratory as a participant in the ASCA Program, FDA will generally grant the testing laboratory ASCA Accreditation. During the ASCA Program, FDA generally will accept determinations from ASCA-accredited testing laboratories that a medical device is in conformity with the specified testing to a particular standard and does not intend to review complete test reports from ASCA-accredited testing laboratories in support of a declaration of conformity submitted with a premarket submission except in certain circumstances.

Note that ASCA Accreditation is separate from any accreditation that an accreditation body may provide to a testing laboratory for purposes other

than the ASCA Program. FDA's decision to recognize the accreditation for purposes of the ASCA Program is separate and distinct from any independent decision by the accreditation body with respect to a testing laboratory for purposes outside of the ASCA Program.

The ASCA Program does not address specific content for a particular premarket submission. Information collections associated with premarket submissions have been previously approved.

FDA plans to issue draft guidance updates to the three published ASCA Pilot guidance documents to improve and streamline the ASCA Program. The guidance updates are being issued to discuss the lessons learned during ASCA's pilot phase and to also facilitate the transition from a pilot to a permanent program. As a result of these guidance updates, there is minimal adjustment to the burden estimate.

Respondents are accreditation bodies (ABs) and testing laboratories (TLs). In tables 1 through 3, these abbreviations are used.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Avg. burden per response	Total hours
Request by AB to continue <i>ASCA Recognition</i>	2	1	2	6	12
Request by AB for <i>ASCA Recognition</i> (subsequent to withdrawal).	1	1	1	6	6
Request by AB to expand scope of <i>ASCA Recognition</i>	1	1	1	6	6
AB annual status report	5	1	5	3	15
AB notification of change	5	1	5	1	5
Application by TL for <i>ASCA Accreditation</i>	50	1	50	4	200
Request by TL to continue <i>ASCA Accreditation</i>	75	1	75	1	75
Request by TL for <i>ASCA Accreditation</i> (subsequent to withdrawal or suspension).	5	1	5	4	20
Request by TL to expand scope of <i>ASCA Accreditation</i> .	75	1	75	4	300
TL annual status report	100	1	150	1.5	225
TL notification of change	5	1	5	1	5
Voluntary Request for withdrawal or suspension of <i>ASCA Accreditation</i> (TLs) or request for withdrawal of <i>ASCA Recognition</i> (ABs).	6	1	6	0.08 (5 mins.)	1
Feedback questionnaire (DMs, ABs and TLs)	158	1	158	0.5 (30 mins.)	79
Total					949

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
AB setup documentation (SOPs) & training (one-time burden)	3	1	3	25	75

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN—Continued

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
TL setup documentation (SOPs) & training (one-time burden)	20	1	20	25	500
AB record maintenance	8	1	8	1	8
TL record maintenance	150	1	150	1	150
Total			181		733

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN

Activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Request for Accreditation (TLs requesting accreditation from ABs).	150	1	150	0.5 (30 minutes) ...	75
Review/Acknowledgement of accreditation request (ABs).	8	22	176	40	7,040
Test Reports (TLs)	880	1	880	1	880
Total			1,206		7,995

We have adjusted our burden estimate, which has resulted in a decrease to the currently approved burden. The overall net decrease of approximately 685 burden hours is an adjustment, not a program change. It reflects the maturation of the ASCA Program from a pilot to a permanent program: fewer accreditation bodies (Abs) are expected to submit initial recognition applications, and fewer testing laboratories (TLs) are seeking initial accreditation as the participant base has already been largely established. The average burden per response for certain TL activities was also reduced to reflect efficiencies gained through experience with the program. FDA notes that guidance updates being issued to improve and streamline the program contribute minimally to these adjustments. Application by Abs for ASCA Recognition was removed from the FY26 table, reflecting that initial AB applications have already been submitted; the previously reported burden included 8 ABs × 6 hrs = 48 hours for this activity. Request by TLs for ASCA Accreditation (initial applications) decreased from 150 respondents to 50, reducing hours from 600 to 100 (– 500 hours), as the program is now more mature and fewer new TLs are expected to apply for initial accreditation. Request by TL to continue ASCA Accreditation average burden per response decreased from 4 hours to 1 hour (– 225 hours net impact), reflecting program streamlining. AB annual status report respondents decreased from 8 to 5; AB notification

of change respondents decreased from 8 to 5. Feedback questionnaire now explicitly includes Device Manufacturers (DMs) as respondents in addition to ABs and TLs, though the respondent count (158) and hours (79) remain unchanged.

There is no change in recordkeeping burden. Estimates for AB and TL setup documentation/training (one-time burden) and ongoing record maintenance remain identical. There is no change in third-party disclosure burden. Estimates for TL requests for accreditation from ABs, AB review/acknowledgment of accreditation requests, and Test Reports remain identical.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–14441 Filed 7–16–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–7338]

Agency Information Collection Activities; Proposed Collection; Comment Request; Voluntary National Retail Food Regulatory Program Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of the Voluntary National Retail Food Regulatory Program Standards.

DATES: Either electronic or written comments on the collection of information must be submitted by September 15, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 15, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically,

including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand Delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2026-N-7338 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Voluntary National Retail Food Regulatory Program Standards." Received comments, those filed in a timely manner (see ADDRESSES), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in

its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

Christopher Colburn, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8758, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether

the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Voluntary National Retail Food Regulatory Program Standards

OMB Control Number 0910-0621—Extension

This information collection helps support implementation of FDA's Voluntary National Retail Food Regulatory Program Standards (the Retail Program Standards). Regulatory Program Standards play a critical role in an integrated food safety system and serve as the foundation for mutual reliance between FDA and other regulatory agencies that work to ensure food safety. The Retail Program Standards define what constitutes a highly effective and responsive program for the regulation of foodservice and retail food establishments. The Retail Program Standards are intended to provide a foundation upon which continuous improvements can be made with the ultimate goal to reduce the occurrence of factors that cause and contribute to foodborne illness. In support of this goal, FDA works cooperatively with our State, local, territorial, and tribal partners using a risk-based approach to leverage limited resources. We engage in education and outreach efforts to facilitate collaboration with our partners in food safety. The Retail Program Standards represent an important component of a comprehensive strategic approach to help ensure the safety and security of the food supply at the retail level.

The Retail Program Standards were revised most recently in November 2024 and include the following elements: (1) regulatory foundation; (2) trained regulatory staff; (3) inspection program based on Hazard Analysis and Critical Control Point (HACCP) principles; (4) uniform inspection program; (5) foodborne illness and food defense preparedness and response; (6) compliance and enforcement; (7) industry and community relations; (8) program support and resources; and (9)

program assessment. These elements are enumerated and discussed on our website at <https://www.fda.gov/food/voluntary-national-retail-food-regulatory-program-standards/voluntary-national-retail-food-regulatory-program-standards-november-2024> along with worksheets and assessments that allow FDA to determine conformance with the Retail Program Standards. State, local, territorial, tribal, and Federal regulatory agencies that participate in the voluntary program are required to report information demonstrating that a program self-assessment, a risk factor study of the regulated industry, and an independent outside audit (verification audit) have been completed. The information also includes Form FDA 3958, “Voluntary National Retail Food Regulatory Program Standards FDA National Registry Report,” which may

be completed electronically at <https://www.fda.gov/food/voluntary-national-retail-food-regulatory-program-standards/voluntary-national-retail-food-regulatory-program-standards-november-2024>.

We have created a dedicated email at retailfoodprotectionstaff@fda.hhs.gov to receive requests for program documentation and the following instruments to support the standardization of food safety inspection officer candidates:

- Form FDA 5017, “Standardized Retail Food Safety Inspection Officer Waiver of Annual Maintenance Requirement,” pertains to requests for waivers from maintenance requirements, referenced in section 3–403 of the “FDA Procedures for Standardization of Retail Food Safety Inspection Officers.” FDA uses the information submitted on Form FDA 5017 to determine a retail food safety

inspection officer’s eligibility for restandardization.

- Form FDA 5018, “Standardized Retail Food Safety Inspection Officer Annual Maintenance Form,” provides verification that a retail food safety inspection officer has met program standardization requirements in accordance with section 3–403 of the “FDA Procedures for Standardization of Retail Food Safety Inspection Officers.”

- Form FDA 5019, “Standardized Retail Food Safety Inspection Officer Nomination Form,” allows FDA to collect qualification information from retail food safety inspection officer candidates.

Description of Respondents:

Respondents to the information collection are State, local, territorial, and tribal regulatory agencies.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Voluntary national retail program standards (November 2024)	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Program self-assessments for element Nos. 1 through 8	500	1	500	92.3	46,150
Program element No. 9; risk factor study and intervention strategy.	500	1	500	333	166,500
Program Verification audit	500	1	500	46.15	23,075
Program records; associated documentation/maintenance of worksheets, assessments, associated program tools.	500	1	500	94.29	47,145
Form FDA 3958; VNRFP National Registry Report	500	1	500	0.1 (6 minutes)	50
Requests for program documentation (dedicated email)	500	3	1,500	0.1 (6 minutes)	150
Form FDA 5017; Waiver of Annual Maintenance Requirement.	10	1	10	0.4 (24 minutes).	4
Form FDA 5018; Retail Food Safety Inspection Officer Annual Maintenance.	130	1	130	0.33 (20 minutes).	43
Form FDA 5019; Retail Food Safety Inspection Officer Nomination.	14	1	14	0.35 (21 minutes).	5
Total .....	.....	.....	4,154	.....	283,122

¹ There are no capital or operational and maintenance costs associated with this collection of information.

Our estimate of burden for the associated program activities as identified in table 1 is based on our experience with the information collection, along with other regulatory standards programs we administer. Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–14435 Filed 7–16–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–7131]

Agency Information Collection Activities; Proposed Collection; Comment Request; Infant Formula Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of

1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of our infant formula regulations, including infant formula labeling, quality control procedures, notification requirements, and recordkeeping. The notice also solicits comment on electronic Form FDA 3978 that allows manufacturers of infant formula to submit reports and notifications in a standardized format.

DATES: Either electronic or written comments on the collection of

information must be submitted by September 15, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 15, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2026-N-7131 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Infant Formula Requirements." Received comments, those filed in a timely

manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Michael Ellison, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 240-402-2093, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor.

"Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Infant Formula Requirements—21 CFR Parts 106 and 107

OMB Control Number 0910-0256—Revision

Statutory requirements for infant formula under the Federal Food, Drug, and Cosmetic Act (FD&C Act) are intended to protect the health of infants and include a number of reporting and recordkeeping requirements. Among other things, section 412 of the FD&C Act (21 U.S.C. 350a) requires manufacturers of infant formula to establish and adhere to quality control procedures, notify us when infant formula that has left the manufacturers' control may be adulterated or misbranded, and keep records of infant formula distribution. We have issued regulations to implement the FD&C Act's requirements for infant formula in parts 106 and 107 (21 CFR parts 106 and 107). We also regulate the labeling of infant formula under the authority of section 403 of the FD&C Act (21 U.S.C. 343). Under our labeling regulations for infant formula in part 107, the label of an infant formula must include nutrient information and directions for use.

Failure to comply with any of the applicable labeling regulations will render an infant formula misbranded under section 403 of the FD&C Act. The purpose of these labeling requirements is to ensure that consumers have the information they need to prepare and use infant formula appropriately.

While the infant formula regulations help ensure the consistent production of safe and nutritionally adequate infant formulas for healthy term infants, they apply with one narrow exception. Section 412(h)(1) of the FD&C Act exempts an infant formula represented and labeled for use by an infant with an inborn error of metabolism, low birth weight, or who otherwise has an unusual medical or dietary problem from the requirements of subsections 412(a), (b), and (c) of the FD&C Act. These formulas are customarily referred to as “exempt infant formulas.” Section 412(h)(2) of the FD&C Act authorizes us to establish terms and conditions for the exemption of an infant formula from the requirements of subsections 412(a), (b), and (c) of the FD&C Act.

In support of exempt infant formulas, we have issued the Agency guidance document titled “Exempt Infant Formula Production: Current Good Manufacturing Practices (CGMPs), Quality Control Procedures, Conduct of Audits, and Records and Reports” (April 2016). The guidance document includes our recommendation that manufacturers of exempt infant formulas follow, to the extent practicable, subparts A, B, C, D, and F of 21 CFR part 106, and is available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-exempt-infant-formula-production>.

We have also developed electronic Form FDA 3978 (Infant Formula Tracking System (IFTRACK)) so that infant formula manufacturers may electronically submit reports and notifications in a standardized format to FDA. However, manufacturers that prefer to submit paper submissions in a format of their own choosing will still have the option to do so. Form FDA 3978 prompts a respondent to include reports and notifications in a standard electronic format and helps the respondent organize their submission to include only the information needed for our review. Screenshots of Form FDA 3978 and instructions are available at <http://www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/InfantFormula/default.htm>.

FDA has requested voluntary notifications pertaining to product samples found to be positive for *Cronobacter* spp. or *Salmonella*, even if

the affected lot(s) have not been distributed. Associated recordkeeping requirements are found in 21 CFR 106.55(e). FDA has requested this information to help prevent future *Cronobacter* spp. illnesses associated with powdered infant formula. As part of a constituent update, available at <https://www.fda.gov/food/cfsan-constituent-updates/fda-calls-enhanced-safety-measures-letter-powdered-infant-formula-industry>, we issued a letter on March 8, 2023, to share current information to assist industry in improving the microbiological safety of powdered infant formula. As communicated in the letter, we shared the information with the expectation that infant formula manufacturers, packers, distributors, exporters, importers, and retailers will act to mitigate potential food safety risks in powdered infant formula in accordance with FDA regulations while further striving to improve operations, especially given the critical nature of these products.

Regulations in 21 CFR part 107, subpart E—Recalls (21 CFR 107.200 through 107.280) pertain to infant formula recalls. Specifically, § 107.230 requires manufacturing firms conducting infant formula recalls to:

- (1) evaluate the hazard to human health;
- (2) devise a written recall strategy;
- (3) promptly notify each affected direct-account (customer) about the recall; and
- (4) furnish the appropriate FDA district office with copies of these documents.

If the recalled formula presents a risk to human health, the recalling firm must also request that each establishment that sells the recalled formula post (at point of purchase) a notice of the recall and provide FDA with a copy of the notice.

Similarly, regulations in § 107.240 require recalling firms to:

- (1) notify the appropriate FDA district office of the recall by telephone within 24 hours;
- (2) submit a written report to that office within 14 days; and
- (3) submit a written status report at least every 14 days until the recall is terminated.

Before terminating a recall, recalling firms are required to submit a recommendation for termination of the recall to the appropriate FDA district office and wait for written FDA concurrence. Where the recall strategy or implementation is determined to be deficient, FDA may require the firm to change the extent of the recall, carry out additional effectiveness checks, and issue additional notifications. Finally, to

facilitate identifying the location of the product being recalled, the recalling firm is required to maintain distribution records for at least 1 year after the expiration of the shelf life of the infant formula.

We use the information collection to determine industry compliance with Agency regulations which implement public health protection provisions of the FD&C Act applicable to infants and all infant formula. Respondent disclosures are used by consumers when purchasing, storing, and preparing infant formula to help ensure its safe use.

Section 424(a)(1) of the FD&C Act (21 U.S.C. 350m) requires a manufacturer of a critical food to notify FDA of a permanent discontinuance or an interruption of the manufacture of a critical food that is likely to lead to a meaningful disruption in the supply of the food in the United States. Section 201(ss) of the FD&C Act (21 U.S.C. 321(ss)) defines a “critical food” as a food that is (1) an infant formula or (2) a medical food as defined in section 5(b)(3) of the Orphan Drug Act. A manufacturer of a critical food is required to notify FDA of a permanent discontinuance in the manufacture or an interruption of the manufacture of such food that is likely to lead to a meaningful disruption in the supply of such food in the United States, and the reasons for such discontinuance or interruption, as soon as practicable, but not later than 5 business days after such discontinuance or such interruption. To help facilitate the process, FDA accepts notifications via email (CriticalFoodShortage@fda.hhs.gov).

The draft guidance titled “Notifying FDA of a Permanent Discontinuance in the Manufacture or an Interruption of the Manufacture of an Infant Formula” (December 2024), when finalized, will provide FDA’s interpretation regarding the circumstances under which infant formula manufacturers should notify FDA. The draft guidance, available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/draft-guidance-industry-notifying-fda-permanent-discontinuance-manufacture-or-interruption>, provides recommendations for notifications to include certain information and how respondents should notify FDA of a permanent discontinuance or interruption of supply of infant formula.

Section 424(b) of the FD&C Act requires a manufacturer of a critical food to develop, maintain, and implement a redundancy risk management plan that identifies and evaluates risks to the supply of the food

for each establishment in which a critical food is manufactured. A risk management plan may identify and evaluate risks to the supply of more than one critical food manufactured at the same establishment. A risk management plan may also identify mechanisms by which the manufacturer

would mitigate the impacts of a supply disruption through alternative production sites, alternative suppliers, stockpiling of inventory, or other means. Records of a risk management plan are subject to FDA inspection and copying.

Description of Respondents:
Respondents to this information

collection are manufacturers of infant formula and include manufacturers of critical foods in the limited instance of a meaningful disruption in the supply of the food in the United States.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity; 21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Reports; Section 412(d) of the FD&C Act	5	13	65	10	650
Notifications; § 106.120(b)	1	1	1	4	4
Reports for exempt infant formula; § 107.50(b)(3) and (4)	3	2	6	4	24
Notifications for exempt infant formula; § 107.50(e)(2)	1	1	1	4	4
Requirements for quality factors—growth monitoring study exemption; § 106.96(c)	4	9	36	20	720
Requirements for quality factors—PER exemption; § 106.96(g)	1	34	34	12	408
New infant formula registration; § 106.110	4	9	36	0.50 (30 minutes)	18
New infant formula submission; § 106.120	4	9	36	10	360
Elements of infant formula recall; § 107.230	2	1	2	4,450	8,900
Notification requirements; § 107.240	2	1	2	1,482	2,964
Termination of infant formula recall; § 107.250	2	1	2	120	240
Revision of an infant formula recall; § 107.260	1	1	1	625	625
Notification of a permanent discontinuance or an interruption of the manufacture of a critical food; draft guidance for Notifying FDA of a Permanent Discontinuance in the Manufacture or an Interruption of the Manufacture of an Infant Formula	8	1	8	2	16
Notify FDA of test results as discussed in constituent letter of March 8, 2023.	20	1	20	0.25 (15 minutes)	5
Total .....	.....	.....	.....	.....	14,938

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimates in table 1 are based on our experience with similar notification programs. Regarding activities found in the draft guidance, we estimate that each year 5 manufacturers of infant formula will submit notifications in compliance with section 424(a)(1) of the FD&C Act and following

recommendations found in the draft guidance. We also estimate that each year 3 manufacturers of medical foods will submit notifications in compliance with section 424(a)(1) of the FD&C Act, for a total of 8 manufacturers of a critical food. We estimate that each manufacturer will submit 1 notification

for 8 total annual notifications (8 manufacturers × 1 notification). Each submission will take an estimated 2 hours to complete for an annual reporting burden of 16 hours (8 notifications × 2 hours).

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ^{1 2}

Activity; FD&C act or 21 CFR part	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per record	Total hours
SUBPART B: CGMP Requirements; Part 106	5	429.8	2,149	4.4	9,414
SUBPARTS C–G: Quality control; audits; quality factors; records and reports; Part 106	5	726.8	3,634	6	21,818
SUBPART C; Exempt infant formulas; Part 107	3	10	30	300	9,000
Exempt infant formula production; GMP; audits, record-keeping, & reports	3	634	1,902	45	85,590
Risk management plan; draft guidance for Notifying FDA of a Permanent Discontinuance in the Manufacture or an Interruption of the Manufacture of an Infant Formula	11	1	11	60	660
Total ² .....	.....	.....	.....	.....	126,482

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² Figures have been rounded.

Regarding recordkeeping found in the draft guidance, we estimate that each year 11 manufacturers of critical foods will create and maintain a risk

management plan in compliance with section 424(b) of the FD&C Act. We estimate that each risk management plan will take an estimated 60 hours to

create and maintain for an annual recordkeeping burden of 660 hours (11 records × 60 hours).

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN¹

Activity; 21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Nutrient labeling; §§ 107.10(a) and 107.20	5	13	65	8	520
Elements of infant formula recall; § 107.230	2	1	2	50	100
Revision of an infant formula recall; § 107.260	1	1	1	25	25
Total					645

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we are revising the information collection to include activities recommended in the draft guidance titled “Notifying FDA of a Permanent Discontinuance in the Manufacture or an Interruption of the Manufacture of an Infant Formula.” We are also removing burden associated with the guidance titled “Infant Formula Transition Plan for Exercise of Enforcement Discretion” (September 2022) as we are no longer experiencing disruptions in the supply of infant formula in the United States and therefore did not extend the guidance’s in-effect end date. Lastly, we are correcting an inadvertent omission of 22 responses from the previous approval.

The draft guidance added 676 hours and 19 responses to the information collection. We also are adding 22 responses to correct an inadvertent omission. However, removal of the enforcement discretion guidance will reduce the burden estimate by 3,805 hours and 137 responses. Calculating hours and responses for the addition of the draft guidance and the correction along with the subtraction of the enforcement discretion guidance results in a net reduction of 3,129 hours (3,805 hours reduced for enforcement discretion guidance—676 hours added for draft guidance) and 96 responses (137 responses reduced for enforcement discretion guidance—19 responses added for draft guidance—22 responses added for the correction).

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–14438 Filed 7–16–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–7129]

Agency Information Collection Activities; Proposed Collection; Comment Request; Adverse Event Program for Medical Devices: (Medical Product Safety Network (MedSun))

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Adverse Event Program for Medical Devices (Medical Product Safety Network (MedSun)).

DATES: Either electronic or written comments on the collection of information must be submitted by September 15, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 15, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2026–N–7129 for “Agency Information Collection Activities; Proposed

Collection; Comment Request; Adverse Event Program for Medical Devices: (Medical Product Safety Network (MedSun)).” Received comments, those filed in a timely manner (see

ADDRESSES), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Amber Barrett, Office of Operations,

Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Adverse Event Program for Medical Devices (Medical Product Safety Network (MedSun))

OMB Control Number 0910–0471—Extension

Section 519 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360i) authorizes FDA to require: (1) manufacturers to report medical device-related deaths, serious injuries, and

malfunctions and (2) user facilities to report device-related deaths directly to manufacturers and FDA and serious injuries to the manufacturer. Section 213 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) amended section 519(b) of the FD&C Act relating to mandatory reporting by user facilities of deaths, serious injuries, and serious illnesses associated with the use of medical devices. This amendment legislated the replacement of universal user facility reporting by a system that is limited to a “. . . subset of user facilities that constitutes a representative profile of user reports” for device-related deaths and serious injuries. This amendment is reflected in section 519(b)(5)(A) of the FD&C Act (21 U.S.C. 360i(b)(5)(A)). This legislation provides FDA with the opportunity to design and implement a national surveillance network, composed of well-trained clinical facilities, to provide high-quality data on medical devices in clinical use. This system is called MedSun. FDA is seeking OMB clearance to continue to use electronic data collection to obtain information related to medical devices and tissue products from the user facilities participating in MedSun, to obtain a demographic profile of the facilities, and for additional questions, which will permit FDA to better understand the cause of reported adverse events. Participation in the program is voluntary and includes approximately 300 facilities. In addition to collecting data on the electronic adverse event report form, MedSun collects additional information from participating sites about reported problems emerging from the MedSun hospitals. This data collection is also voluntary and is collected on the same website as the report information. The burden estimate is based on the number of facilities participating in MedSun (300). FDA estimates an average of 18 reports per site annually. This estimate is based on MedSun working to promote reporting in general from the sites, as well as promoting reporting from specific parts of the hospitals, such as the pediatric intensive care units, the electrophysiology laboratories, and the hospital laboratories.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Adverse Event Reporting	300	18	5,400	.5 (30 minutes)	2,700

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–14440 Filed 7–16–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection

Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners—45 CFR Part 60 Regulations and Forms, OMB No. 0906–0081—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than September 15, 2026.

ADDRESSES: Submit your comments to paperwork@hrsa.gov or mail the HRSA Information Collection Clearance Officer, Room 13N82, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email paperwork@hrsa.gov or call Samantha Miller, the HRSA

Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners—45 CFR part 60 Regulations and Forms, OMB No. 0906–0081—Revision.

Abstract: This is a request for a revision of the OMB-approved information collection contained in regulations found in 45 CFR part 60 governing the National Practitioner Data Bank (NPDB) and the forms to be used in registering with, reporting information to, and requesting information from the NPDB.

Administrative forms are also included to aid in monitoring compliance with federal reporting and querying requirements. Responsibility for NPDB implementation and operation resides in HRSA's Bureau of Health Workforce.

The intent of the NPDB is to improve the quality of health care by encouraging entities such as hospitals, state licensing boards, professional societies, and other eligible entities ¹ providing health care services to identify and discipline those who engage in unprofessional behavior, and to restrict the ability of incompetent health care practitioners, providers, or suppliers to move from state to state without disclosure or discovery of previous damaging or incompetent performance. It also serves as a fraud and abuse clearinghouse for the reporting and disclosing of certain final adverse actions taken against health care

practitioners, providers, or suppliers by health plans, federal agencies, and state agencies (excluding settlements in which no findings of liability have been made). Users of the NPDB include reporters (entities that are required to submit reports) and queriers (entities and individuals that are authorized to request information).

The reporting forms, request for information forms (query forms), and administrative forms (used to monitor compliance) are accessed, completed, and submitted to the NPDB electronically through the NPDB website at <https://www.npdb.hrsa.gov/>. All reporting and querying is performed through the secure portal of this website. This revision proposes changes to update burden totals as well as minor text changes. In addition, this revision eliminates the Account Balance Transfer Request form which allowed registered entities to transfer funds between their accounts. The data collected on this form is part of an electronic workflow that falls under a Paperwork Reduction Act exemption for voluntary commercial transactions.

Need and Proposed Use of the Information: The NPDB acts primarily as a flagging system; its principal purpose is to facilitate comprehensive review of practitioners' professional credentials and background. Information is collected from, and disseminated to, eligible entities (entities that are entitled to query and/or report to the NPDB as authorized in Title 45 CFR part 60 of the Code of Federal Regulations) on the following: (1) medical malpractice payments, (2) licensure actions taken by Boards of Medical Examiners, (3) state licensure and certification actions, (4) federal licensure and certification actions, (5) negative actions or findings taken by peer review organizations or private accreditation entities, (6) adverse actions taken against clinical privileges, (7) federal or state criminal convictions related to the delivery of a health care item or service, (8) civil judgments related to the delivery of a health care item or service, (9) exclusions from participation in federal or state health care programs, and (10) other adjudicated actions or decisions. It is intended for NPDB information to be

¹ "Other eligible entities" that participate in the NPDB are defined in the provisions of Title IV, Section 1921, Section 1128E, and implementing regulations. In addition, a few federal agencies also participate with the NPDB through federal memorandums of understanding. Eligible entities are responsible for complying with all reporting and/or querying requirements that apply; some entities may qualify as more than one type of eligible entity. Each eligible entity must certify its eligibility in order to report to the NPDB, query the NPDB, or both. Information from the NPDB is available only to those entities specified as eligible in the statutes and regulations. Not all entities have the same reporting requirements or level of query access.

considered with other relevant information in evaluating credentials of health care practitioners, providers, and suppliers.

Likely Respondents: Eligible entities or individuals that are entitled to query and/or report to the NPDB as authorized in regulations found at 45 CFR part 60.

Burden Statement: Burden in this context means the time expended by

persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing

and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Regulation citation	Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours (rounded up)
§ 60.6: Reporting errors, omissions, revisions or whether an action is on appeal.	Correction, Revision-to-Action, Void, Notice of Appeal (manual).	9,103	1	9,103	.2500	2,276
	Correction, Revision-to-Action, Void, Notice of Appeal (automated).	16,192	1	16,192	.0003	5
§ 60.7: Reporting medical malpractice payments.	Medical Malpractice Payment (manual)	11,232	1	11,232	.7500	8,424
	Medical Malpractice Payment (automated)	702	1	702	.0003	1
§ 60.8: Reporting licensure actions taken by Boards of Medical Examiners.	State Licensure or Certification (manual)	16,608	1	16,608	.7500	12,456
§ 60.9: Reporting licensure and certification actions taken by States.	State Licensure or Certification (automated)	15,436	1	15,436	.0003	5
§ 60.10: Reporting Federal licensure and certification actions.	DEA/Federal Licensure	674	1	674	.7500	506
§ 60.11: Reporting negative actions or findings taken by peer review organizations or private accreditation entities.	Peer Review Organization	10	1	10	.7500	8
	Accreditation	10	1	10	.7500	8
§ 60.12: Reporting adverse actions taken against clinical privileges.	Title IV Clinical Privileges Actions	827	1	827	.7500	621
	Professional Society	24	1	24	.7500	18
§ 60.13: Reporting Federal or State criminal convictions related to the delivery of a health care item or service.	Criminal Conviction (Guilty Plea or Trial) (manual)	1,043	1	1,043	.7500	783
	Criminal Conviction (Guilty Plea or Trial) (automated)	246	1	246	.0003	1
	Deferred Conviction or Pre-Trial Diversion	60	1	60	.7500	45
	Nolo Contendere (no contest plea)	34	1	34	.7500	26
	Injunction	2	1	2	.7500	2
	Civil Judgment	10	1	10	.7500	8
§ 60.14: Reporting civil judgments related to the delivery of a health care item or service.						
§ 60.15: Reporting exclusions from participation in Federal or State health care programs.	Exclusion or Debarment (manual)	1,455	1	1,455	.7500	1,092
	Exclusion or Debarment (automated)	3,560	1	3,560	.0003	2
§ 60.16: Reporting other adjudicated actions or decisions.	Government Administrative (manual)	791	1	791	.7500	594
	Government Administrative (automated)	1,690	1	1,690	.0003	1
	Health Plan Action	445	1	445	.7500	334
§ 60.17 Information which hospitals must request from the National Practitioner Data Bank.	One-Time Query for an Individual (manual)	1,584,245	1	1,584,245	.0800	126,740
	One-Time Query for an Individual (automated)	4,040,137	1	4,040,137	.0003	1,213
	One-Time Query for an Organization (manual)	83,748	1	83,748	.0800	6,700
§ 60.18 Requesting information from the NPDB.	One-Time Query for an Organization (automated)	43,869	1	43,869	.0003	14
	Self-Query on an Individual	266,839	1	266,839	.4200	112,073
	Self-Query on an Organization	665	1	665	.4200	280
	Continuous Query (manual)	1,315,205	1	1,315,205	.0800	105,217
	Continuous Query (automated)	1,779,886	1	1,779,886	.0003	534

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Regulation citation	Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours (rounded up)
§ 60.21: How to dispute the accuracy of NPDB information.	Subject Statement and Dispute	3,453	1	3,453	.7500	2,590
Administrative	Request for Dispute Resolution	117	1	117	8.0000	936
	Entity Registration (Initial)	4,176	1	4,176	1.0000	4,176
	Entity Registration (Renewal & Update)	15,020	1	15,020	.2500	3,755
	State Licensing Board Data Request	51	1	51	10.5000	536
	State Licensing Board Attestation	346	1	346	1.0000	346
	Authorized Agent Attestation	193	1	193	1.0000	193
	Health Center Attestation	781	1	781	1.0000	781
	Hospital Attestation	3,293	1	3,293	1.0000	3,293
	Medical Malpractice Payer, Peer Review Organization, or Private Accreditation Organization Attestation.	260	1	260	1.0000	260
	Other Eligible Entity Attestation	5,349	1	5,349	1.0000	5,349
	Corrective Action Plan (Entity)	10	1	10	.0800	1
	Reconciling Missing Actions	1,924	1	1,924	.0800	154
	Agent Registration (Initial)	107	1	107	1.0000	107
	Agent Registration (Renewal & Update)	380	1	380	.0800	31
	Electronic Funds Transfer Authorization	632	1	632	.0800	51
	Authorized Agent Designation	167	1	167	.2500	42
	Account Discrepancy	19	1	19	.2500	5
	New Administrator Request	191	1	191	.0800	16
	Purchase Query Credits	7,282	1	7,282	.0800	583
	Education Request	10	1	10	.0800	1
	Missing Report from Query Form	10	1	10	.0800	1
	Total	9,238,519	.....	9,238,519	.....	403,194

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026–14476 Filed 7–16–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative 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 National Advisory Council for Complementary and Integrative Health.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Once available, the open session meeting link can be accessed through the Institute's/Center's home page: <https://nccih.nih.gov/about/naccih> and through the NIH Videocast web page <https://videocast.nih.gov/>.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Complementary and Integrative Health.

Date: September 11, 2026.

Closed: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Center for Complementary and Integrative Health, National Institutes of Health, 6707 Democracy Boulevard, Suite 401 Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Open: 1:00 p.m. to 5:00 p.m.

Agenda: Reports and Updates about Recent and Ongoing NCCIH Led or Involved Activities by NCCIH staff and its Director.

Address: National Center for Complementary and Integrative Health, National Institutes of Health, 6707 Democracy Boulevard, Suite 401 Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Martina Schmidt, Ph.D., Director, Division of Extramural Activities, National Center for Complementary and Integrative Health, National Institutes of Health, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892, (301) 594–3456, schmidma@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should be less than 700 words in length, and should include the name, email address, telephone number and when applicable, the business or professional affiliation of the interested person. Any

member of the public may submit written comments no later than August 28th, 2026 (14 days before the council meeting).

Information is also available on the Institute's/Center's home page: <https://nccih.nih.gov/about/naccih>, where an agenda and any additional information for the meeting will be posted when available. (Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: July 14, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–14475 Filed 7–16–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6617–N–01]

Notice of the Withdrawal of OGC Guidance Documents

AGENCY: Office of General Counsel, Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: This notice informs the public that the Office of General Counsel (OGC) has withdrawn the guidance documents identified below.

DATES: The withdrawal of the guidance was effective September 25, 2025.

FOR FURTHER INFORMATION CONTACT: David Woll, General Counsel, Office of General Counsel, Department of Housing and Urban Development, 2415 Eisenhower Avenue, Alexandria, VA 22314. Telephone number (202) 708–2244 (this is not a toll-free number). Individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities, may make an accessible telephone call. Please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs> for more information.

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with ongoing regulatory reform efforts and in accordance with Executive Order 14192 (“*Unleashing Prosperity Through Deregulation*”) ¹ and Executive Order 14219 (“*Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative*”),² HUD is undertaking a comprehensive review of its sub-regulatory guidance to reduce unnecessary compliance burdens,

enhance the effectiveness of guidance documents, and promote principles underlying the rule of law. Past guidance, policies, and interpretive rules inconsistent with such principles are subject to review, revision, and/or rescission.

Agencies often issue statements that, unlike rules promulgated pursuant to legislation, do not carry the force and effect of law. These statements include interpretive rules, which advise the public of an agency’s interpretation of the statutes and regulations it administers as well as general statements of policy, which advise the public about an agency’s intended use of its discretionary authority. These non-binding guidance documents are a common tool for agencies to advise the public but can sometimes be used to attempt to bind the regulated public without adequate accountability.

It is HUD’s current policy to evaluate non-binding policy guidance that may be inconsistent with the statutory text or impose compliance burdens outside of the notice-and-comment rulemaking process. Accordingly, OGC has set the

following criteria as the basis for withdrawing existing guidance documents:

(1) Guidance is not statutorily prescribed;

(2) Interpretation set forth is inconsistent with relevant statutes or regulations;

(3) Guidance imposes additional compliance burdens.

II. Guidance Withdrawn

OGC is notifying the public that it has withdrawn the guidance documents identified in the table below, effective September 25, 2025, as they meet the criteria above for withdrawal. These documents have been removed from active use and should not be relied upon as authoritative. Any handbooks and internal training materials that reference these guidance documents should be revised accordingly. New internal and external guidance will be issued where necessary and appropriate. All of these guidance documents have been removed from the *HUD.gov* website and should not be relied upon by internal or external parties.

Title	Date issued
Memorandum of Understanding Between DOJ and HUD Concerning Enforcement of the Fair Housing Act	December 7, 1990.
Referrals of Pattern or Practice Fair Housing Cases to the DOJ	December 12, 2011.
OGC Guidance Application of Fair Housing Act Standards to Use of Criminal Records	April 4, 2016.
OGC Guidance FH Act Protections for LEP Persons	September 15, 2016.
Joint Statement, HUD DOJ, State, and Local Land Use Law and Practices and the FH Act	November 10, 2016.
Elements of Proof	August 11, 2014.
Application to the Fair Housing Act of the Supreme Court’s Decision in <i>Bostock v. Clayton County</i>	February 9, 2021.
Office of General Counsel Guidance on the Fair Housing Act’s Treatment of Certain Special Purpose Credit Programs That are Designed to be Implemented in Compliance with the Equal Credit Opportunity Act and Regulation B.	December 6, 2021.
Appraisal Elements of Proof	May 6, 2022.
Limiting PHA and Owner Discretion in Admitting and Evicting Tenants in Federally Assisted Housing	March 27, 2023.
Final Legal Determination for Implementation of the Violence Against Women Act (Asked and Answered)	October 11, 2023.
Whether the Mrs. Murphy Exemption applies to dwellings solely owned by LLCs or other business entities	July 10, 2024.
Application of Fair Housing and Civil Rights Laws to Source of Income Restrictions	November 4, 2024.

David Woll,
General Counsel.
[FR Doc. 2026–14432 Filed 7–16–26; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Docket No. USGS–ECO–2026–0004;
GX26EN05ESB0500; OMB Control Number
1028–0096]

**Agency Information Collection
Activities; Regional Climate Adaptation
Science Centers (CASCs)**

AGENCY: U.S. Geological Survey,
Interior.

ACTION: Notice of information collection;
request for comment.

SUMMARY: In accordance with the
Paperwork Reduction Act (PRA) of
1995, the U.S. Geological Survey
(USGS) is proposing to renew an
information collection authorization.

DATES: Interested persons are invited to
submit comments on or before
September 15, 2026.

ADDRESSES: You may submit comments
by one of the following methods:

- *Internet:* <https://www.regulations.gov>. Search for and submit comments on Docket No. USGS–ECO–2026–0004.
- *U.S. Mail:* USGS, Information Collections Clearance Officer, 12201

Sunrise Valley Drive, MS 159, Reston,
VA 20192.

FOR FURTHER INFORMATION CONTACT: To
request additional information about
this information collection request
(ICR), contact Shawn Carter, Chief
Administrator (Acting) and Senior
Scientist of the USGS National Climate
Adaptation Science Center, by email at
scarter@usgs.gov, or by telephone at
571–314–2788.

SUPPLEMENTARY INFORMATION: In
accordance with PRA of 1995 (44 U.S.C.
3501 *et seq.*) and 5 CFR 1320.8(d)(1), all
information collections require approval
under the PRA. We may not conduct or
sponsor, and you are not required to
respond to, a collection of information

¹ 90 FR 9065 (January 31, 2025).
² 90 FR 10583 (February 19, 2025).

unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including through the use of

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: The USGS manages one National and nine CASCs. Each regional CASC involves a cooperative agreement with a host institution. The host institution agreements are periodically re-competed, requiring collection of information from potential host institutions. In addition, this information collection addresses annual and biannual reporting required of host institutions as part of their hosting agreement and associated research agreements.

Title of Collection: Department of the Interior Regional Climate Adaptation Science Centers.

OMB Control Number: 1028–0096.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Institutions that propose to serve as CASC host or partner institutions including state, local government, and tribal entities, and academic institutions. Existing host institutions are state academic institutions.

Total Estimated Number of Annual Respondents: 10.

Total Estimated Number of Annual Responses: 307 Responses (see table below).

Estimated Completion Time per Response: Each proposal for CASC hosting is expected to take 200 hours to complete. The time required to complete annual reports for any specific host cooperative agreement is expected to take 5 hours per report and annual reports for each research agreement are expected to total 2.5 hours per report.

Total Estimated Number of Annual Burden Hours: 2,590 Hours (see table below).

Type of report	Annual number of reports	Annual burden hours per report	Total annual burden
Host Recompete	9	200	1,800
Host Performance Report	9	5	45
Host Financial Report	9	5	45
Research Performance Report	135	2.5	337.5
Research Financial Report	135	2.5	337.5
NCASC Performance Report	5	2.5	12.5
NCASC Financial Report	5	2.5	12.5
Grand Total	307	220	2,590

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Information will be collected once every five years for each CASC to enable re-competition of CASC hosting agreements. In addition, host institutions are required to provide annual financial reports and performance reports, as well as annual or biannual financial and performance reports on the associated research agreements.

Total Estimated Annual Nonhour Burden Cost: There are no "non-hour cost" burdens associated with this collection of information.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Brian D. Kimbrell,

*Information Collection Clearance Officer,
Federal Register Liaison.*

[FR Doc. 2026–14449 Filed 7–16–26; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065515; 02509–014–004–125222]

Filing of Survey Plats: Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey (plats) of the following described lands are scheduled to be officially filed 30 calendar days after the date of this publication in the Bureau of Land Management (BLM), Alaska State Office, Anchorage, Alaska. The surveys, which were executed at the request of the Bureau of Indian Affairs and BLM, are necessary for the management of these lands.

DATES: The BLM must receive protests by August 17, 2026.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the BLM Alaska Public Information Center, 222 West 7th Avenue, Mailstop 13, Anchorage, AK 99513, upon required payment. The plats at the BLM Alaska

Public Information Center, Fitzgerald Federal Building, 222 West 7th Avenue, Anchorage, Alaska, may be viewed at this location at no cost.

FOR FURTHER INFORMATION CONTACT:

Nathan C. Erickson, Acting Chief, Branch of Cadastral Survey, Alaska State Office, Bureau of Land Management, 222 West 7th Avenue, Anchorage, AK 99513; telephone 907-271-5770; email n05erick@blm.gov. Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The lands surveyed are represented on the plats described below:

COPPER RIVER MERIDIAN, ALASKA

U.S. Survey No. 14699, accepted May 4, 2026, situated in T. 25 N., R. 13 E. T. 10 N., R. 1 E., accepted March 12, 2026. T. 19 N., R. 12 E., supplemental plat accepted April 28, 2026. T. 11 N., R. 1 W., accepted March 3, 2026.

KATEEL RIVER MERIDIAN, ALASKA

T. 16 N., R. 14 E., supplemental plat accepted April 22, 2026.

SEWARD MERIDIAN, ALASKA

U.S. Survey No. 14681, accepted May 4, 2026, situated in T. 10 N., R. 60 W. T. 10 N., R. 10 E., supplemental plat accepted May 4, 2026. T. 5 S., R. 13 W., accepted March 2, 2026. T. 11 S., R. 55 W., accepted March 12, 2026. T. 17 N., R. 59 W., accepted May 4, 2026.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the State Director for the BLM in Alaska. The protest may be filed by mailing to BLM State Director, Alaska State Office, Bureau of Land Management, 222 West 7th Avenue, Mailstop 13, Anchorage, AK 99513 or by delivering it in person to BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 West 7th Avenue, Anchorage, Alaska. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. You must file the notice of protest before the scheduled date of official filing for the plat(s) of survey being protested. The BLM will not consider any notice of protest filed after the scheduled date of official filing. A notice of protest is considered filed on the date it is received by the State Director for the BLM in Alaska during regular business hours; if received after

regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director for the BLM in Alaska within 30 calendar days after the notice of protest is filed.

If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personally identifiable information in a notice of protest or statement of reasons, you should be aware that the documents you submit, including your personally identifiable information, may be made publicly available in their entirety at any time. While you can ask the BLM to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. Chap. 3.)

Tasha Huhta,

Acting Chief Cadastral Surveyor, Alaska.
[FR Doc. 2026-14393 Filed 7-16-26; 8:45 am]

BILLING CODE 4331-10-P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2026-0331]

Notice of Availability of the Proposed Leasing Notice for the American Samoa Outer Continental Shelf Pacific Mineral Lease Sale 1 (PACM-1)

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) announces the availability of the Proposed Leasing Notice (PLN) for the American Samoa Outer Continental Shelf (OCS) Pacific Mineral Lease Sale 1 (PACM-1). BOEM publishes this notice pursuant to its regulatory authority under 30 CFR part 581. Pursuant to 30 CFR 581.16, the Secretary of the Interior provides the Governor of American Samoa with the opportunity to review and comment on the PLN within 60 days of publication of this notice of availability. The PLN describes the proposed lease sale's size, timing, and location, along with information to lessees about clauses,

lease stipulations, and terms and conditions, such as minimum bids, royalty rates, and rental rates.

DATES: Comments received from the Governor of American Samoa must be submitted to BOEM no later than September 15, 2026. BOEM will publish the Final Leasing Notice in the **Federal Register** at least 30 days prior to the date of the American Samoa OCS Pacific Mineral Lease Sale 1 (PACM-1). BOEM proposes to hold PACM-1 sale on November 19, 2026.

ADDRESSES: The PLN for the proposed PACM-1 sale and other information essential to potential bidders may be obtained from the Office of Strategic Resources, Pacific Region, Bureau of Ocean Energy Management, 760 Paseo Camarillo, Suite 102, Camarillo, California 93010; telephone: 805-384-6305. The PLN and other essential information are available for downloading or viewing on BOEM's website at <https://www.boem.gov/marine-minerals/american-samoa-activities>.

FOR FURTHER INFORMATION CONTACT:

Joshua Gange, Acting Supervisor for Leasing and Technical Review, Bureau of Ocean Energy Management, Pacific Region, 760 Paseo Camarillo (CM102), Camarillo, CA 93010, at pacific.region@boem.gov or at 805-384-6305.

Authority: This notice is published pursuant to 43 U.S.C. 1337(k) (Outer Continental Shelf Lands Act, as amended) and 30 CFR 581.16.

Matthew N. Giacona,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2026-14479 Filed 7-16-26; 8:45 am]

BILLING CODE 4340-98-P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2026-0331]

Notice of Availability of Outer Continental Shelf Official Protraction Diagrams

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Ocean Energy Management (BOEM), in accordance with its authority and responsibility under the Outer Continental Shelf Lands Act, is announcing the availability of new World Geodetic System 1984 (WGS84)-based Outer Continental Shelf (OCS) Official Protraction Diagrams (OPDs). These OPDs depict geographic areas located on

the OCS offshore American Samoa covering the extent of the area identified for further consideration for potential OCS mineral leasing and environmental analysis in BOEM's American Samoa Area Identification that was finalized on October 15, 2025. These diagrams may be used for the description of potential OCS mineral lease sales off of American Samoa. Additional OPDs for areas

offshore American Samoa not included in the October 2025 Area Identification are expected to be published in the future.

ADDRESSES: Copies of the OPDs are available for download in .pdf format from the Offshore Marine Cadastre (OMC) Navigator at <https://experience.arcgis.com/experience/eb21d5af8cf74c93b139c38c5b4163d1>.

FOR FURTHER INFORMATION CONTACT: Dr. Megan Carr, Associate Director for Strategic Resources, at (202) 294-3998 or via email at megan.carr@boem.gov.

SUPPLEMENTARY INFORMATION: The extent of the published diagram coverage is shown in Figure 1 below.

American Samoa Outer Continental Shelf OPDs

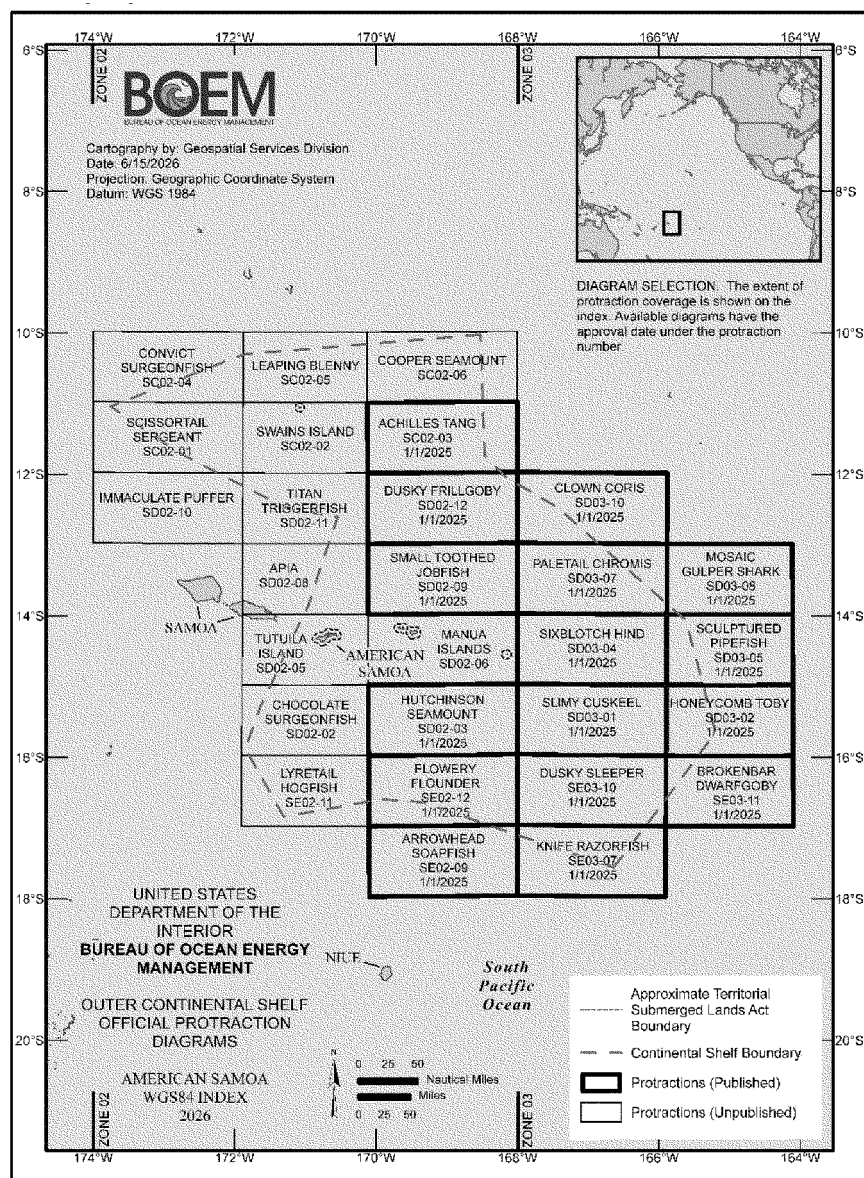


Figure 1

BOEM is announcing the following OPDs for the OCS off American Samoa:

Description/Date

SC02-03 (Achilles Tang)—1/1/2025
SD02-03 (Hutchinson Seamount)—1/1/2025

SD02-09 (Small Toothed Jobfish)—1/1/2025
SD02-12 (Dusky Frillgoby)—1/1/2025
SE02-09 (Arrowhead Soapfish)—1/1/2025
SE02-12 (Flowery Flounder)—1/1/2025
SD03-01 (Slimy Cuskeel)—1/1/2025

SD03-02 (Honeycomb Toby)—1/1/2025
SD03-04 (Sixblotch Hind)—1/1/2025
SD03-05 (Sculptured Pipefish)—1/1/2025
SD03-07 (Paletail Chromis)—1/1/2025
SD03-08 (Mosaic Gulper Shark)—1/1/2025

SD03–10 (Clown Coris)—1/1/2025
SE03–07 (Knife Razorfish)—1/1/2025
SE03–10 (Dusky Sleeper)—1/1/2025
SE03–11 (Brokenbar Dwarfogoby)—1/1/2025

Authority: 43 U.S.C. 1331 *et seq.*
(Outer Continental Shelf Lands Act, as amended)

Matthew N. Giacona,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2026–14480 Filed 7–16–26; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–687 and 731–TA–1614 (Final) (Remand)]

Brass Rod From Israel

AGENCY: United States International Trade Commission.

ACTION: Notice of remand proceedings

SUMMARY: The U.S. International Trade Commission (“Commission”) hereby gives notice of the procedures it intends to follow to comply with the court-ordered remand of its final determinations in the antidumping and countervailing duty investigations of brass rod from Israel. For further information concerning the conduct of these remand proceedings and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207).

DATES: July 17, 2026

FOR FURTHER INFORMATION CONTACT: Nathanael Comly ((202) 205–3174), Office of Investigations, or John Henderson ((202) 205–2130), Office of the General Counsel, 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 Investigation Nos. 701–TA–687 and 731–TA–1614 (Final) may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—In September 2024, the Commission determined that an

industry in the United States was materially by reason of imports of brass rod from Israel that were determined by the U.S. Department of Commerce to be sold in the United States at less than fair value and subsidized by the government of Israel. *Brass Rod from Israel*, Inv. Nos. 701–TA–687 and 731–TA–1614 (Final), USITC Pub. No. 5545 (Sept. 2024). In those determinations, the Commission adopted its findings and analyses from its prior determination and views in *Brass Rod from India*, Inv. Nos. 701–TA–686 (Final), USITC Pub. No. 5485 (Feb. 2024) with respect to, *inter alia*, the issues of cumulation and material injury by reason of subject imports from Israel. Respondent Government of Israel, Ministry of Economy and Industry, contested the Commission’s determinations regarding Israel before the U.S. Court of International Trade (“CIT”). The CIT remanded for the Commission to “provide an adequate explanation of whether the volume of subject imports, or any increase in that volume, either in absolute terms or relative to apparent consumption, is significant.” *Government of Israel, Ministry of Economy and Industry v. United States*, Court No. 24–00197, Slip Op. 26–57 (June 8, 2026). “As part of its explanation,” the Court elaborated, “the Commission must examine the volume of subject imports in the context of the conditions of competition. . . .” *Id.*

Participation in the remand proceedings.—Only those persons who were interested parties that participated in the investigations (*i.e.*, persons listed on the Commission Secretary’s service list) and also parties to the appeal may participate in the remand proceedings. Such persons need not file any additional appearances with the Commission to participate in the remand proceedings, unless they are adding new individuals to the list of persons entitled to receive business proprietary information (“BPI”) under administrative protective order. BPI referred to during the remand proceedings will be governed, as appropriate, by the administrative protective order issued in the investigations. The Secretary will maintain a service list containing the names and addresses of all persons or their representatives who are parties to the remand proceedings, and the Secretary will maintain a separate list of those authorized to receive BPI under the administrative protective order during the remand proceedings.

Written submissions.—The Commission is not reopening the record and will not accept the submission of new factual information for the record.

The Commission will permit the parties to file comments concerning how the Commission could best comply with the Court’s remand instructions.

The comments must be based solely on the information in the Commission’s record. The Commission will reject submissions containing additional factual information or arguments pertaining to issues other than the issue on which the Court has remanded this matter. The deadline for filing comments is August 3, 2026. Comments must be limited to no more than ten (10) double-spaced and single-sided pages of textual material, inclusive of attachments and exhibits.

Parties are advised to consult with the Commission’s Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission. All written submissions must conform to the provisions of section 201.8 of the Commission’s rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission’s rules. Please note the Secretary’s Office will accept only electronic filings at this time. Filings must be made through the Commission’s Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. The Commission’s *Handbook on E-Filing*, available on the Commission’s website at <http://edis.usitc.gov>, elaborates upon the Commission’s rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission’s rules, will not be accepted unless good cause is shown for accepting such submissions or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission’s rules, each document filed by a party to the investigation must be served on all other parties to the investigation (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.

By order of the Commission.

Issued: July 14, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–14428 Filed 7–16–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0030]

Agency Information Collection Activities; Proposed eCollection Activities; Proposed eComments Requested; Revision of a Previously Approved Collection; Electronic Applications for the Attorney General's Honors Program and the Summer Law Intern Program (HP/SLIP)

AGENCY: Office of Adjudication, Recruitment, and Management, Justice Management Division, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Office of Adjudication, Recruitment and Management, 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 August 17, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Deana Willis, Assistant Director, Office of Adjudication, Recruitment, and Management, c/o Deana Willis, 450 5th Street NW, Suite 10200, Washington, DC 20530, 202–514–8900, Deana.Willis@usdoj.gov.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** on May 15, 2026, 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 Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including 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 [1105–0030]. 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.

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.

Abstract: Candidates enter information pertinent to legal employment on a series of electronic screens (the number of screens varies by Program; hiring organizations vary by year). The data is then certified and submitted into a database for OARM review and transmission to the components that consider the candidates for legal employment. The candidate is automatically notified by email that his/her application has been received when he/she certifies and submits his/her electronic application and provided other hiring status updates throughout the hiring cycle.

The Department of Justice developed an in-house electronic application managed by the Office of Chief Information Office (OCIO) Service Delivery Staff (SDS) Application Services Branch (ASB) to replace one previously managed by contract with an

outside vendor. There is no impact on the public burden.

The questions presented to applicants are unchanged except for the following deletions:

- Questions relating to geographic preference;
- A checklist of practice area interests;
- Two “check the box” questions about undergraduate awards;
- A “yes/no” question presented only to SLIP-Pathways applicants asking whether the law school transcript listed failing grades;

The estimate of annualized cost to the federal government is \$71,429.00.

Overview of This Information Collection

1. Type of Information Collection: Revision of a previously approved collection.

2. The Title of the Form/Collection: Electronic Applications for the Attorney General's Honors Program and the Summer Law Intern Program.

3. The agency form number, if any, and the applicable component of the Department sponsoring the collection: N/A.

4. Affected public who will be asked or required to respond, as well as the obligation to respond: Affected Public—Individuals. The obligation to respond is voluntary.

5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: An estimated 1,900 candidates apply to the HP & SLIP annually. It is estimated that the electronic application takes approximately one hour to complete and submit. It is further estimated that it takes an average of an additional 45 minutes to review the instructions, search existing data sources, gather and maintain the data needed, and complete and review the information collected. In addition, approximately 600 HP applicants will complete a Virtual Interview Scheduling form. Each Interview Scheduling Form will take approximately 10 minutes to complete. Thus, the annual burden would be 3,425 hours based on 1900 applicants (the average number of applications received in the last several years) × 1.75 response hours (estimated time to collect the appropriate information and complete the Program application) plus 100 hours (time for 600 HP candidates to complete the Virtual Interview Scheduling Form).

6. An estimate of the total annual burden (in hours) associated with the collection: The total annual burden hours for this collection is 3,425 hours.

7. An estimate of the total annual cost burden associated with the collection, if applicable: \$71,492.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (minutes)	Total annual burden (hours)
Electronic application (individuals)	1,900	1	1,900	105	3,325
Virtual Interview Scheduling Form (Individuals)	600	1	600	10	100
Unduplicated Totals	2,500	.....	2,500	.....	3,425

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: July 15, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-14462 Filed 7-16-26; 8:45 am]

BILLING CODE 4410-PB-P

DEPARTMENT OF JUSTICE

[OMB 1140-0040]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Revision of a Previously Approved Collection, Title—Application To Amend Federal Firearms License—ATF Form 5300.38

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

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), will be submitting the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: ATF encourages comments on this information collection. You may submit written comments until midnight on September 15, 2026.

ADDRESSES: Submit written comments and recommendations for this information collection, especially on the estimated public burden or associated response time, to Tracey Robertson, FFLC, by email to fflc@atf.gov, or by mail to 244 Needy Rd; Martinsburg, WV 25405. Identify comments by the OMB control number 1140-0040. You may view the proposed information

collection instrument online at <https://www.atf.gov/rules-and-regulations/federal-register-actions/forms-and-information-collection>.

FOR FURTHER INFORMATION CONTACT: If you have questions or need a copy of the proposed information collection instrument with instructions or additional information, contact: Tracey Robertson, FFLC, either by mail at 244 Needy Rd, Martinsburg, WV 25405, by email at fflc@atf.gov, or by telephone at 866.662.2750. If you require additional information on DOJ's ICR process for this renewal request, contact Darwin Arceo, Department Clearance Officer; United States Department of Justice; Justice Management Division, Policy and Planning Staff; Two Constitution Square, 145 N Street NE, 4W-218; Washington, DC.

SUPPLEMENTARY INFORMATION: We encourage written comments and suggestions from the public and affected agencies concerning the proposed information collection. Your comments should address one or more of the following four points:

- Evaluate whether the proposed information collection is necessary to properly perform ATF's functions, including whether the information will have practical utility;
- Evaluate the agency's estimate of the proposed information collection's burden for accuracy, including validity of the methodology and assumptions used;
- Evaluate whether the quality, utility, and clarity of the collected information can be enhanced, and if so, how; and
- Minimize the information collection's burden on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting people to submit electronic responses.

Overview of This Information Collection

Abstract: The Gun Control Act at 18 U.S.C. 923 and implementing regulations at 27 CFR 478.50 and 52, require licensees to obtain a license to operate from ATF before beginning operations, or if already licensed, to first apply to amend a license and receive a new license for the new location. To make it easier for licensees to submit the necessary information when changing location of their business premises during an existing license period, ATF has prescribed that licensees submit Form 5300.38, notifying ATF of the proposed location change, certifying compliance with state and local requirements, and providing other information necessary to determine that operations can commence at the new location.

Type of information collection: revising a previously approved collection.

Title of the form/collection: Application to Amend Federal Firearms License.

Agency form number, if any, and the applicable component of the Department sponsoring the collection: Form number: ATF Form 5300.38. Component: Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Department of Justice.

Affected public who will be asked or required to respond, as well as the obligation to respond: Affected public: individuals or households, private sector for-profit institutions. **Obligation to respond:** voluntary, required to obtain/retain a benefit.

Estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: There are an estimated 6,703 respondents associated with this information collection per year, and it will take each respondent an average of approximately 15 minutes to complete this form.

Estimate of the total annual burden (in hours) associated with the collection:

The estimated annual public burden associated with this collection is 1,676 total hours, which is equal to 6,703

(total respondents) * 1 (# of responses per respondent) * 0.25 (15 minutes).

Estimate of the total annual other cost burden associated with the collection, if applicable: 0.

ESTIMATED TOTAL HOURLY BURDEN

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hours)	Total annual burden (hours)
Completing Form 5300.38	6,703	1	6,703	0.25	1,676

Revisions to This Information Collection

As part of this ICR renewal, ATF is revising this information collection, OMB 1140–0040, to reflect a decrease in the total annual public burden. The number of respondents has decreased since the last renewal, from 10,000 to 6,703 annually, due to fewer respondents changing business premises. This has resulted in a corresponding decrease in the annual number of burden hours, from 5,000 hours to 3,352 hours (rounded). In addition, because the form has become fully electronic—completing, signing, and submitting—the amount of time it takes to complete the information collection has decreased from .5 hours to .25 hours, resulting in a further decrease in hourly burden to 1,676 hours.

In addition, ATF is also revising the title of the form and the ICR during this renewal for plain writing purposes, from “Application for an Amended Federal Firearms License” to “Application to Amend Federal Firearms License” to make it easier to read and is making minor plain writing edits to text on the form for the same reason. Finally, ATF is making minor technical amendments to the form to address common errors or confusion and questions raised by applicants completing the form, or to update definitions and PA and PRA statements to match current requirements. These minor edits include:

- Item 11. Removed “(See Instructions #3).” Changed to “ATF Form 5310.12, Application for Federal Firearms License (Form 7).”
- Item 13:
 - 13a. Added quotes around “Premises” and made bold; added the bolded statement “This address appears on the license.”
 - 13b. Removed word “List” from beginning.
- For Items 7, 13, 14—Made state box smaller and county box larger.
- Item 14. Added quotes around “Mailing” and made bold, also added “for business” and the statement “This address appears on the license.” Added

“NOTE: Please also update mailing address if it has changed. It will NOT be updated automatically based on changes to premises address under Item 13.”

- Item 16. Changed home phone number (with area code) to new fax number (with area code).
- Item 17. Created new section, which reads:

17. Personal RP home address and data changes: Are there any changes to the personal data of any of the responsible persons (RPs) listed on this license? Yes or No (check boxes). If yes, list their name and any updates to their personal address, email, and new home/cell contact number on a separate sheet of paper. This personal data does NOT appear on the license unless also provided as a premises or business mailing address.
- Item 18. Removed “(provide best email for contact and response).”
- Item 24. Removed “where copy of lease, rental, or other agreement is requested.”
- Item 28. Removed “Address of Responsible Person signing this form” section.
- Moved paperwork reduction act to bottom of page 2 (to make space on instruction page).
- Added new header for “Using the Form and Requirement to Notify ATF of Address Change.”
- Streamlined and updated a majority of the information within the Instructions section.
- Added section header backgrounds for Definitions, Privacy Act Statement, and Paperwork Reduction Act Statement, updated PA and PRA statements.
- Updated definitions of chief law enforcement officer and responsible person.

Dated: July 14, 2026.

Darwin Arceo,
Department Clearance Officer for PRA, U.S.
Department of Justice.

[FR Doc. 2026–14387 Filed 7–16–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB 1140–0076]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Revision of a Previously Approved Collection, Title—Request for Relief From Explosives Disability—ATF Form 5400.31

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

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), will be submitting the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: ATF encourages comments on this information collection. You may submit written comments until midnight on September 15, 2026.

ADDRESSES: Submit written comments and recommendations for this information collection, especially on the estimated public burden or associated response time, to Laurie O’Lena, Explosives Enforcement and Training Division, by email to erod@atf.gov, or by mail to Redstone Arsenal; 3750 Corporal Road; Huntsville, AL 35898. Identify comments by the OMB control number 1140–0076. You may view the proposed information collection instrument online at <https://www.atf.gov/rules-and-regulations/federal-register-actions/forms-and-information-collection>.

FOR FURTHER INFORMATION CONTACT: If you have questions or need a copy of the proposed information collection instrument with instructions or additional information, contact: Laurie O’Lena, ERDP, either by mail at Redstone Arsenal; 3750 Corporal Road; Huntsville, AL 35898, by email at erod@atf.gov, or by telephone at 256–261–7640. If you require additional information on DOJ’s ICR process for this renewal request, contact Darwin Arceo, Department Clearance Officer;

United States Department of Justice; Justice Management Division, Policy and Planning Staff; Two Constitution Square, 145 N Street NE; 4W–218, Washington, DC.

SUPPLEMENTARY INFORMATION: We encourage written comments and suggestions from the public and affected agencies concerning the proposed information collection. Your comments should address one or more of the following four points:

- Evaluate whether the proposed information collection is necessary to properly perform ATF’s functions, including whether the information will have practical utility;
- Evaluate the agency’s estimate of the proposed information collection’s burden for accuracy, including validity of the methodology and assumptions used;
- Evaluate whether the quality, utility, and clarity of the collected information can be enhanced, and if so, how; and
- Minimize the information collection’s burden on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting people to submit electronic responses.

Overview of This Information Collection

Abstract: Persons who wish to ship, transport, receive, or possess explosive materials, but are prohibited from doing so, must complete this form to request relief from such prohibition, along with supporting documents. The regulations at 27 CFR 555.142 state that the Director may grant relief to an applicant if (1) the applicant establishes to the Director’s satisfaction that the circumstances regarding the disability and the applicant’s record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety; and (2) that granting relief is not contrary to public interest. ATF uses the collected information to determine whether the person who provided the information is likely to act in a manner dangerous to public safety and whether granting relief is contrary to the public interest, in order to determine whether to grant the person relief from the prohibition. This process involves interviewing a supervisor or coworker in approximately half the cases.

Type of information collection: revising a previously approved collection.

Title of the form/collection: Request for Relief from Explosives Disability.

Agency form number, if any, and the applicable component of the Department sponsoring the collection: Form number: ATF Form 5400.31. Component: Bureau of Alcohol,

Tobacco, Firearms, and Explosives; U.S. Department of Justice.

Affected public who will be asked or required to respond, as well as the obligation to respond: Affected public: individuals or households, private sector for- or not-for-profit institutions. *Obligation to respond:* voluntary or required to obtain or retain benefits.

Estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: An estimated 250 direct respondents will provide information to complete this information collection once annually, and it will take each respondent an average of approximately 30 minutes to complete their responses. In addition, approximately 125 of those responses would involve investigative activities, to include interviewing a supervisor and coworker, who would each incur approximately 30 minutes of time for that purpose.

Estimate of the total annual burden (in hours) associated with the collection: The estimated annual public burden associated with this collection is 250 total hours, which is equal to 250 (total direct respondents) * 1 (# of responses per respondent) * 0.5 (30 minutes) plus 250 (total indirect respondents) * 1 (# of responses per respondent) * 0.5 (30 minutes).

Estimate of the total annual other cost burden associated with the collection, if applicable: 0.

ESTIMATED TOTAL HOURLY BURDEN

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hours)	Total annual burden (hours)
Direct respondent application	250	1 time annually ..	250	0.5	125
Indirect respondent time on 125 of above responses: previous supervisor interview.	125	1 time annually ..	125 of the 250 above (not additional responses).	0.5	62.5
Indirect respondent time on 125 of above responses: previous co-worker interview.	125	1 time annually ..		0.5	62.5
Unduplicated totals			250		250

Revisions to This Information Collection

The total time burden has increased since the last renewal in 2023, from 150 hours to 250. This is a net increase resulting from a combined decrease in the number of annual respondents (from 300 in 2023 to 250 now, causing a corresponding decrease in direct respondent hours from 150 to 125 hours) and an increase in the time burden from including the time indirect respondents expend (an additional 125

hours). Although the indirect respondents were previously included in the monetized value calculations, they were inadvertently not included in the hourly burden calculations. This renewal corrects that error.

As part of this ICR renewal, ATF is also changing the form number from ATF Form 5400.29 to ATF Form 5400.31 to align with changes to ATF’s numbering structure, and is revising the title of the ICR and the form for plain writing purposes, from “Relief of Disabilities and Application for

Restoration of Explosives Privileges” to “Request for Relief from Explosives Disability.” In addition, ATF is making minor technical edits to the form: plain writing edits to text on the form; updating the race and ethnicity options to conform with Census Bureau changes since the last renewal; and adding Space Force to the Armed Forces section.

Dated: July 14, 2026.

Darwin Arceo,

*Department Clearance Officer for PRA, U.S.
Department of Justice.*

[FR Doc. 2026-14390 Filed 7-16-26; 8:45 am]

BILLING CODE 4410-FY-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 26-038]

Name of Information Collection: Software Catalog

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Revision of a currently approved collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by August 17, 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 30-day 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 Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256-714-8575, or email stayce.d.hoult@nasa.gov or hq-ocio-pra-program@mail.nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The NASA Software Catalog provides public access to hundreds of NASA-developed software tools and enables users to request and obtain software releases through a streamlined, qualification-based submission process. The information submitted by government entities, companies, academic institutions, and individuals is a software request form for those who wish to obtain NASA Software. All software requestors must submit the intended use of the software. The collected information is used by NASA to ensure that the software requestor

meets the qualifications to receive the NASA software technology. 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

Electronically.

III. Data

Title: Software Catalog.

OMB Number: 2700-0193.

Type of Review: Revision.

Affected Public: Government entities, companies, academic institutions, and individuals.

Estimated Annual Number of Activities: 1.

Estimated Number of Respondents per Activity: 7,000.

Annual Responses: 7,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 7,000

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. 2026-14469 Filed 7-16-26; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 26-039]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel (ASAP).

DATES: Monday, August 31, 2026, 2:00 p.m. to 3:30 p.m., eastern time.

ADDRESSES: Public attendance will be virtual only. See dial in information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. Marcia Guignard, ASAP Administrative Officer, NASA Headquarters, Washington, DC 20546, (202) 358-4717 or marcia.guignard@nasa.gov.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel (ASAP) will hold its Third Quarterly Meeting for 2026. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include:

- Updates on the Commercial Crew Program
- Update on Commercial LEO Development Programs
- Updates on Artemis Programs
- Updates on Health and Human Exploration

This meeting is only available telephonically. Any interested person may call the USA toll free conference call number 800-369-3107; passcode 3116192 and then the # sign. At the beginning of the meeting, members of the public may make a verbal presentation to the Panel on the subject of safety in NASA, not to exceed 5 minutes in length. To do so, members of the public must contact Ms. Marcia Guignard, at marcia.guignard@nasa.gov, or at (202) 358-4717 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel via electronic submission to Ms. Guignard at the email address previously noted. Verbal presentations and written statements should be

limited to the subject of safety in NASA. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Jamie M. Krauk,

*Advisory Committee Management Officer,
National Aeronautics and Space
Administration.*

[FR Doc. 2026–14507 Filed 7–16–26; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Application of Emergency Provision Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of hazardous waste to be stored at McMurdo Station, Antarctica for more than 15 months due to an emergency, consistent with 45 CFR 671.17.

SUMMARY: The Office of Polar Programs, U.S. National Science Foundation, is giving notice that an emergency relating to considerations of human health and safety caused, and will result in, hazardous waste to be stored at McMurdo Station, Antarctica, for more than 15 months.

Hazardous waste in the form of lithium batteries and fluorescent lights, with an aggregate net weight of approximately 2639 lbs., was, consistent with waste management best practices, segregated, packaged, and stored in a secure location for removal from the station.

SUPPLEMENTARY INFORMATION: The waste was scheduled to be removed in February 2026, at the end of the 2025–2026 season. In early February 2026, it was discovered that the contracted cargo vessel could not safely transport hazardous lithium-ion battery waste, making the removal of the entire hazardous waste container impossible. The removal of the hazardous waste is a priority for the January 2027 annual cargo vessel visit to McMurdo Station.

(Authority: 45 CFR 671.17)

FOR FURTHER INFORMATION CONTACT: Dr. Andrew Titmus, Environmental Program Manager, 703–292–4479.

Jean C. Allen,

Office Director, Office of Polar Programs.

[FR Doc. 2026–14448 Filed 7–16–26; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of July 20, 27, and August 3, 10, 17, 24, 2026. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please contact the Reasonable Accommodations Resource by email at Reasonable_Accommodations.Resource@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at Betty.Thweatt@nrc.gov or Samantha.Miklaszewski@nrc.gov.

MATTERS TO BE CONSIDERED:

Week of July 20, 2026

Tuesday, July 21, 2026

9:00 a.m. Advanced Reactor Landscape: Current Status and Moving Forward (Public Meeting) (Contact: Wesley Held: 301–287–3591).

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Week of July 27, 2026—Tentative

There are no meetings scheduled for the week of July 27, 2026.

Week of August 3, 2026—Tentative

There are no meetings scheduled for the week of August 3, 2026.

Week of August 10, 2026—Tentative

There are no meetings scheduled for the week of August 10, 2026.

Week of August 17, 2026—Tentative

There are no meetings scheduled for the week of August 17, 2026.

Week of August 24, 2026—Tentative

There are no meetings scheduled for the week of August 24, 2026.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at Wesley.Held@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: July 15, 2026.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2026–14534 Filed 7–15–26; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0874]

Information Collection: NRC Form 361, Reactor Plant Event Notification Worksheet; NRC Form 361A, Fuel Cycle and Materials Event Notification Worksheet; NRC Form 361N, Non-Power Reactor (NPR) Event Notification Worksheet; NRC Form 361S, Plant Event Notification Worksheet

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 361, Reactor Plant Event Notification Worksheet; NRC Form 361A, Fuel Cycle and Materials Event Notification Worksheet; NRC Form 361N, Non-Power Reactor (NPR) Event Notification Worksheet; NRC Form 361S, Plant Event Notification Worksheet.

DATES: Submit comments by August 17, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this

notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, telephone: 301-415-6355; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2025-0874 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-0874. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC-2025-0874 on this website.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML26174A010, ML26174A011, ML26174A012, and ML26174A013. The supporting statement is available in ADAMS under Accession Nos. ML26174A428.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission;

telephone: 301-415-6355; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, “NRC Form 361, Reactor Plant Event Notification Worksheet; NRC Form 361A, Fuel Cycle and Materials Event Notification Worksheet; NRC Form 361N, Non-Power Reactor (NPR) Event Notification Worksheet; NRC Form 361S, Part 53 Plant Event Notification Worksheet.” The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on April 21, 2026, 91 FR 21333.

1. *The title of the information collection:* NRC Form 361, Reactor Plant Event Notification Worksheet; NRC Form 361A, Fuel Cycle and Materials Event Notification Worksheet; NRC Form 361N, Non-Power Reactor (NPR) Event Notification Worksheet; NRC

Form 361S, Part 53 Plant Event Notification Worksheet.

2. *OMB approval number:* 3150-0238.

3. *Type of submission:* Revision.

4. *The form number, if applicable:* NRC Form 361, NRC Form 361A, NRC Form 361N, NRC Form 361S.

5. *How often the collection is required or requested:* On occasion. NRC licensee events are reportable when they occur.

6. *Who will be required or asked to respond:* Holders of NRC licenses for commercial nuclear power plants, fuel cycle facilities, NRC material licensees, and nonpower reactors.

7. *The estimated number of annual responses:* 563.

8. *The estimated number of annual respondents:* 143.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 281.5.

10. *Abstract:* The NRC requires its licensees to report by telephone certain events and emergencies that have potential impact to public health and safety. In order to efficiently process the information received through such reports from licensees, the NRC created Forms 361, 361A, 361N, and 361S to provide a worksheet for licensees to record the information for the report. NRC licensees are not required to fill out or submit the form, but the form describes the order in which data about the event will be requested to enable a licensee to efficiently make the telephonic notification. Without the format provided by the NRC Forms 361, 361A, 361N, and 361S the information exchange between licensees and NRC Headquarters Operations Officers via telephone could result in delays in completing the notification as the licensee answers questions from the NRC staff taking the report.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: July 15, 2026.

For the Nuclear Regulatory Commission.

Kristen Benney,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026-14504 Filed 7-16-26; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. K2026-166; MC2026-305 and K2026-301]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the

Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 22, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission

attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)-(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).*: K2026-166; *Filing Title*: USPS Request Concerning Amendment One to Priority Mail & USPS Ground Advantage & Parcel Select Contract 9, with Material Filed Under Seal; *Filing Acceptance Date*: July 14, 2026; *Filing Authority*: 39 CFR. 3035.105 and 39 CFR 3041.505; *Public Representative*: Christopher Mohr; *Comments Due*: July 22, 2026.

III. Summary Proceeding(s)

1. *Docket No(s).*: MC2026-305 and K2026-301; *Filing Title*: USPS Request to Add New Mid-Market Standardized Distinct Product, PM-GA Contract 1039, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: July 14, 2026; *Filing Authority*: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,
Legal Assistant.

[FR Doc. 2026-14467 Filed 7-16-26; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Notice of new systems of records.

SUMMARY: The United States Postal Service (USPS) is proposing to create a new General Privacy Act System of Records (SOR) to coincide with its proposal to amend the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), regarding the transmission of mail-in or absentee ballots for federal elections. *See* U.S. Postal Service, *Proposed Rule: Ballot Mail for Federal Elections*, 91 FR 32,915 (June 2, 2026). The proposal to amend the DMM is the subject of active litigation, including two injunctions that are currently being appealed. The Postal Service will not publish a final rule unless and until the government obtains relief from all relevant injunctions. In the event that the Postal Service obtains such relief and thereafter publishes a final rule that proceeds with the DMM amendments, it intends this System of Record to take effect on the timeline set forth below.

DATES: If the Postal Service issues a final rule to amend the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), regarding the transmission of mail-in or absentee ballots for federal elections. *See* U.S. Postal Service, *Proposed Rule: Ballot Mail for Federal Elections*, 91 FR 32,915 (June 2, 2026), this System of Record will become effective without further notice on the latest of (1) 30 days from the publication date of this Notice, if no comments are received; (2) the publication date of the Postal Service's responses to comments received (which will under no circumstances be published prior to 30 days from the publication date of this Notice); or (3) the effective date of any final rule in connection with that rulemaking. If the Postal Service does not issue any final rule in connection with that rulemaking, then this System of Record will not take effect.

ADDRESSES: Comments may be submitted via email to the Privacy and Records Management Office, United

¹ *See* Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

States Postal Service Headquarters at USPSPrivacyFedRegNotice@usps.gov. To facilitate public inspection, arrangements to view copies of any written comments received will be made upon request.

FOR FURTHER INFORMATION CONTACT: Privacy Office, 202–268–2000 or USPSPrivacyFedRegNotice@usps.gov.

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their systems of records in the **Federal Register** when there is a revision, change, or addition, or when the agency establishes a new system of records (SOR). The Postal Service has determined that the creation of a new SOR would be necessary if it issues a final rule that is similar to the proposal set forth in its June 2, 2026, notice of proposed rulemaking. See U.S. Postal Service, *Proposed Rule: Ballot Mail for Federal Elections*, 91 FR 32,915 (June 2, 2026).

I. Background

On March 31, 2026, the President issued Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections* (“Order”). Following the issuance of the Order, the Postal Service issued a proposed rule that (if finalized) would apply uniform standards for themailing of absentee ballots, which the Postal Service understands will facilitate the faithful execution of federal law. See U.S. Postal Service, *Proposed Rule: Ballot Mail for Federal Elections*, 91 FR 32,915 (June 2, 2026). That rulemaking is ongoing, subject to injunctions issued in cases regarding the proposed rule.

II. Rationale for Creation of a New USPS Privacy Act Systems of Records

In conjunction with the proposed rule, which would amend the Domestic Mail Manual, the Postal Service is also proposing to create a new Privacy Act SOR to maintain a list of individuals, each individual’s address, the unique Intelligent Mail barcodes printed on each individual’s outbound and return ballot envelope for a federal election, and the state or political subdivision thereof that issued such ballot for inclusion on a state’s Mail-in and Absentee Participation List. If the rulemaking results in a final rule and this new SOR takes effect, the information covered by this SOR would be provided to the Postal Service by the chief election official of each state or any individual or entity, such as a mail service provider or an election official of that state or a political subdivision

thereof, authorized by the chief election official to provide such information.

III. Description of the New or Modified System of Records

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit relevant written data, views, arguments or comments on this proposal. A report of the proposed new SOR has been sent to Congress and to the Office of Management and Budget (OMB) for their evaluation. The Postal Service does not expect this new SOR to have any adverse effect on individual privacy rights. The new SOR is provided below in its entirety.

SYSTEM NAME AND NUMBER:

USPS 820.225 Federal Ballot Mail.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

USPS Headquarters, Supplier cloud computing environment.

SYSTEM MANAGER(S):

Chief Customer and Marketing Officer and Executive Vice President, United States Postal Service, 475 L’Enfant Plaza SW, Washington, DC 20260.

Chief Information Officer and Executive Vice President, United States Postal Service, 475 L’Enfant Plaza SW, Washington, DC 20260.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401 and 404.

PURPOSE(S) OF THE SYSTEM:

1. To help determine adherence to federal law and facilitate law enforcement efforts.
2. To receive a list of individuals to whom a mail-in or absentee ballot is sent for a federal election, each individual’s address, the unique Intelligent Mail barcode printed on the outbound and return ballot envelopes containing themail-in or absentee ballot that was sent to each individual, and the issuing state of such ballot provided by a state’s chief election official, or an authorized designee.
3. To provide relevant election officials access to a Postal Service Federal Ballot Portal web page for submitting lists described in purpose 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals receiving an absentee or mail-in ballot for federal elections through the U.S. Mail.

Individuals using the Postal Service Federal Ballot Portal.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *Mail in voter information:* Name, address, Unique IMb barcode numbers, originating election office state.

2. *Postal Service Ballot Portal Users:* Name, email address, password, username, phone number, position/title, affiliated election jurisdiction, address

RECORD SOURCE CATEGORIES:

State, or authorized designee, provided lists of individuals, addresses, and barcodes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Standard routine uses 1. through 9.

Further, the following special routine use will apply:

1. For federal elections to the chief election official of each state; any authorized election official of that state or a political subdivision thereof who is responsible for sending mail-in or absentee ballots to eligible voters of that state or jurisdiction; or an individual or entity that an election official has authorized to send mail-in or absentee ballots by mail on the election official’s behalf.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database, computer storage media, digital files, and paper files.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrievable by personal identifiers including first and last name, address, issuing state, and barcode.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained for 5 years.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to the facility is limited to authorized personnel, who must be identified with a badge. The facility is not open to the public. Access to records is limited to individuals whose official duties require such access.

Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections. Computers are protected by mechanical locks, card key systems, or other physical access control methods.

The use of computer systems is regulated with installed security software, computer logon identifications, and operating system

controls including access controls, terminal and transaction logging, and file management software. Access is controlled by logon ID and password. Online data transmissions are protected by encryption.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD ACCESS PROCEDURES:

See Notification Procedure and Record Access Procedures.

NOTIFICATION PROCEDURES:

Individuals wanting to know if information about them is maintained in this system of records must address inquiries to the system manager in writing. Inquiries should include name, address, email address and other identifying information that confirms the requestor's identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Kevin Rayburn,
Attorney, Ethics and Legal Compliance.
[FR Doc. 2026-14508 Filed 7-16-26; 8:45 am]

BILLING CODE 7710-12-P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Certification Regarding Rights to Unemployment Benefits; OMB 3220-0079.

Under Section 4 of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. 354), an employee who leaves work voluntarily is disqualified for unemployment benefits unless the employee left work for good cause and is not qualified for unemployment benefits under any other law. RRB Form UI-45, *Claimant's Statement—Voluntary Leaving of Work*, is used by the RRB to obtain the claimant's

statement when the claimant, the claimant's employer, or another source indicates that the claimant has voluntarily left work.

Completion of Form UI-45 is required to obtain or retain benefits. One response is received from each respondent. The RRB proposes the following changes to Form UI-45:

- In Paperwork Reduction Act/Privacy Act Notices, changed last sentence to "If you wish, send comments regarding the accuracy of our estimate, or any other aspect of this form, including suggestions for reducing completion time, to: Railroad Retirement Board, ATTN: Bureau of Information Services/Policy & Compliance, 844 N Rush Street, Chicago, IL 60611-1275."

- Below Paperwork Reduction Act/Privacy Act Notices, changed to "Print all answers in ink."

- In Section 1.C., added new sentence "Include attempts you made to address issues or grievances with the employer prior to leaving."

- In Section 3.A., changed to "Have you applied for and/or claimed any state unemployment benefits of unemployment benefits under any law other than the Railroad Unemployment Insurance Act? If "Yes," show the name, address, and telephone number of the office/agency where you applied. If "No," go to section 4."

- In Section 3.B, changed to "Have you been denied any such benefits? If "Yes," attach a copy of the notice or decision from the unemployment office at which you applied."

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
UI-45	176	15	44
Total	176	.....	44

2. Title and purpose of information collection: Self-Employment and Substantial Service Questionnaire; OMB 3220-0138.

Section 2 of the Railroad Retirement Act (RRA) (45 U.S.C. 231a) provides for payment of annuities to qualified employees and their spouses. In order to receive an age and service annuity, Section 2(e)(3) states that an applicant must stop all railroad work and give up any rights to return to such work. However, applicants are not required to stop nonrailroad work or self-employment.

The RRB considers some work claimed as "self-employment" to actually be employment for an employer. Whether the RRB classifies a particular activity as self-employment or as work for an employer depends upon the circumstances of each case. These circumstances are prescribed in 20 CFR 216.

Under the 1988 amendments to the RRA, an applicant is no longer required to stop work for a "Last Pre-Retirement Nonrailroad Employer" (LPE). However, Section 2(f)(6) of the RRA requires that a portion of the employee's Tier II

benefit and supplemental annuity be deducted for earnings from the "LPE."

The "LPE" is defined as the last person, company, or institution with whom the employee or spouse applicant was employed concurrently with, or after, the applicant's last railroad employment and before their annuity beginning date. If a spouse never worked for a railroad, the LPE is the last person for whom he or she worked.

The RRB utilizes Form AA-4, *Self-Employment and Substantial Service Questionnaire*, to obtain information needed to determine if the work the applicant claims is self-employment is

really self-employment or work for an LPE or railroad service. If the work is self-employment, the questionnaire identifies any month in which the applicant did not perform substantial service. One response is requested of each respondent.

Completion is voluntary. However, failure to complete the form could result in the nonpayment of benefits. The RRB proposes the following changes to the AA-4:

- On Page 1, changed grey section at the top of the page to “DO NOT WRITE IN THIS SPACE—RRB Official Use Only”.

- On Page 1, Paperwork Reduction Act/Privacy Act Notices, (1) changed 2nd sentence to “This information is needed to determine whether your self-employment or business activity (which includes all forms of work or investment regardless of profit or passive income) will affect your railroad retirement benefits under the RRA.”, (2) added new 4th sentence “If there are self-employment, business or any other type of earnings reported to the RRB that are miscategorized or incorrectly associated to you, then please inform an RRB

representative so that you are given instructions on how to correct your earnings record.”, and (3) changed last sentence to “Railroad Retirement Board, ATTN: Bureau of Information Services/Policy & Compliance, 844 N Rush Street, Chicago, IL 60611–1275.”

- In Section 1, changed year for example date to “June 6, 2026.”
- In Section 2, removed instructions below item 4.
- In Section 2, removed instructions below item 5.
- In Section 3, changed section title to “Information About Your Self-Employment Or Business Activity” and item 7a to “Enter the name and address of your business or business activity.”
- In Section 3, item 7b, added “Gig Work (ex. ride-share) and “Limited Liability Company (LLC)” business or business activity options.
- In Section 3, added item 7c “Enter the name of the government Agency where your business or business activity is registered/incorporated.”
- In Section 3, item 8a, added “Director/Board Member”, “Farmer” and “Landlord” to job title options.

- In Section 3, item 8c, added “phone number(s)” for persons or organizations for whom you perform service.

- In Section 3, item 12, changed to “Do you advertise your services?”

- In Section 4, inserted “*did not*” in first sentence between “you” and “perform”.

- In Section 5, item 23, added “Note: If you need to report your earnings for any additional year(s), then provide the information in Section 6.”

- In Section 5, item 27a, inserted “agreement” between “written” and “in accordance”.

- In Section 5, item 28, changed to “Do you risk personal financial loss in your business or business activity?”

- In Section 7, item 31, changed certification to “I certify that all the information I gave the Railroad Retirement Board (RRB) on this form is true to the best of my knowledge. I know that if I have made a false or fraudulent statement on this form or withhold information in order to receive benefits from the RRB, I am committing a crime which is punishable under Federal law by fine or imprisonment or both.”

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA-4 (With assistance)	968	40	645
AA-4 (Without assistance)	51	70	60
Total	1,019	.....	705

3. *Title and purpose of information collection: Vocational Report; OMB 3220-0141.*

Under Section 2 of the Railroad Retirement Act (RRA) (45 U.S.C. 231a) provides for payment of disability annuities to qualified employees and widow(er)s. The establishment of permanent disability for work in the applicant’s “regular occupation” or for work in any regular employment is prescribed in 20 CFR 220.12 and 220.13, respectively.

To enable the Railroad Retirement Board (RRB) to determine the effect of a disability on an applicant’s ability to work, the RRB needs the applicant’s work history. The RRB utilizes Form G-251, Vocational Report, to obtain this information.

Form G-251 is provided to all applicants for employee disability annuities and to those applicants for a widow(er)’s disability annuity who indicate that they have been employed at some time. Form G-251 is designed for use with the RRB’s disability benefit

application forms. Form G-251 is similar to Form SSA-3369-BK, OMB 0960-0578. The RRB proposes the following changes to Form G-251:

- In Section 3, item 7, added “including any self-employment” at the end of the first sentence, added “NOTE 3: If you are listing any self-employment or work for a business that you own, then also complete form AA-4, Self-Employment and Substantial Service Questionnaire.” and added “Name of Employer” column.

- In Section 3, items 12, 16 and 20, added “the interactions you have with coworkers or the public” and “vision requirements” to the list of essential duties that may be described of the position or occupation named in Item’s 7a, 7b and 7c and made other minor editorial changes to make questions simpler and clearer.

- In Section 3, items 14b, 18b and 22b, replaced “Descriptive Comments” with “Description of Physical Activity” in the 2nd sentence and added

“Description of Physical Activity” column.

- In Section 3, items 14b, 18b and 22b, added “³ Constantly ($\frac{2}{3}$ to $\frac{3}{4}$)” in the Amount of Time column.

- In Section 3, items 14b(4), 18b(4) and 22b(4), replaced “Crouching/Squatting/Stooping” with “Crouching/Squatting”.

- In Section 3, items 14b(5), 18b(5) and 22b(6), added “Stooping” and renumbered subsequent physical activity action options.

- In Section 3, added “³ Constantly means occurring over two-thirds (approx. 5 hours) of an 8-hour workday; cumulative, not continuous.” for footnotes related to the Amount of Time column for items 14b, 18b and 22b.

- In Paperwork Reduction Act/Privacy Act Notices, changed last sentence to “If you wish, send comments regarding the accuracy of our estimate, or any other aspect of this form, including suggestions for reducing completion time, to: Railroad Retirement Board, ATTN: Bureau of

Information Services/Policy &

Compliance, 844 N Rush Street,
Chicago, IL 60611–1275.”

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–251 (with assistance)	2,561	40	1,707
G–251 (without assistance)	117	50	98
Total	2,678	.....	1,805

4. *Title and purpose of information collection:* Designation of Contact Officials; 3220–0200.

Under Section 7(b)(6) of the Railroad Retirement Act (RRA) (45 U.S.C. 231) gives the Railroad Retirement Board (RRB) the authority to require railroad employers to furnish information and records that are necessary for the administration of the Act. Coordination between railroad employers and the RRB is essential to properly administer the payment of benefits under the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA). In order to enhance timely coordination activity, the RRB utilizes Form G–117a, *Designation of Contact Officials*. Form G–117a is used by railroad employers to designate employees who are to act as point of contact with the RRB on a variety of RRA and RUIA-related matters.

Completion is voluntary. One response is requested from each

respondent. The RRB proposes the following changes to Forms G–117a (Paper) and G–117a (Internet):

Form G–117a (Paper):

- Changed the layout of the form to accommodate remove the “Items/Contact Official and/or Descriptions” section in the form instructions and move each Contact Official section of the form as applicable.
- Added “(4) SUPPLEMENTAL ANNUITY” Designation of Contact Official.
- Added item “(7) SECTION 2(f) BILL PAYMENT—RUIA” Designation of Contact Official.
- Added “(9) SECTION 12(o) BILL PAYMENT—RUIA” Designation of Contact Official.
- Removed “(11) STREET ADDRESS”.
- Added “(14) VERIFICATION OF EMPLOYER GROUP HEALTH PLAN” Designation of Contact Official.
- Added “(15) CERTIFICATION”.

- Renumbered items to account added Contact Officials, as applicable.
- In Paperwork Reduction Act/Privacy Act Notices, changed last sentence to “If you wish, send comments regarding the accuracy of our estimate, or any other aspect of this form, including suggestions for reducing completion time, to: Railroad Retirement Board, ATTN: Bureau of Information Services/Policy & Compliance, 844 N Rush Street, Chicago, IL 60611–1275.”

Form G–117a (Internet):

- Updated the Manage Contact Officials screen to add new contact official types to match Form G–117 (Paper).
- Updated the New Contact Official and Edit Contact Official screens to add new contact official types in the Areas of Responsibility section to match Form G–117 (Paper).

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–117a (Paper)	20	15	4
G–117a (Internet)	75	5	6
Total	95	.....	11

Additional Information or Comments:

To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material or comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to Brian.Foster@rrb.gov. Written comments should be received within 60 days of this notice.

Brian Foster,
Clearance Officer.

[FR Doc. 2026–14437 Filed 7–16–26; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105910; File No. SR–PEARL–2026–30]

Self-Regulatory Organizations; MIAx PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 100, Definitions, and Rule 204. Members and Persons Associated With a Member Who Are or Become Subject to a Statutory Disqualification

July 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”

or “Exchange Act”) ¹ and Rule 19b–4 thereunder,² notice is hereby given that on July 6, 2026, MIAx PEARL, LLC (“MIAx Pearl” 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.

¹ 15 U.S.C. 78s(b)(1).
² 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding Members and persons associated with a Member who are or become subject to a statutory disqualification. The proposal is similar to a proposal that Cboe Exchange, Inc. ("Cboe") filed with the Commission.³

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings> and at the Exchange's principal office.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 204, Members and Persons Associated with a Member Who Are or Become Subject to a Statutory Disqualification, to conform (with certain exceptions) to rules of the Financial Industry Regulatory Authority, Inc. ("FINRA")⁴ and to industry standard rules.⁵ The Exchange's proposal also includes the proposed Statutory Disqualification Circular ("SD Regulatory Circular") that outlines the applicable eligibility procedures. The amended rules would incorporate by reference the procedures in the SD Regulatory Circular. As further detailed in the SD Regulatory Circular, the need for a Member⁶ to file

an application with the Exchange for approval, notwithstanding the disqualification would depend on (i) the type of disqualification; (ii) the date of disqualification; and (iii) whether the firm or individual is seeking admission, readmission or continuation in the securities industry.

By way of background, Section 3(a)(39) of the Act defines the term "statutory disqualification" and the circumstances that can cause a person (either a Member, or a person associated with a Member) to be subject to a statutory disqualification.⁷ Absent relief, a statutory disqualification would preclude a Member or person associated with a Member from certain activities, including membership in a self-regulatory organization ("SRO").

There is, however, a well-established process through which a Member (or a person associated with a broker-dealer) may continue to operate in the securities industry (and either become a Member of, or continue as a Member of, one or more SROs) despite being subject to a statutory disqualification.⁸

In particular, SEC Rule 19h-1⁹ describes several ways an SRO may seek relief for a member (or prospective member) that is subject to a statutory disqualification, including whether an SRO must file a notice with the Commission in order to allow the disqualified firm to become or continue as a member with the SRO (a "19h-1 Notice").

The existing Rule 204(b) and (c) provides that either (i) a Member shall submit an application to the exchange within 30 days of becoming subject to a statutory disqualification or, (ii) alternatively, if the Exchange becomes aware that a Member or associated person of a Member is subject to a statutory disqualification, then, in either event, the Exchange shall then appoint a panel to conduct a hearing concerning the matter.¹⁰

of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

⁷ 15 U.S.C. 78c(a)(39).

⁸ See FINRA Regulatory Notice 09-19 ("Amendments to FINRA Rule 9520 Series to Establish Procedures Applicable to Firms and Associated Persons Subject to Certain Statutory Disqualifications").

⁹ 17 CFR 240.19h-1.

¹⁰ The Exchange notes that Cboe proposes to amend the required time period for submitting an application from 10 days to 10 business days. See *supra* note 3. The Exchange proposes to amend its corresponding requirement from 30 days to 10 business days. See proposed Exchange Rule 204(b)(1)(ii)-(iii). While the current rules provide different application submission deadlines, the proposed rule change would align the Exchange's requirement with Cboe's by establishing a uniform deadline of 10 business days.

Currently, FINRA processes statutory disqualification applications on behalf of the Exchange.¹¹ Notably, having different rules has led to outcomes where FINRA is not required to process an application and/or an applicable 19h-1 Notice under its rules, but the Exchange (or FINRA acting on the Exchange's behalf) is required under its existing Rule 204. As such, the Exchange proposes to, in large part, conform to FINRA Rule Series 9520 Eligibility Proceedings in order to prevent different outcomes when FINRA is reviewing potential statutory disqualifications on behalf of the Exchange. The Exchange also notes that its existing Rule 204 is an outlier when compared to industry standards, as other exchanges have adopted rules similar to FINRA's. This may lead to inconsistent results when a firm is a member of multiple exchanges and/or FINRA.¹²

To aid in further conformity between the Exchange and FINRA, the Exchange further proposes that it shall also rely on the no-action letter issued to FINRA in 2009 that provides interpretive guidance regarding (i) the effect of certain time-limited bars or license revocations, (ii) the effect of bars by State securities commissions that are based solely upon a disciplinary action taken by an SRO, (iii) the notice requirements for willful violations of the Municipal Securities Rulemaking Board and aiding and abetting violations, and (iv) enforcement action to the Commission under Exchange Action 15A(g)(2) or Rule 19h-1(a) if an SRO does not file a notice with the Commission for any person subject to a statutory disqualification under Section 3(a)(39) that an SRO proposes to admit or continue in membership or association with a member under specific circumstances.¹³ Due to FINRA's No-Action Letter, there have been instances where review of the same circumstances had resulted in different outcomes regarding when a notice is required pursuant to Rule 19h-1.¹⁴ Specifically, the No-Action Letter

¹¹ FINRA processes these applications on behalf of the Exchange pursuant to a Regulatory Services Agreement ("RSA") between the Exchange and FINRA.

¹² See, e.g., Cboe Rule 3.13, NYSE Rule 9520, IEX Rule 9.520 and Nasdaq Rule 9520.

¹³ See Financial Industry Regulatory Authority, Inc., SEC No-Action Letter, 2009 SEC No-Act. (March 17, 2009) ("FINRA No-Action Letter").

¹⁴ For example, the FINRA No-Action Letter grants FINRA relief from notice requirements regarding a member's continued association with a disqualified person when the statutory disqualification is based on willful violations of the CEA. Because of the relief granted by the No Action Letter and pursuant to Regulatory Notice 09-19, FINRA would not require a member to file an

Continued

³ See Securities Exchange Act Release No. 105289 (April, 22, 2026), 91 FR 22562 (April 27, 2026) (SR-CBOE-2026-038).

⁴ See Securities Exchange Act Release No. 59586 (March 17, 2009), 74 FR 12166 (March 23, 2009) (SR-FINRA-2008-045); Securities Exchange Act Release No. 59722 (April 7, 2009), (SR-FINRA-2009-022).

⁵ See, e.g., Cboe Rule 3.13, NYSE Rules 9520-9550 or IEX Rule Series 9.520.

⁶ The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes

makes clear certain instances where they will grant no-action relief if FINRA does not file a 19h–1 Notice with the Commission. For example, the Commission explicitly grants no-action relief if FINRA does not file a 19h–1 Notice if the subject person is subject to a statutory disqualification solely due to a finding of a willful violation of the CEA or the rules or regulations thereunder, provided that the sanctions are no longer in effect. The FINRA No-Action Letter ultimately requires fewer 19h–1 Notices to be filed.

The Exchanges notes that other exchanges, such as The Nasdaq Stock Market LLC (“Nasdaq”), Investors Exchange (“IEX”), New York Stock Exchange (“NYSE”) and Cboe, have already adopted similar changes to more materially align their rules with FINRA’s.

Proposed Rule 204 would govern eligibility proceedings for persons subject to statutory disqualifications. Proposed Rule 204(a) would add certain definitions relating to eligibility proceedings that are not currently part of the Exchange’s rules, including “Application,” “disqualified Member,” “disqualified person,” “sponsoring Member,” and “Exchange staff.” The Exchange notes that this is substantially similar to FINRA’s Rule 9521, with the following exceptions: (i) “member” has been replaced with “Member;” (ii) references to FINRA By-Laws have been replaced with references to the Exchange Act and Exchange rules (where applicable); (iii) a new term of Exchange staff has been added to account for the relationship between the Exchange and FINRA, where the Exchange has a regulatory services agreement in place with FINRA and FINRA may act within the bounds of the agreed upon services; (iv) the definition of a disqualified Member differs; and (v) proposed Rule 204(a)(1) does not include reference to FINRA By-Laws.

The Exchange proposes to define “disqualified Member” as a Member that is or becomes subject to a disqualification under Section 3(a)(39) of the Exchange Act. This differs from the definition in FINRA Rule 9521(b)(2), which includes various other industry participants in addition to existing

members in the definition. The Exchange limited its definition to Members, as the Exchange has jurisdiction over Members.¹⁵

Further, while the Exchange differs from FINRA in that it does not include reference to FINRA By-Laws or Exchange Rules under proposed Rule 204(a)(1), the Exchange believes this language better suits the intended purpose of this section. Specifically, proposed Exchange Rule 204 specifies procedures to be followed in the event of a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act. FINRA’s equivalent Rule 9521 states that the Rule 9520 Series sets forth procedures for a person to become or remain associated with a member, notwithstanding the existence of a statutory disqualification as defined in Article III, Section 4 of the FINRA By-Laws and for a current member or person associated with a member to obtain relief from the eligibility or qualification requirements of the FINRA By-Laws and FINRA rules. Such actions hereinafter are referred to as “eligibility proceedings.” While the Exchange only references statutory disqualification events in its equivalent rule, for its purposes, it believes it is more fitting as different procedures would be followed in the event a Member, or Member applicant, is ineligible for other reasons.

Proposed Rule 204(b) is largely mirrored off of FINRA’s Rule 9522; however, there were adjustments made to account for updating rule references, adjusting “member” to “Member”, and replacing the “National Adjudicatory Council” with the “Business Conduct Committee.” First, the proposed Rules 204(b)(1)¹⁶ and 204(b)(2) would govern

¹⁵ The Exchange notes the definition excludes Member applicants (the Exchange understands FINRA’s definition also does not apply to FINRA member applicants), because the Exchange would address a disqualification of a Member applicant as part of the Member application process, and the Exchange would not file a 19h–1 Notice with the Commission for a Member applicant. The proposed rule language, like FINRA’s, indicates the provisions that are applicable to a Member applicant. If the Exchange approves the Member application of an applicant that is or becomes subject to a disqualification, the firm would then be a Member that could take advantage of the provisions of the proposed rule that apply to a disqualified Member. The Exchange understands this is consistent with FINRA’s process with respect to member applicants that are or become subject to a disqualification.

¹⁶ The Exchange notes that for instances in which Exchange staff will not issue written notice to Members or applicants for membership with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act (when a Member or application for membership under Exchange Rules is not required to file an application pursuant to the SD Regulatory Circular), information regarding the

the initiation of an eligibility proceeding by the Exchange and the obligation for a Member to file an application to initiate an eligibility proceeding if it or a Member’s associated person¹⁷ has been subject to certain disqualifications.

Next, Rule 204(b)(3) sets out the process for a withdrawal of an application and Rule 204(b)(4) sets out prohibitions against ex parte communications when Exchange staff has initiated the eligibility proceedings. The Exchange notes that its rule text does differ from FINRA’s; however, this is due to FINRA having a panel that reviews the matter prior to an appeal and thus, ex parte communication concerns arise before appeals. Under the Exchange’s proposed rule, with Exchange staff making determinations, a firm will need to talk to the Exchange and FINRA while their application is pending. Thus, the Exchange proposes to note that the proposed ex parte communications provision shall become effective only when an appeal is initiated. Further, under the proposed Rule 204(b)(5), the Exchange could approve a written request for relief from the eligibility requirements under certain circumstances. Specifically, Rule 204(b)(5)(i) describes certain circumstances of which a matter may be approved by the Exchange staff without the filing of an application. This provision is the same as the corresponding provisions of FINRA, Nasdaq, and IEX, with one exception. Specifically, under proposed Rule 204(b)(5)(i)(C), Exchange staff may approve a written request for relief without the filing of an application if a disqualified Member or sponsoring Member is a Member or seeking to become a Member is a member of both the Exchange and another SRO and the other SRO intends to file a Notice under Exchange Act Rule 19h–1 approving the membership continuance of the disqualified Member or, in the case of a sponsoring Member, the proposed association or continued association of the disqualified person and Exchange staff concurs with that determination. This proposed provision is the same as that of Nasdaq, FINRA, and IEX, except it applies to those seeking to become a Member in addition to Members, while the corresponding rules of Nasdaq,

disqualifying event and the resolution of any fines, sanctions, or undertakings related to the disqualification are recorded in WebCRD.

¹⁷ Under proposed Rule 204(b)(1)(iii), if a Member fails to file the application or, where appropriate, the written request for relief, within the 10-day period, the registration of the disqualified person shall be revoked and the sponsoring Member must promptly terminate association with the disqualified person.

application. However, the Exchange’s current Rule 204 does not offer relief from application requirements for the firm to continue its association with an associated person, notwithstanding their disqualification. Relief is also not provided under the Exchange Act Rule 19h–1(a)(3)(iii), since the disqualifying event is a finding by the CFTC of a willful violation of the CEA and not a finding by the SEC or SRO of a willful violation of the Exchange Act, among others. As such, a notice pursuant to Rule 19h–1 for the Exchange is required, but is not required for FINRA.

FINRA, and IEX apply solely to members of those SROs. However, other organizations have acknowledged this gap in their rules, noting it would be their practice to apply this provision to prospective members as well as members. Therefore, despite the differences in the rule text of these other organizations, the Exchange believes the outcome under its proposed rule would be the same as both IEX and Nasdaq from a practical perspective.¹⁸

Proposed Rule 204(b)(5)(ii) covers matters that may be approved by¹⁹ the Exchange staff after the filing of an application. Notably, under proposed Rule 204(b)(5)(ii) the Exchange staff may approve an application with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Act or arising under Section 3(a)(39)(E) of the Act. Proposed Rule 204(b)(6) specifies the process for implementing an interim plan of heightened supervision during the application process for a disqualified person.

Proposed Rules 204(b)(7) and 204(b)(8) cover the process for determining that an application is substantially incomplete and the consequences for not remedying an application in a timely manner.²⁰ In the event an applicant fails to remedy an application under Rule 204(b)(8), Exchange staff will serve a written notice on the sponsoring Member of its determination to reject the application and the sponsoring Member must promptly terminate association with the disqualified person. Under FINRA's Rule 9522, there is reference to FINRA's application fee and that FINRA shall refund the application fee, less \$1,000 which shall be retained by FINRA as a processing fee. The Exchange notes,

¹⁸ See, e.g., Securities Exchange Act Release No. 101799 (November 29, 2024), 89 FR 96698 (December 5, 2024) (SR-IEX-2024-26), where IEX states "In the course of reviewing this membership application, IEX identified that its rules do not specifically address this situation, which has not previously occurred with respect to IEX. Specifically, the Exchange believes that its rules regarding the process by which a prospective Member that is subject to a statutory disqualification can be approved for membership on IEX notwithstanding the statutory disqualification could be enhanced to provide additional clarity and more clearly align with the processes set forth in Rule 19h-1 for a membership applicant that is subject to a statutory disqualification."

¹⁹ The Exchange notes that approval of such an application allows for a Member's continued participation on the Exchange.

²⁰ Proposed Rule 204(b)(7) applies to applications that are deemed substantially incomplete if they do not include information related to an interim plan of heightened supervision. Plans of heightened supervisions are issued solely for associated persons (and not Members), and thus this provision applies solely to associated persons.

however, that the Exchange has its own application fee program reflected in its fee schedule that is distinct from FINRA's. As a result, the Exchange proposes to not include this in its proposed rule.

As further explained, proposed Rule 204(c) largely mirrors FINRA Rule 9523, with technical changes to account for different defined terms and functions across the SROs. This proposed rule would allow the Exchange staff (handled by FINRA) to recommend a supervisory plan to which the disqualified Member, sponsoring Member, and/or disqualified person, as the case may be, may consent and by doing so, waive the right to appeal if the plan is accepted and right to claim bias or prejudice, or prohibited ex parte communications. If such a supervisory plan were rejected, proposed Rule 204(d) would allow a request for review by the applicant to the Business Conduct Committee and would provide that a filing of an application for review would not stay the effectiveness of final action by the Exchange unless the Commission otherwise ordered.

Proposed Rule 204(c) is covered under two parts: (i) to cover all disqualification except those arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act and (ii) to cover disqualifications that arise solely from findings or orders specified in Section 15(b)(4)(D), (E) or (H). The Exchange notes that the latter (proposed Rule 204(c)(2)) is intended to cover events where an application is required under the SD Regulatory Circular, as under the proposed rule, events arising from findings or order specified in Section 15(b)(4)(D), (E) or (H) of the Exchange Act do not typically require an application unless otherwise specified in the SD Regulatory Circular.

The text of the proposed rule change is similar to that in FINRA's counterpart rules, except for conforming and technical changes and except as follows. First, under proposed Rule 204(c), if the disqualified Member, sponsoring Member, and/or disqualified person executed a letter consenting to a supervisory plan, it would be submitted to the Exchange staff. Under FINRA's rule, the letter is submitted to FINRA Office of General Counsel, which submits it to the Chairman of the Statutory Disqualification Committee, acting on behalf of the NAC; the Chairman may accept or reject the plan or refer it to the NAC for action. The Exchange does not propose to utilize the NAC or the Statutory Disqualification Committee Chairman for this purpose. The Exchange believes that its staff can

provide an appropriate review. The staff is performing this same function today when it reviews statutory disqualification decisions reached by FINRA subject to an RSA Agreement between the Exchange and FINRA. In addition, under FINRA's rule, the waiver of bias or prejudice is with respect to the Department of Member Regulation, the FINRA General Counsel, the NAC and any member thereof, while under proposed Rule 204(c), the waiver would be with respect to the Exchange staff, the Exchange, the Business Conduct Committee, or any member of the Business Conduct Committee.

Next, under proposed Rule 204(d), if the Exchange staff rejects the plan, the Member or applicant may request a review by the Business Conduct Committee.²¹ This differs from FINRA's process, which provides for a hearing before the NAC and further consideration by the FINRA Board of Directors. Because the Exchange does not propose to utilize the NAC, the Exchange proposes instead that any appeal be heard by the Business Conduct Committee. FINRA Rule 9525 also allows for discretionary review by the FINRA Board and the Exchange does not propose to adopt a comparable rule. The Exchange believes that the Exchange staff's role in the process will provide sufficient oversight and independence.

The Exchange does not propose to adopt the text of FINRA Rule 9526, which provides for expedited proceedings by the FINRA Board of Governors in certain instances. The Exchange believes that its proposed rules for review can be carried out in a timely manner and would sufficiently protect investors. The Exchange historically has not provided an expedited statutory disqualification review.

Lastly, the Exchange also notes that it will adopt a definition of "associated person" in Exchange Rule 100, specifically as it pertains to statutory disqualifications. This rule will be similar to the definitions of associated persons implemented by other exchanges to specifically apply to the process of statutory disqualifications.²² Currently, the Exchange's definition for associated person is any partner, officer, director, or branch manager of a Member (or any person occupying a similar status or performing similar functions), any person directly or

²¹ The Exchange's proposed Rule 204(d) closely aligns with NYSE Rule 9524 and Cboe Rule 3.13(d) except for conforming and technical changes.

²² See IEX Rule 1.160(y)(2) and Nasdaq General 3, Rule 1002(b)(2).

indirectly controlling, controlled by, or under common control with a Member, or any employee of a Member, except that any person associated with a Member whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of these Rules. As the proposed rule requires Members to submit an application for continuance as a Member if any person associated with the Member becomes subject to a statutory disqualification, the Exchange's current rules require Members to file applications for affiliates under common control that would be subject to a statutory disqualification under securities law. In contrast, FINRA does not define "Person Associated with a member" or "Associated Person of a Member" as including affiliates under common control of the FINRA member.²³ Thus, a firm that is both an Exchange Member and FINRA member, which has an affiliate under common control that would be subject to a statutory disqualification under securities laws, is required to file an application with the Exchange, but not with FINRA.

The Exchange proposes to adopt a similar definition to Nasdaq, Cboe, and IEX²⁴ except that it shall (i) remove the reference to investment banking as that is not applicable for the Exchange's functions and (ii) remove subpoint (3) which specifies that for the purposes of another exchange rule of Nasdaq and IEX²⁵ (that is not the exchange's statutory disqualification rule), that it shall also include any other person listed in Schedule A of Form BD of a member. As the Exchange does not have this rule, the Exchange proposes not to include this subpoint (3) in its adopted definition of associated persons for the purpose of statutory disqualifications.

As noted above, other exchanges, such as Nasdaq, IEX, NYSE, and Cboe, have already adopted similar changes to more materially align its rules with FINRA's, and similar to the Exchange,

have made some edits to align its proposed rules with existing exchange processes.²⁶

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers, because the rule applies uniformly to all Members and does not unfairly discriminate against any Member or type of market participant. The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,³⁰ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Members and persons associated with its Members with the Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the proposed rule change will better enable the Exchange to streamline the administration of its statutory disqualification program and better protect investors and the public interest, as it will eliminate the need for Members or associated persons of Members to submit Statutory Disqualification Applications for prior statutory qualifications that have been resolved. Similar to Nasdaq, IEX, Cboe, and NYSE, the Exchange proposes to harmonize its description of statutory disqualification to align its application of statutory disqualification to FINRA.³¹

This proposal would avoid potentially different outcomes for members of both FINRA and the Exchange with respect to ineligibility for membership and association.

The proposed changes will provide greater harmonization between Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for dual members. As previously noted, in many instances the proposed rule text is substantially similar to FINRA's current rule text, which already has been approved by the Commission, and in many other cases the differences between current FINRA rules and the proposed rules would be strictly technical in nature. Further, in other instances, such as the Exchange's proposed Rule 204(d), the Exchange's rule closely follows Cboe's Rule 3.13. The proposal is similar to a proposal that Cboe filed with the Commission for immediate effectiveness, and therefore, does not raise any new or novel issues, not already considered by the Commission.³²

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 designed to address any competitive issues but rather is designed to provide greater harmonization between Exchange and FINRA rules of similar purpose for investigations and disciplinary matters, resulting in less burdensome and more efficient regulatory compliance for dual members and facilitating FINRA's performance of its regulatory functions under the RSA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section

²³ FINRA Regulation, Inc. By-laws, Article I, paragraph (ee) defines the terms "person associated with a member" or "associated person of a member" in relevant part as: "(2) a sole proprietor, partner, officer, director, or branch manager of a member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with the Corporation under these By-Laws or the Rules of the Corporation; and (3) for purposes of Rule 8210, any other person listed in Schedule A of Form BD."

²⁴ See Nasdaq General 3, Rule 1002(b), Cboe 1.1, and IEX Rule 1.160(y).

²⁵ See IEX Rule 8.210 and Nasdaq General 5, Rule 8210.

²⁶ See, e.g., Securities Exchange Act Release Nos. 61703 (March 12, 2010), 75 FR 13620 (March 22, 2010) (SR-NASDAQ-2010-023), 68678 (January 16, 2013), 78 FR 5213 (January 24, 2013) (SR-NYSE-2013-02), and *supra* note 3.

²⁷ 15 U.S.C. 78f(b).

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ *Id.*

³⁰ 15 U.S.C. 78f(b)(1).

³¹ See *supra* note 12.

³² See *supra* note 3.

19(b)(3)(A)(iii) of the Act³³ and subparagraph (f)(6) of Rule 19b–4 thereunder.³⁴

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)³⁵ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-PEARL–2026–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR-PEARL–2026–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PEARL–2026–30 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–14406 Filed 7–16–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105915; File No. SR–CboeEDGX–2026–046]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Options Regulatory Fee (“ORF”)

July 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on June 29, 2026, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule relating to the Options Regulatory Fee (“ORF”). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/edgx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 2, 2025, the Exchange adopted a new methodology for the assessment and collection of an On-Exchange ORF whereby ORF is assessed by the Exchange only for options transactions that occur on the Exchange that clear in the customer³ range at The Options Clearing Corporation (“OCC”).⁴ In its filing, the Exchange set forth a July 1, 2026 implementation date for the new methodology. The Exchange proposes to increase ORF from \$0.0002 per contract under the current method that assesses ORF to all customer range transactions regardless of the Exchange on which it occurs to \$0.00286 per contract under the new method that assesses ORF to all customer range transactions that occur on the Exchange only, effective July 1, 2026.⁵ The Exchange is also proposing nonsubstantive changes to the fees schedule to clarify its description of ORF and delete outdated language.

Beginning July 1, 2026, ORF will be assessed to only Exchange transactions that would clear in the customer range at OCC. The ORF is collected by OCC on behalf of the Exchange from the Clearing Member that was the clearing firm for the transaction or a non-Member that was the clearing firm, where a Clearing Member was the executing clearing firm for the

³ ORF is assessed by the Exchange and collected via OCC on executions for the account of Public Customers, including Professionals, and Broker-Dealers including Foreign Broker-Dealers. These market participants clear in the “C” range at OCC. On the Exchange, a “Public Customer” means a person that is not a broker or dealer in securities and includes both Priority Customers and Professionals. A “Priority Customer” means a person or entity that is not a broker or dealer in securities, and (b) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). Executions for the account of an OCC clearing member firm proprietary account, joint back office account clearing in the Firm range, or account of a market maker clearing in the Market Maker range are not charged an ORF.

⁴ See Securities Exchange Act Release No. 104404 (December 15, 2025), 90 FR 59275 (December 18, 2025) (SR–CboeEDGX–2025–084).

⁵ Today, ORF is assessed by the Exchange to each Member for options transactions cleared by the Member that are cleared by the OCC in the customer range, regardless of the exchange on which the transaction occurs. In other words, the Exchange imposes the ORF on all customer-range transactions cleared by a Member, even if the transactions do not take place on the Exchange.

³³ 15 U.S.C. 78s(b)(3)(A).

³⁴ 17 CFR 240.19b–4(f)(6).

³⁵ 15 U.S.C. 78s(B)(2)(B).

³⁶ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

transaction. The ORF is not assessed on outbound linkage trades.⁶

Revenues generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, are designed to recover a material portion of the regulatory costs to the Exchange of the supervision and regulation of Member customer options business, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. Regulatory costs include direct regulatory expenses⁷ and certain indirect expenses in support of the regulatory function.⁸ Indirect expenses are estimated to be approximately 35% of the Exchange's total regulatory costs for 2026. Thus, direct expenses are estimated to be approximately 65% of total regulatory costs for 2026. In addition, it is the Exchange's practice that revenue generated from ORF not exceed more than 75% of total regulatory costs. These expectations are estimated, preliminary and may change. There can be no assurance that our final costs for 2026 will not differ materially from these expectations and prior practice; however, the Exchange believes that revenue generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs.

The Exchange monitors its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs in a given year, the Exchange will adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the "Commission"). The Exchange also notifies Members of adjustments to the ORF via an Exchange Notice, including for the change being proposed herein.⁹ Based on the Exchange's review of regulatory costs and revenues in

preparation for implementation of the new On-Exchange ORF, the Exchange is proposing to increase the amount of ORF that will be collected by the Exchange from \$0.0002 per contract side on all customer range transactions regardless of the Exchange on which the transaction executed to \$0.00286 per contract side for only those transactions that execute on the Exchange and clear in the customer range.

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs.

The Exchange also proposes to delete the provision stating that the Exchange uses reports from OCC when assessing and collecting the ORF. The Exchange currently uses its own reports when assessing and collecting the ORF, so the current language is outdated.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹¹ which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fee change is reasonable because it would permit the Exchange to collect revenue from the ORF, in combination with other regulatory fees and fines, in a manner that would help offset, but not exceed, the Exchange's total regulatory costs. As discussed, the Exchange has designed the ORF to generate revenues that would be less than or equal to 75% of the Exchange's regulatory costs, which is consistent with the practice across the options industry and the view of the Commission that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. The Exchange determined to modify the ORF rate in conjunction with

implementation of the On-Exchange ORF,¹³ a new methodology for assessment and collection of ORF, and after its review of its regulatory costs and regulatory revenues, which includes revenues from ORF and other regulatory fees and fines. When taking into account recent options volume, coupled with the anticipated regulatory fees and anticipated reductions in other regulatory fees, the Exchange believes it's reasonable to increase the ORF rate from \$0.0002 per contract side on all customer range transactions regardless of the Exchange on which the transaction executed to \$0.00286 per contract side for only those transactions that execute on the Exchange and clear in the customer range. Particularly, the proposed change is reasonable as it would offset the anticipated increased regulatory costs, while still not exceeding 75% of the Exchange's total regulatory costs.

As noted above, the Exchange will also continue to monitor on at least a semi-annual basis the amount of revenue collected from the ORF, even as amended, to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. If the Exchange determines regulatory revenues would exceed its regulatory costs in a given year, the Exchange will reduce the ORF by submitting a fee change filing to the Commission.¹⁴

The Exchange also believes the proposed change is reasonable, equitable and not unfairly discriminatory in that it is charged to all Exchange transactions that clear in the customer range at the OCC. The Exchange believes On-Exchange ORF it is fair and reasonable to assess a specific fee to those Members that require more Exchange regulatory services based on the amount of customer options business they conduct. Over recent years, options trading volume has increased with a growing percentage of the volume applicable to customer transactions. Customers trading on the Exchange (through a Member) benefit from the protections of a robust regulatory program, including the maintenance of fair and orderly markets and protections against fraud and other manipulation. The Exchange believes it is equitable and not unfairly discriminatory to assess a regulatory fee

⁶ The current language in the fees schedule states ORF is collected by OCC on behalf of the Exchange from the Clearing Member or a non-Clearing Member on each side of the transaction that ultimately clears the transaction. The Exchange proposes to revise this language as set forth above. The Exchange believes the proposed language provides additional clarity regarding how ORF is collected, but has no impact on that process.

⁷ Direct expenses include in-house and third-party service provider costs to support the day-to-day regulatory work such as surveillances, investigations, and examinations.

⁸ Indirect expenses include support from areas such as human resources, legal, compliance, information technology, facilities and accounting.

⁹ See Exchange Notice, C2026052000 "Cboe Options Exchanges Regulatory Fee Update Effective July 1, 2026" (May 20, 2026).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(5).

¹³ See Securities Exchange Act Release No. 104404 (December 15, 2025), 90 FR 59275 (December 18, 2025) (SR-CboeEDGX-2025-084).

¹⁴ Consistent with Rule 15.2 (Regulatory Revenue), the Exchange notes that should excess ORF revenue be collected prior to any reduction in an ORF rate, such excess revenue will not be used for nonregulatory purposes.

to transactions that clear in the customer range to cover regulatory costs, but not to transactions clearing in the Firm or Market Maker range because Clearing Members and Market Maker Members (who clear in the Firm and Market Maker range, respectively), as those market participants are generally subject to other Exchange fees, fines and obligations. For example, Clearing Members and Market Maker Members are required to pay Exchange application fees, permit fees, and connectivity fees, amongst others. In addition, all fines issued by the Exchange for regulatory infractions are assessed only to Members and would be applied to regulatory revenues. As with today's ORF, the Exchange expects that Clearing Members from whom On-Exchange ORF is collected will pass through the fee to their customers (as the Exchange understands occurs today). In addition, Market Makers are subject to various quoting and other obligations so that they provide stable and liquid markets, which benefit all market participants including customers. Excluding Market Maker transactions from On-Exchange ORF will allow Market Makers to manage their costs more effectively thus enabling them to better allocate resources toward technology, risk management, and capacity to ensure continued liquidity provision.

In addition to the overall increase in customer-range activity, regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. For example, there are costs associated with main office and branch office examinations (e.g., staff and travel expenses), as well as investigations into customer complaints and the terminations of registered persons. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (e.g., Member proprietary transactions) of its regulatory program.¹⁵ While the Exchange notes that it has broad regulatory responsibilities with respect to its Members' activities, irrespective of where their transactions take place, the Exchange believes it is reasonable to

assess the proposed fee to only those transactions occurring on the Exchange.

The Exchange also believes the proposed rule change is equitable and not unfairly discriminatory because the On-Exchange ORF model more narrowly tailors the fee to products and transactions with a direct connection to the Exchange. Today, a customer transaction may be assessed an ORF from every options exchange totaling as much as \$0.023 per transaction per side.¹⁶ While the Exchange's proposed ORF rate under the On-Exchange ORF model of \$0.00286 is higher than its current ORF rate of \$0.0002 under the current model, beginning July 1, 2026, the Exchange understands all U.S. options exchanges will implement a similar on-exchange model, and ORF rates may decrease for individual transactions overall because the proposed On-Exchange ORF will avoid overlapping ORFs that would otherwise be assessed by the Exchange and other options exchanges that also assess an ORF. Beginning July 1, 2026, transactions that would clear in the customer range occurring on other exchanges would no longer be subject to an ORF assessed by the Exchange.

The Exchange believes the proposed nonsubstantive changes to the rule text will protect investors and the public interest, as it provides additional clarity regarding how ORF is collected and deletes outdated language, but has no impact on that process and thus will have no impact on customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This proposal does not create an unnecessary or inappropriate intramarket burden on competition because ORF applies to all customer activity on the Exchange, thereby raising regulatory revenue to offset regulatory expenses. It also supplements the regulatory revenue derived from non-customer activity. The Exchange notes, however, the proposed change is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate intermarket burden on competition because it is a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination

with its other regulatory fees and fines, does not exceed regulatory costs.

The proposed nonsubstantive changes have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGX-2026-046 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-CboeEDGX-2026-046. 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/>

¹⁵ If the Exchange changes its method of funding regulation or if circumstances otherwise change in the future, the Exchange may decide to modify the ORF or assess a separate regulatory fee on Member proprietary transactions if the Exchange deems it advisable.

¹⁶ As of June 1, 2026.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

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–CboeEDGX–2026–046 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–14411 Filed 7–16–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105914; File No. 4–757]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of the Fourth Amendment to the Limited Liability Company Agreement of CT Plan LLC

July 14, 2026.

Pursuant to section 11A of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”),¹ and Rule 608 thereunder,² notice is hereby given that on July 6, 2026, the Chair of the Operating Committee³ to the Limited Liability Agreement of CT Plan LLC (“CT Plan”) filed with the Securities and Exchange Commission (“Commission”) a proposal to amend the CT Plan. The amendment represents the Fourth Amendment to the CT Plan (“Amendment”). Under the Amendment, the Operating Committee proposes to add Texas Stock Exchange LLC as a Member to the CT Plan and to reflect that Nasdaq BX has changed its name to Nasdaq Texas.⁴

¹⁹ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78k–1(a)(3).

² 17 CFR 242.608.

³ The current Members of the CT Plan are: 24X National Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long Term Stock Exchange, Inc., MEMX LLC, MIAx PEARL, LLC, Nasdaq Texas, LLC, Nasdaq ISE, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Texas, Inc.

⁴ See Letter from Jeff Kimsey, Chair, to Vanessa Countryman, Secretary, Commission dated July 6, 2026.

The proposed Amendment has been filed pursuant to Rule 608(b)(3)(ii) under Regulation NMS⁵ as concerned solely with the administration of the CT Plan and as a “Ministerial Amendment” under Section 13.5 of the CT Plan. As a result, the Amendment can be submitted by the Chair of the CT Plan’s Operating Committee and becomes effective upon filing.

The Commission is publishing this notice to solicit comments on the Amendment from interested persons. Set forth in Sections A and B is the statement of the purpose and summary of the Amendment, along with the information required by Rules 608(a) and 601(a) under the Act, as prepared and submitted by the Chair of the Operating Committee.

A. Rule 608(a)

1. Purpose of the Amendments

The above-captioned amendments effectuate a change to reflect the new name of Nasdaq BX as Nasdaq Texas. The amendment also admits the Texas Stock Exchange as a new Member.

2. Governing or Constituent Documents

No change as a result of amendment.

3. Implementation of Amendments

Because the amendment constitutes a “Ministerial Amendment” under Section 13.5 of the CT Plan, the Chair of the CT Plan’s Operating Committee may submit the amendment to the Commission on behalf of the Members in the CT Plan. Because the Members designate the amendment as concerned solely with the administration of the CT Plan, the amendment becomes effective upon filing with the Commission.

4. Development and Implementation Phases

Not applicable.

5. Analysis of Impact on Competition

The amendment does not impose any burden on competition. First, it simply effectuates a change in the name of a Member and admit a new Member to the CT Plan. The Texas Stock Exchange has completed the required steps to be added to the CT Plan. For the same reasons, the Members do not believe that the amendment introduces terms that are unreasonably discriminatory for purposes of Section 11A(c)(1)(D) of the Exchange Act.

6. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

No change as a result of amendment.

7. Approval by Sponsors in Accordance With Plan

See Item 3 above.

8. Description of Operation of Facility Contemplated by the Proposed Amendment

No change as a result of amendment.

9. Terms and Conditions of Access

No change as a result of amendment.

10. Method of Determination and Imposition, and Amount of, Fees and Charges

No change as a result of amendment.

11. Method and Frequency of Processor Evaluation

No change as a result of amendment.

12. Dispute Resolution

No change as a result of amendment.

B. Rule 601(a)

1. Equity Securities and Nasdaq Securities for Which Transaction Reports Shall Be Required by the Plan

No change as a result of amendment.

2. Reporting Requirements

No change as a result of amendment.

3. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

No change as a result of amendment.

4. Manner of Consolidation

No change as a result of amendment.

5. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

No change as a result of amendment.

6. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

No change as a result of amendment.

7. Terms of Access to Transaction Reports

No change as a result of amendment.

8. Identification of Marketplace of Execution

No change as a result of amendment.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendment is consistent with the Act. Comments may be submitted by any of the following methods:

⁵ 17 CFR 242.608(b)(3)(ii).

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number 4–757 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.
- All submissions should refer to file number 4–757. 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 offices of the Members. 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 4–757 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–14410 Filed 7–16–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105904; File No. SR–CboeBZX–2026–056]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Options Regulatory Fee (“ORF”)

July 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on June 29, 2026, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule

change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule relating to the Options Regulatory Fee (“ORF”). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 2, 2025, the Exchange adopted a new methodology for the assessment and collection of an On-Exchange ORF whereby ORF is assessed by the Exchange only for options transactions that occur on the Exchange that clear in the customer³ range at The

Options Clearing Corporation (“OCC”).⁴ In its filing, the Exchange set forth a July 1, 2026 implementation date for the new methodology. The Exchange proposes to increase ORF from \$0.0002 per contract under the current method that assesses ORF to all customer range transactions regardless of the Exchange on which it occurs to \$0.00476 per contract under the new method that assesses ORF to all customer range transactions that occur on the Exchange only, effective July 1, 2026.⁵ The Exchange is also proposing nonsubstantive changes to the fees schedule to clarify its description of ORF and delete outdated language.

Beginning July 1, 2026, ORF will be assessed to only Exchange transactions that would clear in the customer range at OCC. The ORF is collected by OCC on behalf of the Exchange from the Clearing Member that was the clearing firm for the transaction or a non-Member that was the clearing firm, where a Clearing Member was the executing clearing firm for the transaction. The ORF is not assessed on outbound linkage trades.⁶

Revenues generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, are designed to recover a material portion of the regulatory costs to the Exchange of the supervision and regulation of Member customer options business, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. Regulatory costs include direct regulatory expenses⁷ and certain indirect expenses in support of the regulatory function.⁸ Indirect expenses are estimated to be approximately 29% of the Exchange's total regulatory costs for 2026. Thus,

⁴ See Securities Exchange Act Release No. 104403 (December 18, 2025), 90 FR 59247 (December 18, 2025) (SR–CboeBZX–2025–157).

⁵ Today, ORF is assessed by the Exchange to each Member for options transactions cleared by the Member that are cleared by the OCC in the customer range, regardless of the exchange on which the transaction occurs. In other words, the Exchange imposes the ORF on all customer-range transactions cleared by a Member, even if the transactions do not take place on the Exchange.

⁶ The current language in the fees schedule states ORF is collected by OCC on behalf of the Exchange from the Clearing Member or a non-Clearing Member on each side of the transaction that ultimately clears the transaction. The Exchange proposes to revise this language as set forth above. The Exchange believes the proposed language provides additional clarity regarding how ORF is collected, but has no impact on that process.

⁷ Direct expenses include in-house and third-party service provider costs to support the day-to-day regulatory work such as surveillances, investigations, and examinations.

⁸ Indirect expenses include support from areas such as human resources, legal, compliance, information technology, facilities and accounting.

⁶ 17 CFR 200.30–3(a)(85).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ ORF is assessed by the Exchange and collected via OCC on executions for the account of Public Customers, including Professionals, and Broker-Dealers including Foreign Broker-Dealers. These market participants clear in the “C” range at OCC. On the Exchange, a “Public Customer” means a person that is not a broker or dealer in securities and includes both Priority Customers and Professionals. A “Priority Customer” means a person or entity that is not a broker or dealer in securities or a Professional. A “Professional” is any person or entity that (a) is not a broker or dealer in securities, and (b) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). Executions for the account of an OCC clearing member firm proprietary account, joint back office account clearing in the Firm range, or account of a market maker clearing in the Market Maker range are not charged an ORF.

direct expenses are estimated to be approximately 71% of total regulatory costs for 2026. In addition, it is the Exchange's practice that revenue generated from ORF not exceed more than 75% of total regulatory costs. These expectations are estimated, preliminary and may change. There can be no assurance that our final costs for 2026 will not differ materially from these expectations and prior practice; however, the Exchange believes that revenue generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs.

The Exchange monitors its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs in a given year, the Exchange will adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the "Commission"). The Exchange also notifies Members of adjustments to the ORF via an Exchange Notice, including for the change being proposed herein.⁹ Based on the Exchange's review of regulatory costs and revenues in preparation for implementation of the new On-Exchange ORF, the Exchange is proposing to increase the amount of ORF that will be collected by the Exchange from \$0.0002 per contract side on all customer range transactions regardless of the Exchange on which the transaction executed to \$0.00476 per contract side for only those transactions that execute on the Exchange and clear in the customer range.

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs.

The Exchange also proposes to delete the provision stating that the Exchange uses reports from OCC when assessing and collecting the ORF. The Exchange currently uses its own reports when assessing and collecting the ORF, so the current language is outdated.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹¹ which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fee change is reasonable because it would permit the Exchange to collect revenue from the ORF, in combination with other regulatory fees and fines, in a manner that would help offset, but not exceed, the Exchange's total regulatory costs. As discussed, the Exchange has designed the ORF to generate revenues that would be less than or equal to 75% of the Exchange's regulatory costs, which is consistent with the practice across the options industry and the view of the Commission that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. The Exchange determined to modify the ORF rate in conjunction with implementation of the On-Exchange ORF,¹³ a new methodology for assessment and collection of ORF, and after its review of its regulatory costs and regulatory revenues, which includes revenues from ORF and other regulatory fees and fines. When taking into account recent options volume, coupled with the anticipated regulatory fees and anticipated reductions in other regulatory fees, the Exchange believes it's reasonable to increase the ORF rate from \$0.0002 per contract side on all customer range transactions regardless of the Exchange on which the transaction executed to \$0.00476 per contract side for only those transactions that execute on the Exchange and clear in the customer range. Particularly, the proposed change is reasonable as it would offset the anticipated increased regulatory costs, while still not exceeding 75% of the Exchange's total regulatory costs.

As noted above, the Exchange will also continue to monitor on at least a semi-annual basis the amount of revenue collected from the ORF, even as amended, to ensure that it, in

combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. If the Exchange determines regulatory revenues would exceed its regulatory costs in a given year, the Exchange will reduce the ORF by submitting a fee change filing to the Commission.¹⁴

The Exchange also believes the proposed change is reasonable, equitable and not unfairly discriminatory in that it is charged to all Exchange transactions that clear in the customer range at the OCC. The Exchange believes On-Exchange ORF it is fair and reasonable to assess a specific fee to those Members that require more Exchange regulatory services based on the amount of customer options business they conduct. Over recent years, options trading volume has increased with a growing percentage of the volume applicable to customer transactions. Customers trading on the Exchange (through a Member) benefit from the protections of a robust regulatory program, including the maintenance of fair and orderly markets and protections against fraud and other manipulation. The Exchange believes it is equitable and not unfairly discriminatory to assess a regulatory fee to transactions that clear in the customer range to cover regulatory costs, but not to transactions clearing in the Firm or Market Maker range because Clearing Members and Market Maker Members (who clear in the Firm and Market Maker range, respectively), as those market participants are generally subject to other Exchange fees, fines and obligations. For example, Clearing Members and Market Maker Members are required to pay Exchange application fees, permit fees, and connectivity fees, amongst others. In addition, all fines issued by the Exchange for regulatory infractions are assessed only to Members and would be applied to regulatory revenues. As with today's ORF, the Exchange expects that Clearing Members from whom On-Exchange ORF is collected will pass through the fee to their customers (as the Exchange understands occurs today). In addition, Market Makers are subject to various quoting and other obligations so that they provide stable and liquid markets, which benefit all market participants including customers. Excluding Market Maker transactions from On-Exchange ORF will allow Market Makers to manage

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(5).

¹³ See Securities Exchange Act Release No. 104403 (December 18, 2025), 90 FR 59247 (December 18, 2025) (SR-CboeBZX-2025-157).

¹⁴ Consistent with Rule 15.2 (Regulatory Revenue), the Exchange notes that should excess ORF revenue be collected prior to any reduction in an ORF rate, such excess revenue will not be used for nonregulatory purposes.

⁹ See Exchange Notice, C2026052000 "Cboe Options Exchanges Regulatory Fee Update Effective July 1, 2026" (May 20, 2026).

their costs more effectively thus enabling them to better allocate resources toward technology, risk management, and capacity to ensure continued liquidity provision.

In addition to the overall increase in customer-range activity, regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. For example, there are costs associated with main office and branch office examinations (e.g., staff and travel expenses), as well as investigations into customer complaints and the terminations of registered persons. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (e.g., Member proprietary transactions) of its regulatory program.¹⁵ While the Exchange notes that it has broad regulatory responsibilities with respect to its Members' activities, irrespective of where their transactions take place, the Exchange believes it is reasonable to assess the proposed fee to only those transactions occurring on the Exchange.

The Exchange also believes the proposed rule change is equitable and not unfairly discriminatory because the On-Exchange ORF model more narrowly tailors the fee to products and transactions with a direct connection to the Exchange. Today, a customer transaction may be assessed an ORF from every options exchange totaling as much as \$0.023 per transaction per side.¹⁶ While the Exchange's proposed ORF rate under the On-Exchange ORF model of \$0.00476 is higher than its current ORF rate of \$0.0002 under the current model, beginning July 1, 2026, the Exchange understands all U.S. options exchanges will implement a similar on-exchange model, and ORF rates may decrease for individual transactions overall because the proposed On-Exchange ORF will avoid overlapping ORFs that would otherwise be assessed by the Exchange and other options exchanges that also assess an ORF. Beginning July 1, 2026, transactions that would clear in the customer range occurring on other

exchanges would no longer be subject to an ORF assessed by the Exchange.

The Exchange believes the proposed nonsubstantive changes to the rule text will protect investors and the public interest, as it provides additional clarity regarding how ORF is collected and deletes outdated language, but has no impact on that process and thus will have no impact on customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This proposal does not create an unnecessary or inappropriate intramarket burden on competition because ORF applies to all customer activity on the Exchange, thereby raising regulatory revenue to offset regulatory expenses. It also supplements the regulatory revenue derived from non-customer activity. The Exchange notes, however, the proposed change is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate intermarket burden on competition because it is a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs.

The proposed nonsubstantive changes have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2026-056 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBZX-2026-056. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2026-056 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

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¹⁵ If the Exchange changes its method of funding regulation or if circumstances otherwise change in the future, the Exchange may decide to modify the ORF or assess a separate regulatory fee on Member proprietary transactions if the Exchange deems it advisable.

¹⁶ As of June 1, 2026.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

¹⁹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105901; File No. SR–NSCC–2026–008]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Enhance NSCC's Clearing Fund Methodology

July 14, 2026.

On May 26, 2026, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR–NSCC–2026–008 (the “Proposed Rule Change”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder.² The Proposed Rule Change would modify the NSCC Rules and Procedures (“NSCC Rules”)³ to enhance NSCC's Clearing Fund methodology to address certain risks presented by exchange-traded products (“ETPs”). The Proposed Rule Change was published for comment in the *Federal Register* on June 4, 2026.⁴ The Commission has received no comments on the changes proposed. For the reasons discussed below, the Commission is approving the Proposed Rule Change.

I. Background

NSCC is a registered clearing agency that provides clearing, settlement, risk management, and central counterparty (“CCP”) services for trades involving equity securities, corporate and municipal debt, ETPs, and unit investment trust transactions in the U.S. markets. As a CCP, NSCC novates transactions between counterparties, effectively becoming the buyer to every seller and the seller to every buyer, and guarantees settlement of the novated transactions. NSCC is exposed to the credit risk of its members and the risk that a member may default on its obligations to NSCC before settlement of the member's open positions.

A key tool that NSCC uses to manage its credit exposure to its members is determining and collecting an appropriate Required Fund Deposit (*i.e.*, margin) for each member.⁵ The objective

of a member's margin is to mitigate potential losses to NSCC associated with liquidating a member's portfolio in the event NSCC ceases to act for that member (hereinafter referred to as a “default”).⁶ The aggregated amount of all members' margin constitutes the NSCC Clearing Fund. NSCC would access its Clearing Fund should a defaulting member's own margin be insufficient to satisfy losses to NSCC caused by the liquidation of that member's portfolio.⁷ Each member's margin consists of several components, each of which is designed to address specific risks faced by NSCC arising out of its members' trading activity.

The primary component of NSCC's Clearing Fund is the Volatility Charge, which is designed to measure the market price volatility of each member's start of day (“SOD”) portfolio. The Volatility Charge is calculated for members' Net Unsettled Positions and Net Balance Order Unsettled Positions (collectively, “Net Unsettled Positions”) and is designed to capture the market price risk associated with each member's portfolio at a 99th percentile level of confidence.⁸

NSCC uses two methodologies for calculating the Volatility Charge. For the majority of equity Net Unsettled Positions, NSCC calculates the Volatility Charge as the sum of: (1) the greater of (a) the larger of two separate calculations that utilize a parametric Value-at-Risk (“VaR”) model, and (b) a portfolio margin floor calculation (“Margin Floor”) based on the market values of the long and short positions in the portfolio; and (2) a gap risk measure calculation (“Gap Risk Charge”) based on the concentration threshold of the two largest non-diversified positions in a portfolio (collectively, the “VaR Charge”).⁹

A. Fat Tail Adjustment Factor

Under NSCC's current parametric VaR model methodology, NSCC supplements its assumption of a normal return distribution for equity portfolios with the Fat Tail Adjustment Factor, which utilizes the degrees of freedom (“DOF”)

derived from a family of Student's t-distributions that are more representative of historically observed return distributions in the equities markets.¹⁰ NSCC periodically estimates the DOF factor using daily return data from an industry standard index over a historical window of no shorter than 12 months, and then computes a multiplication factor that represents the magnitude of increase of t-distribution-based parametric VaR from the normal-based parametric VaR, which is then applied to the parametric VaR.¹¹

B. Bid-Ask Spread Charge

In calculating volatility estimations for the Core Parametric Estimation, NSCC includes an additional charge (the “Bid-Ask Spread Charge”) designed to cover the risk presented by the variation of bid-ask spreads over time and varying market conditions.¹² The Bid-Ask Spread Charge is calculated by multiplying the gross market value of each Net Unsettled Position by a basis point charge, which is determined based on four groups/classifications: (i) large and medium capitalization equities; (ii) small capitalization equities; (iii) micro-capitalization equities; and (iv) ETPs.¹³ NSCC currently applies one standard basis point charge for all ETPs, assuming that all ETPs have similar liquidity and bid-ask spread haircuts.¹⁴

C. Gap Risk Charge

In addition to the Core Parametric Estimation and the Margin Floor, NSCC calculates a Gap Risk Charge designed to address a pronounced form of idiosyncratic risk from unexpected, large, gap-like price movements of a stock due to company specific events and is added, if applicable, to the parametric VaR to determine the VaR Charge.¹⁵ The Gap Risk Charge is assessed if the sum of the gross market values of the two largest non-diversified Net Unsettled Positions in a member's portfolio exceeds the Concentration

¹⁰ See Notice of Filing at 33840, *supra* note 4; see Securities Exchange Act Release No. 72260 (May 27, 2014), 79 FR 31360 (June 2, 2014) (SR–NSCC2014–802). The Fat Tail Adjustment Factor is also described in NSCC's internal methodology and risk model documentation and in the externally available NSCC Risk Margin Component Guide, posted on the DTCC website at www.dtcclearing.com/products-and-services/equities-clearing/nscc-riskmanagement.html.

¹¹ See Notice of Filing at 33840, *supra* note 4.

¹² See Notice of Filing at 33840, *supra* note 4.

¹³ See also Procedure XV, Sections I(A)(1)(a)(i)I and I(A)(2)(a)(i)I of the NSCC Rules, *supra* note 3. NSCC reviews the applicable basis point charges at least annually.

¹⁴ See Notice of Filing at 33840, *supra* note 4.

¹⁵ See Procedure XV, Sections I(A)(1)(a)(i)III and I(A)(2)(a)(i)III of the NSCC Rules, *supra* note 3.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ Terms not defined herein are defined in the NSCC Rules, as applicable, available at http://dtcc.com/~media/Files/Downloads/legal/rules/nscc_rules.pdf.

⁴ See Securities Exchange Act Release No. 105593 (June 1, 2026), 91 FR 33839 (June 4, 2026) (File No. SR–NSCC–2026–008) (“Notice of Filing”).

⁵ See Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters) of the NSCC Rules, *supra* note 3.

⁶ The Rules identify when NSCC may cease to act for a member and the types of actions NSCC may take. For example, NSCC may suspend a firm's membership with NSCC or prohibit or limit a member's access to NSCC's services in the event that member defaults on a financial or other obligation to NSCC. See Rule 46 (Restrictions on Access to Services) of the Rules, *supra* note 3.

⁷ See Rule 4 (Clearing Fund), *supra* note 3.

⁸ See Notice of Filing at 33840, *supra* note 4.

⁹ See Notice of Filing at 33840, *supra* note 4.

Certain equity positions are excluded from the VaR Charge and are instead subject to a haircut-based volatility charge. See Procedure XV, Sections I(A)(1)(a)(ii) and I(A)(2)(a)(ii) of the NSCC Rules, *supra* note 3.

Threshold.¹⁶ The amount of the Gap Risk Charge is calculated by adding the sum of: (1) the product of the gross market value of the largest non-diversified Net Unsettled Position and a gap risk haircut of not less than five percent, and (2) the product of the gross market value of the second largest non-diversified Net Unsettled Position and a gap risk haircut of not less than 2.5 percent.¹⁷ The Concentration Threshold and gap risk haircuts are calculated based on backtesting and impact analysis during a period of time of not less than the previous 12 months.¹⁸ NSCC excludes ETF positions from the Gap Risk Charge calculation if those positions have characteristics indicating they are less prone to gap risk events, such as tracking a broad-based market index, containing a diversified underlying basket, being unleveraged, or tracking an asset class less prone to gap risk.¹⁹

II. Description of the Proposed Rule Change

NSCC proposes to amend the NSCC Rules regarding the determination of Clearing Fund requirements to address certain risks presented by ETPs. Specifically, NSCC proposes to (i) amend its Gap Risk Charge methodology to address risks presented by ETFs; (ii) amend the Bid-Ask Spread Charge by applying more granular basis point charges for sub-categories of ETPs; and (iii) describe the use of the Fat Tail Adjustment Factor in NSCC's parametric VaR calculation.

A. Proposed Changes to the Gap Risk Charge

The Proposed Rule Change would revise the methodology for calculating the Gap Risk Charge by introducing a mapping and decomposition process for ETFs. Specifically, the Proposed Rule Change would enable NSCC to (1) map certain leveraged or inverse equity ETFs to a related non-leveraged ETF with in-kind baskets and adjustments for corresponding leverage/inverse factor; (2) decompose equity ETFs eligible for in-kind baskets into their underlying components; and (3) map single stock ETFs to their corresponding single stock

positions with adjustments for corresponding leverage/inverse factor.

To implement these changes to the Gap Risk Charge, the Proposed Rule Change amends Sections I(A)(1)(a)(i)(III) and I(A)(2)(a)(i)(III) of Procedure XV. The Proposed Rule Change would amend NSCC Rules to specify that the enhanced Gap Risk Charge would be assessed on the sum of the gross market values of the two largest non-diversified "net positions" in a member's portfolio rather than Net Unsettled Positions. The Proposed Rule Change would also set forth the process for determining "net positions" for the Gap Risk Charge calculation, *i.e.*, that NSCC would start with Net Unsettled Positions and then apply a mapping and decomposition process for ETF Net Unsettled Positions to isolate the risk exposures of the underlying ETF holdings.²⁰ In addition, the Proposed Rule Change would state that equity ETFs for in-kind baskets may be decomposed into positions in their underlying components. Specifically, the proposed rule change would provide that (i) leveraged or inverse equity ETFs may be mapped to a related non-leveraged ETF with in-kind baskets, which may then be decomposed into positions in their underlying components, and (ii) single stock ETFs may be mapped to their corresponding single stock positions. The Proposed Rule Change would provide that the NSCC would then net all positions, whether indirect exposures from the ETF mapping and decomposition process or direct exposures from the Net Balance Order Unsettled Positions within the original portfolio, to establish the "net positions" for the Gap Risk charge calculation.

The Proposed Rule Change would modify existing procedures for determining which ETFs would be excluded from the Gap Risk Charge calculation by moving those procedures from a footnote to the body of the Sections I(A)(1)(a)(i)(III) and I(A)(2)(a)(i)(III) of Procedure XV. The Proposed Rule Change would provide that the Gap Risk Charge is then determined by adding the sum of the product of the gross market value of the two largest non-diversified net positions (as derived by the mapping and decomposition process) and corresponding gap risk haircuts established by NSCC, if the sum of the gross market values of the two largest non-diversified net positions in the portfolio represent a percentage designated by NSCC of the gross market value of the entire liquid equity

portfolio, minus the exempted equity ETFs.

B. Proposed Changes to the Bid-Ask Spread Charge

The Proposed Rule Change would amend the Bid-Ask Spread Charge to apply more granular basis point charges for different sub-categories of ETPs.²¹ Specifically, the Proposed Rule Change would amend Sections I(A)(1)(a)(i)I and I(A)(2)(a)(i)I of Procedure XV of the NSCC Rules to apply different basis point charges within the ETP risk group based on an ETP's inclusion in additional sub-categories, which shall be based on factors such as market capitalization or asset class.

C. Proposed Clarifications Related to the Fat Tail Adjustment Factor

The Proposed Rule Change would modify NSCC Rules to include a description of the Fat Tail Adjustment Factor used in its parametric VaR calculations and to provide additional clarification that NSCC may apply different parameter values to more accurately calibrate for the tail risk of different member portfolio types. Specifically, the Proposed Rule Change would amend Sections I(A)(1)(a)(i)I and I(A)(2)(a)(i)I, which currently explains that volatility component calculation of the VaR Charge shall be made utilizing such assumptions and based on such historical data as NSCC deems reasonable and shall cover such range of historical volatility as NSCC deems appropriate from time to time, to include that such assumptions and historical data would also account for the tail risk of member portfolio types.

D. Anticipated Impact on Members

NSCC performed an impact analysis on its portfolios covering the period beginning January 2025 to February 2026 ("Impact Study").²² The findings of the Impact Study showed that, had the Proposed Rule Change been in effect during this period, the overall increase across all NSCC members would have been around \$60 million, representing less than one percent of the total VaR Charge.²³

The Impact Study showed that the average daily increase in the overall Gap Risk Charge was approximately \$223 million (from \$727 million to approximately \$950 million); the average daily increase in the overall Bid-Ask Spread was approximately \$6 million (from \$96 million to

¹⁶ See Notice of Filing at 33840, *supra* note 4. The Concentration Threshold is calculated by a percentage of the gross market value of the entire portfolio, currently set by NSCC at no more than 30 percent. See Notice of Filing at 33840, *supra* note 4.

¹⁷ See Notice of Filing at 33840–33841, *supra* note 4.

¹⁸ See Notice of Filing at 33841, *supra* note 4.

¹⁹ See Notice of Filing at 33841, *supra* note 4; see Securities Exchange Act Release No. 98086 (Aug. 8, 2023), 88 FR 55100 (Aug. 14, 2023) (SR–NSCC–2022–015).

²⁰ See Notice of Filing at 33841, *supra* note 4.

²¹ See Notice of Filing at 33842, *supra* note 4.

²² See Notice of Filing at 33842, *supra* note 4. NSCC filed the Impact Study confidentially as Exhibit 3.

²³ See Notice of Filing at 33842, *supra* note 4.

approximately \$102 million); and the average daily reduction in the VaR Charge for the Fat Tail Adjustment Factor calibration was approximately \$168 million (from \$5.49 billion to approximately \$5.32 billion).²⁴

NSCC stated that the impacts among individual members varied depending on the size and composition of their portfolios.²⁵ The Impact Study showed that the top 20 largest daily average notional impacts by accounts showed an increase in the Gap Risk Charge ranging from \$4.4 million to \$23.4 million, while the percentage impact ranged from approximately 110 percent to 750 percent increases.²⁶

For the Bid-Ask Spread Charge, the Impact Study showed that the top 20 largest daily average notional impacts by account showed a reduction in charge for approximately \$75,000 to \$100,000 for two member accounts and increases ranging from approximately \$82,000 to \$752,000 for the rest of the top 20 accounts, while the percentage impact showed all but three members saw an increase in the Bid-Ask Spread Charge of 50% or less.²⁷

For the Fat Tail Adjustment Factor, the Impact Study showed the top 20 largest daily average notional impacts by account had reductions in their parametric VaR ranging from approximately \$2.6 million to \$13 million, while the percentage impacts ranged from a 3.3 to 3.7 percent reduction.²⁸

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act²⁹ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. After carefully considering the Proposed Rule Change, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to NSCC. In particular, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act³⁰ and Rules

17ad–22(e)(4) and 17ad–22(e)(6)³¹ each promulgated under the Act.

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of Act³² requires, in part, that the rules of a clearing agency be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

As described above in Section II., NSCC proposes to amend its Clearing Fund methodology through improvements to the Gap Risk Charge, Bid-Ask Spread Charge, and Fat Tail Adjustment Factor to address certain risks presented by ETPs. The Proposed Rule Change should help ensure that NSCC collects sufficient margin to manage member-level credit risk exposure associated with the risks presented by ETPs in members' cleared portfolios. By mapping and decomposing ETP holdings to isolate underlying security exposures, applying granular basis point charges across ETP sub-categories, and clarifying tail risk calibration to ensure margin requirements more accurately reflect the risks presented by ETPs in members' actual portfolios as opposed to an industry standard index, the Proposed Rule Change is designed to ensure NSCC collects sufficient margin to accurately identify, measure, and manage credit exposures to members while maintaining adequate financial resources to cover potential defaults with a high degree of confidence. By helping NSCC to collect sufficient margin, the Proposed Rule Change should better ensure that, in the event of a member default, NSCC's operation of its critical clearance and settlement services would not be disrupted because of insufficient financial resources. Accordingly, the Proposed Rule Change should help NSCC to continue providing prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.

As discussed in Section I. above, under NSCC's Rules, in the event that a defaulted member's own margin is insufficient to satisfy losses to NSCC caused by the liquidation of that member's portfolio, NSCC would access

the mutualized Clearing Fund.³³ NSCC's proposed changes to the Clearing Fund methodology, specifically the changes to the Gap Risk Charge, Bid-Ask Spread Charge, and Fat Tail Adjustment Factor described in Section II., should help ensure that NSCC has collected sufficient margin from its members and should help minimize the likelihood that NSCC would have to access the Clearing Fund, thereby limiting non-defaulting members' exposure to mutualized losses. By helping to limit the exposure of NSCC's non-defaulting members to mutualized losses, the Proposed Rule Change should help NSCC assure the safeguarding of securities and funds which are in its custody or control, consistent with Section 17A(b)(3)(F) of the Act.³⁴

For these reasons, the Proposed Rule Change is consistent with promoting the prompt and accurate clearance and settlement of securities transactions and assuring the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.³⁵

B. Consistency With Rule 17ad–22(e)(4)

Rule 17ad–22(e)(4)(i)³⁶ under the Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. The Proposed Rule Change is consistent with Rule 17ad–22(e)(4)(i) under the Act for the reasons stated below.

NSCC's proposal to amend its Clearing Fund methodology should enable NSCC to better manage its credit exposures to members by maintaining sufficient resources to cover their credit exposures more fully with a high degree of confidence. Specifically, the proposed enhancements to the Gap Risk Charge, Bid-Ask Spread Charge, and Fat Tail Adjustment Factor should allow NSCC to more effectively identify, measure, monitor, and manage member-level credit exposure arising from the risks presented by ETPs in members' cleared portfolios.

³³ See Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters) of the NSCC Rules *supra* note 3.

³⁴ 15 U.S.C. 78q–1(b)(3)(F).

³⁵ 15 U.S.C. 78q–1(b)(3)(F).

³⁶ 17 CFR 240.17ad–22(e)(4)(i).

²⁴ See Notice of Filing at 33842, *supra* note 4.

²⁵ See Notice of Filing at 33842, *supra* note 4.

²⁶ See Notice of Filing at 33842, *supra* note 4. NSCC stated that one member would have had a Gap Risk Charge imposed that had not previously incurred such charges. See Notice of Filing at 33842, *supra* note 4.

²⁷ See Notice of Filing at 33842, *supra* note 4.

²⁸ See Notice of Filing at 33843, *supra* note 4.

²⁹ 15 U.S.C. 78s(b)(2)(C).

³⁰ 15 U.S.C. 78q–1(b)(3)(F).

³¹ 17 CFR 240.17ad–22(e)(4) and (6).

³² 15 U.S.C. 78q–1(b)(3)(F).

As described in Section II.A with respect to the Gap Risk Charge, the proposed mapping and decomposition process for ETFs should allow NSCC to more effectively identify, measure, monitor, and manage member-level credit exposure arising from risks presented by the underlying holdings of ETFs, including exposures to single-stock ETFs and leveraged/inverse ETFs. By using the mapping and decomposition process for ETFs, NSCC should be better positioned to identify and address concentration risk of single name equities presented by ETFs in a member's portfolio, which was not previously captured in the Gap Risk Charge.

As described in Section II.B with respect to the Bid-Ask Spread Charge, the proposed enhancements should allow NSCC to more effectively identify and measure the liquidity risk presented by different types of ETPs by improving the granularity of the basis point charges used within the ETP risk group to account for different asset classes and market capitalizations, instead of a single standard basis point charge for all ETPs.

As described in Section II.C with respect to the Fat Tail Adjustment Factor, the proposed clarifications should better enable NSCC to identify, measure, monitor, and manage the tail risk presented by different member portfolio types by clarifying that Fat Tail Adjustment Factor parameters may be calibrated from time to time using actual member portfolio residuals. The proposed clarifications should also better enable NSCC to address tail risk for various member portfolio types.

Accordingly, for the reasons discussed above, the Proposed Rule Change is reasonably designed to identify, measure, monitor, and manage its credit exposure to members, and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each member fully with a high degree of confidence consistent with Rule 17ad-22(e)(4)(i).

C. Consistency With Rule 17ad-22(e)(6)

Rule 17ad-22(e)(6)(i)³⁷ under the Act requires that each covered clearing agency that provides central counterparty services to establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, among other things, considers, and

produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market. The Proposed Rule Change is consistent with 17ad-22(e)(6)(i) under the Act for the reasons stated below.

NSCC's proposal to amend its Clearing Fund methodology should enable NSCC to more effectively address the risks posed to NSCC by ETPs in members' portfolios. As discussed in Section III.D above, NSCC provided an Impact Study regarding the impacts the proposed enhancements to the Gap Risk Charge, Bid-Ask Spread Charge, and Fat Tail Adjustment Factor would have had if they were in place during the period January 2025 to February 2026. The Commission has reviewed and analyzed the materials filed by NSCC, including NSCC's Impact Study and backtesting results, which show the effects of the Proposed Rule Change assessed during the time period of the Impact Study.

With respect to the Gap Risk Charge, the Impact Study demonstrates that the proposed mapping and decomposition process for ETFs should result in Gap Risk Charges for member portfolios the reflect a more granular measure of risk presented to NSCC by isolating and addressing the risk exposures of the underlying ETF holdings.³⁸ By mapping leveraged and inverse equity ETFs to related non-leveraged ETFs with in-kind baskets, decomposing in-kind baskets into their underlying components, and mapping single stock ETFs to their corresponding single stock positions, and then netting and aggregating the resulting positions, NSCC should be better able to assess and address the underlying security exposures embedded within various ETF structures. The Impact Study showed an average daily increase in the overall Gap Risk Charge of approximately \$223 million,³⁹ reflecting a more granular measure of risk presented to NSCC that is not currently captured in the Gap Risk Charge.

With respect to the Bid-Ask Spread Charge, the Impact Study demonstrates that the proposed changes would result in Bid-Ask Spread Charges that reflect a more tailored calibration of the charge to the liquidity profiles of different ETP sub-categories. The Impact Study showed an average daily increase in the overall Bid-Ask Spread Charge of approximately \$6 million,⁴⁰ reflecting the more tailored calibration of the charge to the specific liquidity profiles of different ETP sub-categories that are

not currently captured under the single basis point charge applied to all ETPs.

With respect to the Fat Tail Adjustment Factor, the proposed amendments should improve members' understanding of the use of the Fat Tail Adjustment Factor in NSCC's parametric VaR calculations and may calibrate tail risk using actual member portfolio residuals for better accuracy.⁴¹ The Impact Study showed an average daily reduction in the VaR Charge of approximately \$168 million,⁴² reflecting the calibration of the Fat Tail Adjustment Factor based on actual member portfolio characteristics rather than an industry standard index as a proxy for tail risk calibration. This would result in margin levels that are more commensurate with the actual tail risk presented by different member portfolio types because calibrating margin requirements to actual portfolio characteristics rather than industry proxies ensures that each member's Required Fund Deposit would reflect the idiosyncratic risks of that member's portfolio.

Accordingly, the Proposed Rule Change is consistent with Rule 17ad-22(e)(6)(i) under the Act because it is designed to assist NSCC in maintaining a risk-based margin system that considers, and produces margin levels commensurate with, the risks of portfolios that experience significant market volatility because of certain scheduled economic events.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act⁴³ that proposed rule change SR-NSCC-2026-008 be, and hereby is, *approved*.⁴⁴

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁵

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-14397 Filed 7-16-26; 8:45 am]

BILLING CODE 8011-01-P

⁴¹ See Notice of Filing at 33842, *supra* note 4.

⁴² See Notice of Filing at 33843, *supra* note 4.

⁴³ 15 U.S.C. 78s(b)(2).

⁴⁴ In approving the proposed rule change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁴⁵ 17 CFR 200.30-3(a)(12).

³⁷ 17 CFR 240.17ad-22(e)(6)(i).

³⁸ See Notice of Filing at 33843, *supra* note 4.

³⁹ See Notice of Filing at 33842, *supra* note 4.

⁴⁰ See Notice of Filing at 33842, *supra* note 4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105909; File No. SR–MIAX–2026–27]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 100, Definitions, and Rule 204, Members and Persons Associated With a Member Who Are or Become Subject to a Statutory Disqualification

July 14, 2026.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b–4 thereunder,² notice is hereby given that on July 6, 2026, Miami International Securities Exchange, LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding Members and persons associated with a Member who are or become subject to a statutory disqualification. The proposal is similar to a proposal that Cboe Exchange, Inc. (“Cboe”) filed with the Commission.³

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings> and at MIAX’s principal office.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 204, Members and Persons Associated with a Member Who Are or Become Subject to a Statutory Disqualification, to conform (with certain exceptions) to rules of the Financial Industry Regulatory Authority, Inc. (“FINRA”)⁴ and to industry standard rules.⁵ The Exchange’s proposal also includes the proposed Statutory Disqualification Circular (“SD Regulatory Circular”) that outlines the applicable eligibility procedures. The amended rules would incorporate by reference the procedures in the SD Regulatory Circular. As further detailed in the SD Regulatory Circular, the need for a Member⁶ to file an application with the Exchange for approval, notwithstanding the disqualification would depend on (i) the type of disqualification; (ii) the date of disqualification; and (iii) whether the firm or individual is seeking admission, readmission or continuation in the securities industry.

By way of background, Section 3(a)(39) of the Act defines the term “statutory disqualification” and the circumstances that can cause a person (either a Member, or a person associated with a Member) to be subject to a statutory disqualification.⁷ Absent relief, a statutory disqualification would preclude a Member or person associated with a Member from certain activities, including membership in a self-regulatory organization (“SRO”).

There is, however, a well-established process through which a Member (or a person associated with a broker-dealer) may continue to operate in the securities industry (and either become a Member of, or continue as a Member of, one or more SROs) despite being subject to a statutory disqualification.⁸

In particular, SEC Rule 19h–1⁹ describes several ways an SRO may seek relief for a member (or prospective member) that is subject to a statutory disqualification, including whether an SRO must file a notice with the Commission in order to allow the disqualified firm to become or continue as a member with the SRO (a “19h–1 Notice”).

The existing Rule 204(b) and (c) provides that either (i) a Member shall submit an application to the exchange within 30 days of becoming subject to a statutory disqualification or, (ii) alternatively, if the Exchange becomes aware that a Member or associated person of a Member is subject to a statutory disqualification, then, in either event, the Exchange shall then appoint a panel to conduct a hearing concerning the matter.¹⁰

Currently, FINRA processes statutory disqualification applications on behalf of the Exchange.¹¹ Notably, having different rules has led to outcomes where FINRA is not required to process an application and/or an applicable 19h–1 Notice under its rules, but the Exchange (or FINRA acting on the Exchange’s behalf) is required under its existing Rule 204. As such, the Exchange proposes to, in large part, conform to FINRA Rule Series 9520 Eligibility Proceedings in order to prevent different outcomes when FINRA is reviewing potential statutory disqualifications on behalf of the Exchange. The Exchange also notes that its existing Rule 204 is an outlier when compared to industry standards, as other exchanges have adopted rules similar to FINRA’s. This may lead to inconsistent results when a firm is a member of multiple exchanges and/or FINRA.¹²

To aid in further conformity between the Exchange and FINRA, the Exchange further proposes that it shall also rely on the no-action letter issued to FINRA in 2009 that provides interpretive guidance regarding (i) the effect of certain time-limited bars or license revocations, (ii)

⁴ See Securities Exchange Act Release No. 59586 (March 17, 2009), 74 FR 12166 (March 23, 2009) (SR–FINRA–2008–045); Securities Exchange Act Release No. 59722 (April 7, 2009), (SR–FINRA–2009–022).

⁵ See, e.g., Cboe Rule 3.13, NYSE Rules 9520–9550 or IEX Rule Series 9.520.

⁶ The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

⁷ 15 U.S.C. 78c(a)(39).

⁸ See FINRA Regulatory Notice 09–19 (“Amendments to FINRA Rule 9520 Series to Establish Procedures Applicable to Firms and Associated Persons Subject to Certain Statutory Disqualifications”).

⁹ 17 CFR 240.19h–1.

¹⁰ The Exchange notes that Cboe proposes to amend the required time period for submitting an application from 10 days to 10 business days. See *supra* note 3. The Exchange proposes to amend its corresponding requirement from 30 days to 10 business days. See proposed Exchange Rule 204(b)(1)(ii)–(iii). While the current rules provide different application submission deadlines, the proposed rule change would align the Exchange’s requirement with Cboe’s by establishing a uniform deadline of 10 business days.

¹¹ FINRA processes these applications on behalf of the Exchange pursuant to a Regulatory Services Agreement (“RSA”) between the Exchange and FINRA.

¹² See, e.g., Cboe Rule 3.13, NYSE Rule 9520, IEX Rule 9.520 and Nasdaq Rule 9520.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 105289 (April, 22, 2026), 91 FR 22562 (April 27, 2026) (SR–CBOE–2026–038).

the effect of bars by State securities commissions that are based solely upon a disciplinary action taken by an SRO, (iii) the notice requirements for willful violations of the Municipal Securities Rulemaking Board and aiding and abetting violations, and (iv) enforcement action to the Commission under Exchange Action 15A(g)(2) or Rule 19h–1(a) if an SRO does not file a notice with the Commission for any person subject to a statutory disqualification under Section 3(a)(39) that an SRO proposes to admit or continue in membership or association with a member under specific circumstances.¹³ Due to FINRA's No-Action Letter, there have been instances where review of the same circumstances had resulted in different outcomes regarding when a notice is required pursuant to Rule 19h–1.¹⁴ Specifically, the No-Action Letter makes clear certain instances where they will grant no-action relief if FINRA does not file a 19h–1 Notice with the Commission. For example, the Commission explicitly grants no-action relief if FINRA does not file a 19h–1 Notice if the subject person is subject to a statutory disqualification solely due to a finding of a willful violation of the CEA or the rules or regulations thereunder, provided that the sanctions are no longer in effect. The FINRA No-Action Letter ultimately requires fewer 19h–1 Notices to be filed.

The Exchanges notes that other exchanges, such as The Nasdaq Stock Market LLC (“Nasdaq”), Investors Exchange (“IEX”), New York Stock Exchange (“NYSE”) and Cboe, have already adopted similar changes to more materially align their rules with FINRA's.

Proposed Rule 204 would govern eligibility proceedings for persons subject to statutory disqualifications. Proposed Rule 204(a) would add certain definitions relating to eligibility

proceedings that are not currently part of the Exchange's rules, including “Application,” “disqualified Member,” “disqualified person,” “sponsoring Member,” and “Exchange staff.” The Exchange notes that this is substantially similar to FINRA's Rule 9521, with the following exceptions: (i) “member” has been replaced with “Member;” (ii) references to FINRA By-Laws have been replaced with references to the Exchange Act and Exchange rules (where applicable); (iii) a new term of Exchange staff has been added to account for the relationship between the Exchange and FINRA, where the Exchange has a regulatory services agreement in place with FINRA and FINRA may act within the bounds of the agreed upon services; (iv) the definition of a disqualified Member differs; and (v) proposed Rule 204(a)(1) does not include reference to FINRA By-Laws.

The Exchange proposes to define “disqualified Member” as a Member that is or becomes subject to a disqualification under Section 3(a)(39) of the Exchange Act. This differs from the definition in FINRA Rule 9521(b)(2), which includes various other industry participants in addition to existing members in the definition. The Exchange limited its definition to Members, as the Exchange has jurisdiction over Members.¹⁵

Further, while the Exchange differs from FINRA in that it does not include reference to FINRA By-Laws or Exchange Rules under proposed Rule 204(a)(1), the Exchange believes this language better suits the intended purpose of this section. Specifically, proposed Exchange Rule 204 specifies procedures to be followed in the event of a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act. FINRA's equivalent Rule 9521 states that the Rule 9520 Series sets forth procedures for a person to become or remain associated with a member, notwithstanding the existence of a statutory disqualification as defined in

Article III, Section 4 of the FINRA By-Laws and for a current member or person associated with a member to obtain relief from the eligibility or qualification requirements of the FINRA By-Laws and FINRA rules. Such actions hereinafter are referred to as ‘eligibility proceedings.’ While the Exchange only references statutory disqualification events in its equivalent rule, for its purposes, it believes it is more fitting as different procedures would be followed in the event a Member, or Member applicant, is ineligible for other reasons.

Proposed Rule 204(b) is largely mirrored off of FINRA's Rule 9522; however, there were adjustments made to account for updating rule references, adjusting “member” to “Member”, and replacing the “National Adjudicatory Council” with the “Business Conduct Committee.” First, the proposed Rules 204(b)(1)¹⁶ and 204(b)(2) would govern the initiation of an eligibility proceeding by the Exchange and the obligation for a Member to file an application to initiate an eligibility proceeding if it or a Member's associated person¹⁷ has been subject to certain disqualifications.

Next, Rule 204(b)(3) sets out the process for a withdrawal of an application and Rule 204(b)(4) sets out prohibitions against ex parte communications when Exchange staff has initiated the eligibility proceedings. The Exchange notes that its rule text does differ from FINRA's; however, this is due to FINRA having a panel that reviews the matter prior to an appeal and thus, ex parte communication concerns arise before appeals. Under the Exchange's proposed rule, with Exchange staff making determinations, a firm will need to talk to the Exchange and FINRA while their application is pending. Thus, the Exchange proposes to note that the proposed ex parte communications provision shall become effective only when an appeal is initiated. Further, under the proposed Rule 204(b)(5), the Exchange could

¹³ See Financial Industry Regulatory Authority, Inc., SEC No-Action Letter, 2009 SEC No-Act. (March 17, 2009) (“FINRA No-Action Letter”).

¹⁴ For example, the FINRA No-Action Letter grants FINRA relief from notice requirements regarding a member's continued association with a disqualified person when the statutory disqualification is based on willful violations of the CEA. Because of the relief granted by the No Action Letter and pursuant to Regulatory Notice 09–19, FINRA would not require a member to file an application. However, the Exchange's current Rule 204 does not offer relief from application requirements for the firm to continue its association with an associated person, notwithstanding their disqualification. Relief is also not provided under the Exchange Act Rule 19h–1(a)(3)(iii), since the disqualifying event is a finding by the CFTC of a willful violation of the CEA and not a finding by the SEC or SRO of a willful violation of the Exchange Act, among others. As such, a notice pursuant to Rule 19h–1 for the Exchange is required, but is not required for FINRA.

¹⁵ The Exchange notes the definition excludes Member applicants (the Exchange understands FINRA's definition also does not apply to FINRA member applicants), because the Exchange would address a disqualification of a Member applicant as part of the Member application process, and the Exchange would not file a 19h–1 Notice with the Commission for a Member applicant. The proposed rule language, like FINRA's, indicates the provisions that are applicable to a Member applicant. If the Exchange approves the Member application of an applicant that is or becomes subject to a disqualification, the firm would then be a Member that could take advantage of the provisions of the proposed rule that apply to a disqualified Member. The Exchange understands this is consistent with FINRA's process with respect to member applicants that are or become subject to a disqualification.

¹⁶ The Exchange notes that for instances in which Exchange staff will not issue written notice to Members or applicants for membership with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act (when a Member or application for membership under Exchange Rules is not required to file an application pursuant to the SD Regulatory Circular), information regarding the disqualifying event and the resolution of any fines, sanctions, or undertakings related to the disqualification are recorded in WebCRD.

¹⁷ Under proposed Rule 204(b)(1)(iii), if a Member fails to file the application or, where appropriate, the written request for relief, within the 10-day period, the registration of the disqualified person shall be revoked and the sponsoring Member must promptly terminate association with the disqualified person.

approve a written request for relief from the eligibility requirements under certain circumstances. Specifically, Rule 204(b)(5)(i) describes certain circumstances of which a matter may be approved by the Exchange staff without the filing of an application. This provision is the same as the corresponding provisions of FINRA, Nasdaq, and IEX, with one exception. Specifically, under proposed Rule 204(b)(5)(i)(C), Exchange staff may approve a written request for relief without the filing of an application if a disqualified Member or sponsoring Member is a Member or seeking to become a Member is a member of both the Exchange and another SRO and the other SRO intends to file a Notice under Exchange Act Rule 19h-1 approving the membership continuance of the disqualified Member or, in the case of a sponsoring Member, the proposed association or continued association of the disqualified person and Exchange staff concurs with that determination. This proposed provision is the same as that of Nasdaq, FINRA, and IEX, except it applies to those seeking to become a Member in addition to Members, while the corresponding rules of Nasdaq, FINRA, and IEX apply solely to members of those SROs. However, other organizations have acknowledged this gap in their rules, noting it would be their practice to apply this provision to prospective members as well as members. Therefore, despite the differences in the rule text of these other organizations, the Exchange believes the outcome under its proposed rule would be the same as both IEX and Nasdaq from a practical perspective.¹⁸

Proposed Rule 204(b)(5)(ii) covers matters that may be approved by¹⁹ the Exchange staff after the filing of an application. Notably, under proposed Rule 204(b)(5)(ii) the Exchange staff may approve an application with respect to disqualifications arising solely from findings or orders specified in Section

15(b)(4)(D), (E), or (H) of the Act or arising under Section 3(a)(39)(E) of the Act. Proposed Rule 204(b)(6) specifies the process for implementing an interim plan of heightened supervision during the application process for a disqualified person.

Proposed Rules 204(b)(7) and 204(b)(8) cover the process for determining that an application is substantially incomplete and the consequences for not remedying an application in a timely manner.²⁰ In the event an applicant fails to remedy an application under Rule 204(b)(8), Exchange staff will serve a written notice on the sponsoring Member of its determination to reject the application and the sponsoring Member must promptly terminate association with the disqualified person. Under FINRA's Rule 9522, there is reference to FINRA's application fee and that FINRA shall refund the application fee, less \$1,000 which shall be retained by FINRA as a processing fee. The Exchange notes, however, that the Exchange has its own application fee program reflected in its fee schedule that is distinct from FINRA's. As a result, the Exchange proposes to not include this in its proposed rule.

As further explained, proposed Rule 204(c) largely mirrors FINRA Rule 9523, with technical changes to account for different defined terms and functions across the SROs. This proposed rule would allow the Exchange staff (handled by FINRA) to recommend a supervisory plan to which the disqualified Member, sponsoring Member, and/or disqualified person, as the case may be, may consent and by doing so, waive the right to appeal if the plan is accepted and right to claim bias or prejudgment, or prohibited ex parte communications. If such a supervisory plan were rejected, proposed Rule 204(d) would allow a request for review by the applicant to the Business Conduct Committee and would provide that a filing of an application for review would not stay the effectiveness of final action by the Exchange unless the Commission otherwise ordered.

Proposed Rule 204(c) is covered under two parts: (i) to cover all disqualification except those arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act and (ii) to cover disqualifications that arise solely from

findings or orders specified in Section 15(b)(4)(D), (E) or (H). The Exchange notes that the latter (proposed Rule 204(c)(2)) is intended to cover events where an application is required under the SD Regulatory Circular, as under the proposed rule, events arising from findings or order specified in Section 15(b)(4)(D), (E) or (H) of the Exchange Act do not typically require an application unless otherwise specified in the SD Regulatory Circular.

The text of the proposed rule change is similar to that in FINRA's counterpart rules, except for conforming and technical changes and except as follows. First, under proposed Rule 204(c), if the disqualified Member, sponsoring Member, and/or disqualified person executed a letter consenting to a supervisory plan, it would be submitted to the Exchange staff. Under FINRA's rule, the letter is submitted to FINRA Office of General Counsel, which submits it to the Chairman of the Statutory Disqualification Committee, acting on behalf of the NAC; the Chairman may accept or reject the plan or refer it to the NAC for action. The Exchange does not propose to utilize the NAC or the Statutory Disqualification Committee Chairman for this purpose. The Exchange believes that its staff can provide an appropriate review. The staff is performing this same function today when it reviews statutory disqualification decisions reached by FINRA subject to an RSA Agreement between the Exchange and FINRA. In addition, under FINRA's rule, the waiver of bias or prejudgment is with respect to the Department of Member Regulation, the FINRA General Counsel, the NAC and any member thereof, while under proposed Rule 204(c), the waiver would be with respect to the Exchange staff, the Exchange, the Business Conduct Committee, or any member of the Business Conduct Committee.

Next, under proposed Rule 204(d), if the Exchange staff rejects the plan, the Member or applicant may request a review by the Business Conduct Committee.²¹ This differs from FINRA's process, which provides for a hearing before the NAC and further consideration by the FINRA Board of Directors. Because the Exchange does not propose to utilize the NAC, the Exchange proposes instead that any appeal be heard by the Business Conduct Committee. FINRA Rule 9525 also allows for discretionary review by the FINRA Board and the Exchange does not propose to adopt a comparable rule.

¹⁸ See, e.g., Securities Exchange Act Release No. 101799 (November 29, 2024), 89 FR 96698 (December 5, 2024) (SR-IEX-2024-26), where IEX states "In the course of reviewing this membership application, IEX identified that its rules do not specifically address this situation, which has not previously occurred with respect to IEX. Specifically, the Exchange believes that its rules regarding the process by which a prospective Member that is subject to a statutory disqualification can be approved for membership on IEX notwithstanding the statutory disqualification could be enhanced to provide additional clarity and more clearly align with the processes set forth in Rule 19h-1 for a membership applicant that is subject to a statutory disqualification."

¹⁹ The Exchange notes that approval of such an application allows for a Member's continued participation on the Exchange.

²⁰ Proposed Rule 204(b)(7) applies to applications that are deemed substantially incomplete if they do not include information related to an interim plan of heightened supervision. Plans of heightened supervisions are issued solely for associated persons (and not Members), and thus this provision applies solely to associated persons.

²¹ The Exchange's proposed Rule 204(d) closely aligns with NYSE Rule 9524 and Cboe Rule 3.13(d) except for conforming and technical changes.

The Exchange believes that the Exchange staff's role in the process will provide sufficient oversight and independence.

The Exchange does not propose to adopt the text of FINRA Rule 9526, which provides for expedited proceedings by the FINRA Board of Governors in certain instances. The Exchange believes that its proposed rules for review can be carried out in a timely manner and would sufficiently protect investors. The Exchange historically has not provided an expedited statutory disqualification review.

Lastly, the Exchange also notes that it will adopt a definition of "associated person" in Exchange Rule 100, specifically as it pertains to statutory disqualifications. This rule will be similar to the definitions of associated persons implemented by other exchanges to specifically apply to the process of statutory disqualifications.²² Currently, the Exchange's definition for associated person is any partner, officer, director, or branch manager of a Member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a Member, or any employee of a Member, except that any person associated with a Member whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of these Rules. As the proposed rule requires Members to submit an application for continuance as a Member if any person associated with the Member becomes subject to a statutory disqualification, the Exchange's current rules require Members to file applications for affiliates under common control that would be subject to a statutory disqualification under securities law. In contrast, FINRA does not define "Person Associated with a member" or "Associated Person of a Member" as including affiliates under common control of the FINRA member.²³ Thus,

a firm that is both an Exchange Member and FINRA member, which has an affiliate under common control that would be subject to a statutory disqualification under securities laws, is required to file an application with the Exchange, but not with FINRA.

The Exchange proposes to adopt a similar definition to Nasdaq, Cboe, and IEX²⁴ except that it shall (i) remove the reference to investment banking as that is not applicable for the Exchange's functions and (ii) remove subpoint (3) which specifies that for the purposes of another exchange rule of Nasdaq and IEX²⁵ (that is not the exchange's statutory disqualification rule), that it shall also include any other person listed in Schedule A of Form BD of a member. As the Exchange does not have this rule, the Exchange proposes not to include this subpoint (3) in its adopted definition of associated persons for the purpose of statutory disqualifications.

As noted above, other exchanges, such as Nasdaq, IEX, NYSE, and Cboe, have already adopted similar changes to more materially align its rules with FINRA's, and similar to the Exchange, have made some edits to align its proposed rules with existing exchange processes.²⁶

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers,

because the rule applies uniformly to all Members and does not unfairly discriminate against any Member or type of market participant. The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,³⁰ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Members and persons associated with its Members with the Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the proposed rule change will better enable the Exchange to streamline the administration of its statutory disqualification program and better protect investors and the public interest, as it will eliminate the need for Members or associated persons of Members to submit Statutory Disqualification Applications for prior statutory qualifications that have been resolved. Similar to Nasdaq, IEX, Cboe, and NYSE, the Exchange proposes to harmonize its description of statutory disqualification to align its application of statutory disqualification to FINRA.³¹ This proposal would avoid potentially different outcomes for members of both FINRA and the Exchange with respect to ineligibility for membership and association.

The proposed changes will provide greater harmonization between Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for dual members. As previously noted, in many instances the proposed rule text is substantially similar to FINRA's current rule text, which already has been approved by the Commission, and in many other cases the differences between current FINRA rules and the proposed rules would be strictly technical in nature. Further, in other instances, such as the Exchange's proposed Rule 204(d), the Exchange's rule closely follows Cboe's Rule 3.13. The proposal is similar to a proposal that Cboe filed with the Commission for immediate effectiveness, and therefore, does not raise any new or novel issues, not already considered by the Commission.³²

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

²² See IEX Rule 1.160(y)(2) and Nasdaq General 3, Rule 1002(b)(2).

²³ FINRA Regulation, Inc. By-laws, Article I, paragraph (ee) defines the terms "person associated with a member" or "associated person of a member" in relevant part as: "(2) a sole proprietor, partner, officer, director, or branch manager of a member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with the Corporation under these By-Laws or the Rules of the Corporation; and (3) for purposes of Rule 8210, any other person listed in Schedule A of Form BD."

²⁴ See Nasdaq General 3, Rule 1002(b), Cboe 1.1, and IEX Rule 1.160(y).

²⁵ See IEX Rule 8.210 and Nasdaq General 5, Rule 8210.

²⁶ See, e.g., Securities Exchange Act Release Nos. 61703 (March 12, 2010), 75 FR 13620 (March 22, 2010) (SR-NASDAQ-2010-023), 68678 (January 16, 2013), 78 FR 5213 (January 24, 2013) (SR-NYSE-2013-02), and *supra* note 3.

²⁷ 15 U.S.C. 78f(b).

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ *Id.*

³⁰ 15 U.S.C. 78f(b)(1).

³¹ See *supra* note 12.

³² See *supra* note 3.

of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to provide greater harmonization between Exchange and FINRA rules of similar purpose for investigations and disciplinary matters, resulting in less burdensome and more efficient regulatory compliance for dual members and facilitating FINRA's performance of its regulatory functions under the RSA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act³³ and subparagraph (f)(6) of Rule 19b-4 thereunder.³⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)³⁵ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>), or

- Send an email to rule-comments@sec.gov. Please include file number SR-MIAX-2026-27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-MIAX-2026-27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MIAX-2026-27 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-14405 Filed 7-16-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105907; File No. SR-NYSEARCA-2026-72]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

July 14, 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 July 1, 2026, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges ("Fee Schedule") regarding the gross FOCUS fee charged to ETP Holders ("Gross FOCUS Fee"), effective July 1, 2026. The proposed rule change is available on the Exchange's website at www.nyse.com and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to (1) provide for a temporary waiver of the Gross FOCUS fee from July 1, 2026 through December 31, 2026 (the "Waiver Period").

The Exchange proposes to implement the fee changes effective July 1, 2026.

Background

Generally, the Exchange may only use regulatory fees "to fund the legal, regulatory and surveillance operations" of the Exchange.⁴ Consistent with the foregoing, the Exchange currently charges each ETP Holder a monthly regulatory fee of \$0.069 per \$1,000 of gross revenue reported on its FOCUS Report ("Gross FOCUS Fee").⁵

The revenue collected pursuant to the Gross FOCUS Fee funds the performance of the Exchange's regulatory activities with respect to ETP

⁴ See NYSE Arca, Inc. Bylaws, Art. II, Sec. 2.03 (Dividends; Regulatory Fees and Penalties).

⁵ FOCUS is an acronym for Financial and Operational Combined Uniform Single Report. FOCUS Reports are filed periodically with the Securities and Exchange Commission (the "Commission" or "SEC") as SEC Form X-17A-5 pursuant to Rule 17a-5 under the Act.

³³ 15 U.S.C. 78s(b)(3)(A).

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ 15 U.S.C. 78s(B)(2)(B).

³⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

Holders, including surveillance operations expenses. More specifically, the revenue generated by the Gross FOCUS Fee funds a material portion, but not all, of the Exchange's expenses related to its regulatory program, including legal expenses associated with regulation, the costs related to in-house staff, third-party service providers, and technology that facilitates regulatory functions such as surveillance, investigation, examinations, and enforcement. Gross FOCUS Fee funds may also be used for indirect expenses such as human resources and other administrative costs (collectively, "Regulatory Costs").

The Exchange monitors the amount of revenue collected from the Gross FOCUS Fee to ensure that these funds, in combination with its other regulatory fees and fines, do not exceed Regulatory Costs. The Exchange monitors Regulatory Costs and revenues on an annual basis, at a minimum. If the Exchange determines that regulatory revenues exceed or are projected to exceed Regulatory Costs, the Exchange will adjust the Gross FOCUS Fee downward or seek a partial waiver of the fee by submitting a filing to the Commission. As described below, the Exchange has determined that continued collection of Gross FOCUS Fees at the current rate for the proposed Waiver Period would exceed a material portion of the Exchange's anticipated Regulatory Costs, justifying the proposed waiver of the Gross FOCUS Fee for ETP Holders through the end of 2026.

Proposed Rule Change

Based on the Exchange's recent review of current and anticipated Regulatory Costs and Gross FOCUS Fee revenue, the Exchange proposes to waive the Gross FOCUS Fee from July 1, 2026, through December 31, 2026, in order to help ensure that the amounts collected from the Gross FOCUS Fee, in combination with other regulatory fees and fines, do not exceed the Exchange's total projected Regulatory Costs. The Exchange proposes to waive the Gross FOCUS Fee because it believes that if the fee is not adjusted, Gross FOCUS Fee revenue to the Exchange year-over-year could exceed a material portion of the Exchange's Regulatory Costs. The Exchange's position is based on its periodic analysis of actual and anticipated costs to fund its regulatory program and revenue to offset those costs, including the Gross FOCUS Fee, and takes into consideration both that the last Gross FOCUS Fee adjustment was more than three years ago, and the projected regulatory spending landscape

going forward. Moreover, the Exchange believes that a waiver rather than adjusting the fee would most efficiently accomplish the goal of reasonably ensuring that Gross FOCUS Fee collection does not exceed anticipated Regulatory Costs and allow for further consideration of the appropriate Gross FOCUS Fee rate going forward.

The Exchange would announce the proposed waiver of the Gross FOCUS Fee by Trader Update.

The proposed change is not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)⁶ of the Act, in general, and Section 6(b)(4) and (5)⁷ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Proposal Is Reasonable

The Exchange believes the proposed fee change is reasonable because it would help ensure that revenue collected from the Gross FOCUS Fee does not exceed a material portion of the Exchange's projected Regulatory Costs. The Exchange has targeted the Gross FOCUS Fee to generate revenues that would be less than or equal to the Exchange's regulatory costs, which is consistent with both Rule 129 [sic] and the Commission's view that regulatory fees be used for regulatory purposes. As noted above, the principle that the Exchange may only use regulatory fees "to fund the legal, regulatory, and surveillance operations" of the Exchange is reflected in the Exchange's operating agreement.⁸ In this regard, the Gross FOCUS Fee has been calculated to recover a material portion, but not all, of the Exchange's Regulatory Costs. As also noted above, based on the Exchange's recent review of current and projected regulatory costs and Gross FOCUS Fee collections, a waiver of the Gross FOCUS Fee, which was last adjusted more than three years ago, would be the most efficient way to lessen the potential for generating excess funds that may otherwise occur using the current rate and allow for

further consideration of the appropriate Gross FOCUS Fee rate going forward. The Exchange thus believes that the proposed waiver would be a fair and reasonable method for ensuring that the amounts collected from the Gross FOCUS Fee, in combination with other regulatory fees and fines, do not potentially exceed Regulatory Costs. The Exchange further believes that resuming the current rate as of January 1, 2027, would be reasonable because it would permit the Exchange to resume assessing the Gross Focus Fee in a way that is designed to recover a material portion, but not all, of the Exchange's projected Regulatory Costs. The Exchange would continue monitoring Regulatory Costs in advance of the fee resumption next year and, if the Exchange determines that the rate should be further modified to help ensure that Gross FOCUS Fee collections would not exceed a material portion of Regulatory Costs, would make an appropriate rule filing with the Commission.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes its proposal is an equitable allocation of fees among its market participants. The Exchange further believes that the proposed Gross FOCUS Fee waiver would benefit all ETP Holders because all ETP Holders would be eligible for the waiver, and would benefit from the waiver, on full and equal terms. For the same reasons, the proposed waiver neither targets nor will it have a disparate impact on any particular category of market participant. All ETP Holders would qualify for the waiver of the Gross FOCUS Fee on an equal and non-discriminatory basis. The Exchange also believes that recommencing the Gross FOCUS Fee effective January 1, 2027, at the current rate, unless the Exchange determines it would be necessary to further adjust the fee, is equitable because the Gross FOCUS Fee would resume applying to all ETP Holders on an equal basis.

The Proposed Fee Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. The proposed waiver of the Gross FOCUS Fee would benefit all similarly-situated market participants on an equal and non-discriminatory basis. Moreover, the proposal neither targets nor will it have a disparate impact on any particular category of market participant. The proposed fee change is designed to pause collection of a fee that applies to ETP Holders on an equal and

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4) and (5).

⁸ See note 4, *supra*.

non-discriminatory basis, waiver of which would apply to and benefit all ETP Holders equally. The Exchange also believes that recommencing the Gross FOCUS Fee on January 1, 2027, at the current rate, unless the Exchange determines it would be necessary to further adjust the rate to ensure that collections do not exceed a material portion of its Regulatory Costs, is not unfairly discriminatory because the resumed fee would apply equally to all ETP Holders.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The 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.

Intramarket Competition. The Exchange believes the proposed fee change would not impose an undue burden on competition as the fee waiver would apply to all ETP Holders on an equal and non-discriminatory basis. The Exchange believes that the proposed waiver would also not place certain market participants at an unfair disadvantage because all ETP Holders would be eligible for the same waiver. For the same reasons, the proposed fee waiver neither targets nor will it have a disparate impact on any particular category of market participant. All similarly-situated ETP Holders would be eligible for the proposed waiver. The Exchange also believes recommencing the Gross FOCUS Fee on January 1, 2027, at the same current rate (unless the Exchange determines it necessary at that time to adjust the fee to ensure that collections do not exceed a material portion of its Regulatory Costs) would not impose an undue burden on competition because the proposed rate would apply equally to all ETP Holders subject to the Gross FOCUS Fee and would permit the Exchange to resume assessing a fee that is designed to recover a material portion, but not all, of the Exchange's projected Regulatory Costs.

Intermarket Competition. The proposed fee change is not designed to address any competitive issues. Rather, the proposed change is designed to help the Exchange adequately fund its regulatory activities while seeking to ensure that total collections from

regulatory fees do not exceed total Regulatory Costs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,⁹ and Rule 19b-4(f)(2) thereunder¹⁰ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEARCA-2026-72 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-NYSEARCA-2026-72. 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-NYSEARCA-2026-72 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-14403 Filed 7-16-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105912; File No. SR-PHLX-2026-43]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the PHLX Pricing Schedule at Options 7, Section 4, Multiply Listed Options Fees

July 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 1, 2026, Nasdaq PHLX LLC ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the PHLX Pricing Schedule at Options 7, Section 4, Multiply Listed Options Fees. Specifically, the Exchange proposes to amend the Monthly Market Maker Cap.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, and at the principal office of the Exchange.

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

PHLX proposes to amend its Pricing Schedule at Options 7, Section 4 (Multiply Listed Options Fees).

Currently, Lead Market Makers³ and Market Makers⁴ are subject to a Monthly Market Maker Cap of \$650,000 for electronic Option Transaction Charges (excluding: (i) surcharges; (ii) options overlying broad-based index options symbols listed (as defined in Options 7, Section 5.A), (iii) dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions (as defined in Options 7, Section 4); (iv) Crossing Order Fees (as defined in Options 7,

Section 6, F); and (v) FLEX Electronic Transaction Fees (as defined in Options 7, Section 6, B)); and QCC Transaction Fees (as defined in Options 7, Section 4 including Options 3, Section 12 and Floor QCC Orders, as defined in Options 8, Section 30(e)).

The Exchange proposes to modify the Monthly Market Maker Cap so that electronic Option Transaction Charges in connection with PIXL Initiating Orders,⁵ SOM contra orders,⁶ and Facilitation contra orders⁷ would also be excluded from the cap.

The Exchange believes that its proposal will ensure that the Monthly Market Maker Cap remains appropriately focused on incentivizing continuous electronic order book quoting, which is the core liquidity provision function of Lead Market Makers and Market Makers. PIXL Initiating Orders, SOM contra orders, and Facilitation contra orders represent distinct, voluntary bilateral transactions in which a member elects to serve as the contra party to a customer agency order in an auction mechanism. Because participation in these auctions as a contra party is elective rather than a function of a Market Maker's continuous quoting obligations, the Exchange believes it is appropriate to assess the applicable transaction charges for these orders outside the cap. This treatment is consistent with the existing exclusion of Crossing Order Fees and FLEX Electronic Transaction Fees from the Monthly Market Maker Cap. The Monthly Market Maker Cap will continue to apply to electronic Option Transaction Charges for regular order book transactions, preserving the incentive for Lead Market Makers and

Market Makers to provide deep, competitive liquidity on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹⁰

Likewise, in *NetCoalition v. Securities and Exchange Commission*¹¹ ("NetCoalition") the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.¹² As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost."¹³

Further, "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker

³ The term "Lead Market Maker" applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. See Options 7, Section 1(c).

⁴ The term "Market Maker" is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. The term "Streaming Quote Trader" or "SQT" is defined in Options 1, Section 1(b)(55) as a Market Maker who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. The term "Remote Streaming Quote Trader" or "RSQT" is defined in Options 1, Section 1(b)(49) as a Market Maker that is a member affiliated with an RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A Remote Streaming Quote Trader Organization or "RSQTO," which may also be referred to as a Remote Market Making Organization ("RMO"), is a member organization in good standing that satisfies the RSQTO readiness requirements in Options 2, Section 1(a). See Options 7, Section 1(c).

⁵ A PIXL Order is as described in Options 3, Section 13(a). See Options 3, Section 7(y). A member may electronically submit for execution an order it represents as agent on behalf of a Public Customer, broker-dealer, or any other entity ("PIXL Order") against principal interest or against any other order it represents as agent (an "Initiating Order") provided it submits the PIXL Order for electronic execution into the PIXL Auction. See Options 3, Section 13.

⁶ A SOM order is a paired order entered into the Solicited Order Mechanism as described in Options 3, Section 11(d). See Options 3, Section 7(x). The Solicited Order Mechanism is a process by which a member can attempt to execute orders of 500 or more contracts it represents as agent (the "Agency Order") against contra orders that it solicited. See Options 3, Section 11(d).

⁷ A facilitation order is a paired order entered into the Facilitation Mechanism as described in Options 3, Section 11(b). See Options 3, Section 7(w). The Facilitation Mechanism is a process by which a member can execute a transaction wherein the member seeks to facilitate a block-size order it represents as agent, and/or a transaction wherein the member solicited interest to execute against a block-size order it represents as agent. See Options 3, Section 11(b).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4) and (5).

¹⁰ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

¹¹ *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

¹² See *NetCoalition*, at 534–535.

¹³ *Id.* at 537.

dealers'. . . .'¹⁴ Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The proposed amended fees and rebates are equitable and not unfairly discriminatory because the Exchange would uniformly apply the new fees and rebates to any member or member organization who meets the criteria for the new fees and rebates.

The Exchange's proposed changes to the Monthly Market Maker Cap are equitable and not unfairly discriminatory because the Exchange would exclude PIXL Initiating Orders, SOM contra orders, and Facilitation contra orders from the Monthly Market Maker Cap in a uniform manner for all PHLX members and member organizations. Participation in PIXL, SOM, and Facilitation auctions as contra parties is voluntary, and Lead Market Makers and Market Makers who elect to participate in these auction mechanisms do so because of the economic opportunities presented by the individual transactions. The proposed change does not alter the fees assessed for these transactions; it only changes whether those fees count toward the cap. Lead Market Makers and Market Makers will continue to benefit from the Monthly Market Maker Cap on their regular electronic Option Transaction Charges, which continues to incentivize continuous liquidity provision on the Exchange's order book. The proposed treatment is consistent with how other auction mechanism fees, specifically Crossing Order Fees and FLEX Electronic Transaction Fees, are currently treated under the Monthly Market Maker Cap.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes its proposal remains competitive with other options markets and will offer market participants another choice of where to transact options. The Exchange notes that it

operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The Exchange's proposed amendments to the Monthly Market Maker Cap would not impose an undue burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, because the Exchange would uniformly apply the revised cap to all qualifying PHLX members and member organizations. Additionally, the proposed exclusions would not impose an undue burden on intra-market competition because participation in PIXL, SOM, and Facilitation auctions as contra parties is voluntary. Lead Market Makers and Market Makers who choose to participate in these auction mechanisms do so because of the economic opportunities presented by the individual transactions, and not because of any obligation associated with their market-making responsibilities. The Monthly Market Maker Cap will continue to apply to regular electronic Option Transaction Charges, preserving the existing incentive structure for continuous order book liquidity provision. The proposed treatment of these auction contra-side transactions is also consistent with how Crossing Order Fees and FLEX Electronic Transaction Fees are currently treated under the Monthly Market Maker Cap.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹⁵

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-PHLX-2026-43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-PHLX-2026-43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PHLX-2026-43 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-14408 Filed 7-16-26; 8:45 am]

BILLING CODE 8011-01-P

¹⁴ *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782-83 (Dec. 9, 2008) (SR-NYSEArca-2006-21)).

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105919; File No. SR–NYSEAMER–2026–60]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 904 and Rule 905 To Increase Position and Exercise Limits for Options on iShares Bitcoin Trust ETF

July 15, 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 July 6, 2026, NYSE American LLC (“NYSE American” 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 904 and Rule 905 to increase the position limit and exercise limit⁴ for options on iShares Bitcoin Trust ETF (“IBIT”). The proposed rule change is available on the Exchange’s website at www.nyse.com and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 904 and Rule 905 to increase the position limit, and by extension, the exercise limits for options on IBIT to 1,000,000 contracts. This filing is based on substantially identical proposals by Nasdaq ISE, LLC (“ISE”), which was approved, and Nasdaq PHLX Exchange (“PHLX”) and BOX Exchange LLC, which have been noticed for immediate effectiveness.⁵

Background and Proposed Rule Change

IBIT is an Exchange-Traded Fund (“ETF”) that holds Bitcoin and is listed on The Nasdaq Stock Market LLC (“Nasdaq”).⁶ On November 25, 2024, the Exchange became authorized to trade and list options on IBIT.⁷ Options on IBIT are listed on the Exchange pursuant to Rule 915.

The position limit for IBIT options is set by Rule 904, Commentary .07 and then reflected in the exercise limits of Rule 905. Pursuant to Rule 904, Commentary .07, the largest in capitalization and the most frequently traded stocks and ETFs have an option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization stocks and ETFs have position limits of 200,000, 75,000, 50,000 or 25,000 contracts (with

adjustments for splits, recapitalizations, etc.) on the same side of the market. IBIT currently qualifies for a 250,000-contract position limit.

The Exchange proposes to increase the position limit and exercise limit for options on IBIT to 1,000,000 contracts by adding the proposed position limit in Rule 904, which then reflects the exercise limits in Rule 905. The Exchange’s proposal is substantially similar, in all material respects, to recent proposals by ISE, PHLX and BOX to increase the position and exercise limits for options on IBIT to 1,000,000 contracts on the same side of the market.⁸ In addition, the proposed position and exercise limits for options on IBIT are consistent with existing position and exercise limits for options on iShares Russell 2000 ETF, iShares MSCI Emerging Markets, iShares China Large-Cap ETF and iShares MSCI EAFE ETF.⁹

Composition and Growth Analysis for Underlying ETFs

Position limits, and exercise limits, are designed to limit the number of options contracts traded on the Exchange in an underlying security that an investor, acting alone or in concert with others directly or indirectly, may control. These limits are intended to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. Position and exercise limits must balance concerns regarding mitigating potential manipulation and the cost of inhibiting potential hedging activity that could be used for legitimate economic purposes. The Commission has recognized that these limits are designed to prevent the establishment of options positions that can be used to manipulate or disrupt the underlying market, as well as serve to reduce the possibility for disruption of the options market itself, especially in illiquid classes.¹⁰

Per the Commission, “[o]ptions position and exercise limits are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to

⁵ See Securities Exchange Act Release No. 105317 (April 27, 2026), 91 FR 23333 (April 30, 2026) (SR–ISE–2025–26) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 5, to Amend the Position and Exercise Limits for IBIT Options) (“ISE Approval Order”); Securities Exchange Act Release No. 105501 (May 18, 2026), 91 FR 30008, (May 21, 2026) (SR–Phlx–2026–29) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Increase the Position and Exercise Limits for Options on iShares Bitcoin Trust ETF) (“PHLX Notice”); and Securities Exchange Act Release No. 105520 (May 19, 2026), 91 FR 30340 (May 22, 2026) (SR–BOX–2026–13) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Increase the Position and Exercise Limits for Options on iShares Bitcoin Trust ETF) (“BOX Notice”).

⁶ Nasdaq received approval to list and trade IBIT pursuant to Rule 5711(d) of Nasdaq. See Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (SR–NASDAQ–2023–016) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units). IBIT started trading on January 11, 2024.

⁷ See Securities Exchange Act Release No. 101737 (November 25, 2024), 89 FR 95257 (December 2, 2025) (SR–NYSEAMER–2024–73) (Notice of Filing and Immediate Effectiveness of Proposed Change To List and Trade Option Contracts on the iShares Bitcoin Trust, the Fidelity Wise Origin Bitcoin Fund, and the ARK21Shares Bitcoin ETF).

⁸ ISE Approval Order, PHLX Notice and BOX Notice, *supra* Note 5.

⁹ See Rule 904, Commentary .07(f).

¹⁰ See Securities Exchange Act Release No. 67672 (August 15, 2012), 77 FR 50750 (August 22, 2012) (SR–NYSEAmex–2012–29) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Amending Commentary .07 to NYSE Amex Options Rule 904 To Eliminate Position Limits for Options on the SPDR® S&P 500® Exchange-Traded Fund).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

⁴ Rule 905 (Exercise Limits) references the position limits of Rule 904, therefore, the exercise limits contained in Rule 905 are not being separately amended.

benefit the options positions.”¹¹ For this reason, the Commission requires that “position and exercise limits must be sufficient to prevent investors from disrupting the market for the underlying security by acquiring and exercising a number of options contracts disproportionate to the deliverable supply and average trading volume of the underlying security.”¹²

The Exchange has observed an ongoing increase in demand in options on IBIT in 2025.¹³ The Exchange believes the current position limit and exercise limit of 250,000 contracts (the highest position limit available pursuant to Rule 904 and exercise limit pursuant to Rule 905) will impede trading activity and strategies of investors, such as use of effective hedging vehicles or income generating strategies (e.g., buy-write or put-write), and the ability of Market Makers to make liquid markets with tighter spreads in IBIT options.

The Exchange believes that increasing the position limit and exercise limit for options on IBIT to 1,000,000 contracts would enable liquidity providers to provide additional liquidity to the Exchange, as well as other options exchanges on which they participate. As described in further detail below, the Exchange believes that the continuously increasing market capitalization of IBIT options, as well as the highly liquid markets for those securities, reduces the concerns for potential market manipulation and/or disruption in the underlying markets upon increasing position limits, while the rising demand for trading options on IBIT for legitimate economic purposes compels an increase in position limits (and corresponding exercise limits).

IBIT currently qualifies for a 250,000 contract position limit pursuant to the criteria in Rule 904, Commentary .07, which requires that, for the most recent six-month period, trading volume for the underlying security be at least 100 million shares.¹⁴ In their proposals to

increase the position limit for IBIT to 1,000,000, ISE PHLX and BOX noted that, as of February 11, 2026, the market capitalization for IBIT was

52,661,063,818¹⁵ with an average daily volume (“ADV”), for the preceding six months prior to February 11, 2026, of 61,803,035 shares. By comparison, on the same day, the iShares MSCI Emerging Markets (“EEM”) had an ADV of 29,459,889 shares and an AUM of 27,761,941,292 the iShares China Large-Cap ETF (“FXI”) had an ADV of 31,656,532 and an AUM of 6,594,337,253; and the iShares MSCI EAFE ETF (“EFA”) had an ADV of 17,215,037 shares and an AUM of 76,788,457,200.¹⁶

ISE performed additional analysis with respect to IBIT. First, ISE considered IBIT’s market capitalization and ADV and prospective position limit in relation to other securities. In measuring IBIT against other securities, ISE aggregated market capitalization and volume data for securities that have defined position limits utilizing data from The Options Clearing Corporations (“OCC”).¹⁷ This pool of data took into consideration 3,797 options on single stock securities, excluding broad based ETFs.¹⁸ Next, ISE aggregated the data based on market capitalization and ADV and grouped by option symbol and position limit utilizing statistical thresholds for ADV, based on 180 days, and market capitalization that were one standard deviation¹⁹ above the mean for each position limit category (i.e., 25,000, 50,000 to 52,000, 75,000, 200,000, 250,000 to 375,000, 450,000 to 650,000, 750,000 to 1,250,000 and, and greater than or equal to 2,000,000).²⁰ This exercise was performed to demonstrate

IBIT’s position limit relative to other options symbols in terms of market capitalization and ADV. For reference, the market capitalization for IBIT was \$52,661,063,818 with an ADV, for the preceding 180 days prior to February 11, 2026, of 61,803,035 shares.

As set forth in the ISE Approval Order, as of February 11, 2026, if IBIT were compared to the 10 stocks that have position limits of 750,000 contracts to 1.25 million contracts it would rank in the 45th percentile for market capitalization and the 89th percentile for ADV. ISE also analyzed the position limits for IBIT by regressing the median elements from each bucket of market capitalization and 180-day ADV of all non-ETF equities, against their respective position limit figures. From this regression, ISE was able to determine the implied coefficients to create a formulaic method for determining an appropriate position limit.²¹

ISE utilized a linear model approach which incorporated the median metric from each bucket given the data at both the lower end of each position limit bucket and the higher end of each position limit bucket could be considered significant outliers, thereby skewing the results.

ISE utilized IBIT’s market capitalization of \$52,661,063,818 to arrive at a modeled position limit of 1,707,654. Additionally, ISE utilized IBIT’s ADV of 61,803,035 to arrive at a modeled position limit of 5,672,081. Based on the aforementioned analysis, the Exchange believes that the proposed 1,000,000 contracts position and exercise limit is appropriate.

Second, as set for in the ISE Approval Order, ISE reviewed IBIT’s data relative to the market capitalization of the entire Bitcoin market in terms of exercise risk and availability of deliverables.

According to ISE, as of February 11, 2026, there were approximately 20.5 million Bitcoins in circulation. At a price of \$66,938,²² that equated to a market capitalization of greater than \$1.374 trillion. If a position limit of 1,000,000 contracts were considered, the exercisable risk would represent 7.474%²³ of the outstanding shares of IBIT. Since IBIT has a creation and redemption process managed through the issuer, the position limit can be compared to the total market capitalization of the entire Bitcoin

¹⁵ The market capitalization was determined by multiplying a Net Asset Value of \$38.29 by the number of shares outstanding 1,337,920,000 This figure was acquired as of February 11, 2026. See <https://www.ishares.com/us/products/333011/ishares-bitcoin-trust-etf>

¹⁶ ISE Approval Order, PHLX Notice and BOX Notice, *supra* note 5.

¹⁷ ISE Approval Order, *supra* note 5. The computations are based on OCC data from February 11, 2026.

¹⁸ IBIT has one asset and therefore is not comparable to a broad-based ETF where there are typically multiple components.

¹⁹ The standard deviation added limited utility to the analysis given the heavily skewed distribution of market capitalizations in the single stock securities.

²⁰ These buckets are based on OCC’s current positions limits. See <https://www.theocc.com/market-data/market-data-reports/series-and-trading-data/position-limits>. Rule 904 sets out position limits for various contracts. For example, a 25,000-contract limit applies to those options having an underlying security that does not meet the requirements for a higher options contract limit. The Exchange notes that position limits may also be higher due to corporate actions in the underlying equities, such as a stock split.

²¹ ISE utilized Excel’s Data Analysis Package to model the position limit.

²² This was the approximate price of Bitcoin on February 11, 2026.

²³ This percentage is arrived at with this equation: (1,000,000 contract limit * 100 share per option / 1,337,920,000 shares outstanding).

¹¹ ISE Approval Order at 23334, *supra* note 5.

¹² *Id.*

¹³ In 2025, the Exchange filed a rule proposal to eliminate the 25,000-contract position and exercise limits for IBIT options and apply the position and exercise limits in Rules 904 and 905. See Securities Exchange Act Release No. 103746 (August 20, 2025), 90 FR 41431 (August 25, 2025) (SR–NYSEAMER–2025–50) (Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Rule 904).

¹⁴ Rule 904, Commentary .07(a) provides that, to be eligible for the 250,000 option contract limit, either the most recent six (6) month trading volume of the underlying security must have totaled at least 100 million shares or the most recent six-month trading volume of the underlying security must have totaled at least seventy-five (75) million shares and the underlying security must have at least 300 million shares currently outstanding.

market and in that case, the exercisable risk for options on IBIT would represent 0.278% of all Bitcoin outstanding.²⁴ Assuming a scenario where all options on IBIT shares were exercised given the proposed 1,000,000-contract position limit (and exercise limit), this would have a virtually unnoticed impact on the entire Bitcoin market. This analysis demonstrates that the proposed 1,000,000 per same side position and exercise limit is appropriate for options on IBIT given its liquidity.

Third, as set forth in the ISE Approval Order, ISE reviewed the proposed position limit by comparing it to position limits for derivative products regulated by the Commodity Futures Trading Commission ("CFTC"). While the CFTC, through the relevant Designated Contract Markets, only regulates options positions based upon delta equivalents (creating a less stringent standard), ISE examined equivalent bitcoin futures position limits. Specifically, ISE looked at the CME bitcoin futures contract²⁵ that has a position limit of 2,000 futures.²⁶

On February 11, 2026, CME bitcoin futures settled at \$677,150,406.33.²⁷ On February 11, 2026, IBIT settled at \$38.29, which would equate to greater than 17,684,774 shares of IBIT if the CME notional position limit was utilized. Since substantial portions of any distributed options portfolio is likely to be out of the money on expiration, an options position limit equivalent to the CME position limit for bitcoin futures (considering that all options deltas are ≤ 1.00) should be a bit higher than the CME implied 176,848 limit. Of note, unlike options contracts, CME position limits are calculated on a net futures-equivalent basis by contract and include contracts that aggregate into one or more base contracts according to an aggregation ratio(s).²⁸ Therefore, if a portfolio includes positions in options on futures, CME would aggregate those positions into the underlying futures contracts in accordance with a table published by CME on a delta equivalent value for the

relevant spot month, subsequent spot month, single month and all month position limits.²⁹ If a position exceeds position limits because of an option assignment, CME permits market participants to liquidate the excess position within one business day without being considered in violation of its rules. Additionally, if at the close of trading, a position that includes options exceeds position limits for futures contracts, when evaluated using the delta factors as of that day's close of trading, but does not exceed the limits when evaluated using the previous day's delta factors, then the position shall not constitute a position limit violation. Based on the aforementioned analysis, the Exchange believes that the proposed 1,000,000 contracts position and exercise limit is appropriate.

Fourth, as noted in the ISE Approval Order, ISE analyzed a position limit and exercise limit of 1,000,000 for IBIT options against other options on ETFs with an underlying commodity, namely SPDR Gold Shares ("GLD"), iShares Silver Trust ("SLV"), and ProShares Bitcoin ETF ("BITO").³⁰ At the time of ISE's analysis, GLD had a float of 377 million shares³¹ and a position limit of 250,000 contract. SLV had a float of 552 million shares,³² and a position limit of 250,000 contracts. Finally, BITO had 200.89 million shares outstanding³³ and a position limit of 250,000 contracts. As previously noted, position limits and exercise limits are designed to limit the number of options contracts traded on the exchange in an underlying security that an investor, acting alone or in concert with others directly or indirectly, may control. A position limit exercise in GLD would represent 6.63% of the float of GLD; a position limit exercise in SLV would represent 4.53% of the float of SLV, and position limit exercise of BITO would represent 12.44% of the float of BITO. In comparison, a 1,000,000-contract position limit in IBIT options would represent 7.474%³⁴ of the float of IBIT. Consequently, the 1,000,000 proposed IBIT options position and exercise limit

is more conservative than the standard applied to GLD, SLV and BITO, and appropriate.

Fifth, as set forth in the ISE Approval Order, ISE noted that IBIT began trading in penny increments as of January 2, 2025 pursuant to the Penny Interval Program.³⁵ The Commission noted that evidence and analysis provided in connection with the Penny Pilot demonstrated that the Pilot benefited investors and other market participants in the form of narrower spreads.³⁶ The most actively traded options classes are included in the Penny Program based on certain objective criteria (trading volume thresholds and initial price tests). As noted in the Penny Approval Order, the Penny Program reflects a certain level of trading interest (either because the class is newly listed or a class experienced a significant growth in investor interest) to quote in finer trading increments, which in turn should benefit market participants by reducing the cost of trading such options.³⁷ IBIT options is among a select group of products that have achieved a certain level of liquidity that have garnered it the ability to trade in finer increments. Failing to increase position and exercise limits for IBIT options, now that it is trading in finer increments, may artificially inhibit liquidity and create price inefficiency. The Exchange notes that options on iShares MSCI Emerging Markets, iShares China Large-Cap ETF and iShares MSCI EAFE ETF also trade in penny increments based on their liquidity.

The Exchange believes that IBIT options have more than sufficient liquidity to garner an increased position and exercise limit of 1,000,000 contracts. The Exchange believes that any concerns related to manipulation and protection of investors are mollified by the significant liquidity provision in IBIT. The Exchange states that, as a general principle, increases in active trading volume and deep liquidity of the underlying securities do not lead to manipulation and/or disruption.

The Exchange believes that increasing the position (and exercise) limits for IBIT options would lead to a more liquid and competitive market environment for IBIT options, which

²⁴ This number was arrived at with this calculation: (1,000,000 limit * 100 shares per option * \$38.29 IBIT NAV)/(20,528,687 BTC outstanding * \$66,938 BTC price).

²⁵ CME Bitcoin Futures are described in Chapter 350 of CME's Rulebook.

²⁶ See the Position Accountability and Reportable Level Table in the Interpretations & Special Notices Section of Chapter 5 of CME's Rulebook.

²⁷ 2,000 futures at a 5 bitcoin multiplier (per the contract specifications) equates to \$677,150,000 (2,000 contracts * 5 BTC per contract * \$67,715 price of February BTC future) of notional value.

²⁸ See <https://www.cmegroup.com/education/courses/market-regulation/position-limits/position-limits-aggregation-of-contracts-and-table.html>.

²⁹ *Id.*

³⁰ GLD, SLV and BITO each hold one asset in trust like IBIT.

³¹ GLD currently has a float of 360 million shares. See <https://www.ssga.com/us/en/intermediary/etfs/spdr-gold-shares-gld>.

³² SLV currently has a float of 534 million shares. See <https://www.ishares.com/us/products/239855/ishares-silver-trust-fund>.

³³ BITO currently has 169.53 million shares outstanding. See <https://www.marketwatch.com/investing/fund/bitob>.

³⁴ This percentage was arrived at with this equation: (1,000,000 contract limit * 100 share per option)/1,337,920,000 shares outstanding). This information was captured on February 11, 2026.

³⁵ See Rule 960.1NY.

³⁶ See Securities Exchange Act Release No. 88532 (April 1, 2020), 85 FR 19545, 19548 (April 7, 2020) (File No. 4-443) (Joint Industry Plan; Order Approving Amendment No. 5 to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options To Adopt a Penny Interval Program) ("Penny Approval Order").

³⁷ *Id.* at 19548.

will benefit customers that trade these options. Further, the reporting requirement for such options would remain unchanged. Thus, the Exchange will still require that each participant that maintains positions in impacted options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information includes, but would not be limited to, the options' positions, whether such positions are hedged and, if so, a description of the hedge(s). Market Makers would continue to be exempt from this reporting requirement, however, the Exchange may access Market Maker position information.³⁸ Moreover, the Exchange's requirement that Members and Member Organizations file reports with the Exchange for any customer who held aggregate large long or short positions on the same side of the market of 200 or more option contracts of any single class for the previous day will remain at this level and will continue to serve as an important part of the Exchange's surveillance efforts.³⁹

The Exchange also has no reason to believe that the growth in trading volume in IBIT will not continue. Rather, the Exchange expects continued options volume growth in IBIT as opportunities for investors to participate in the options markets increase and evolve. The Exchange believes that the current position and exercise limits in IBIT options are restrictive and will hamper the listed options markets from being able to compete fairly and effectively with the over-the-counter ("OTC") markets. OTC transactions occur through bilateral agreements, the terms of which are not publicly disclosed to the marketplace. As such, OTC transactions do not contribute to the price discovery process on a public exchange or other lit markets. The Exchange believes that without the proposed changes to position and exercise limits for IBIT options, market participants will find the 250,000-contract position limit an impediment to their business and investment objectives as well as an impediment to efficient pricing. As such, market participants may find the less transparent OTC markets a more

attractive alternative to achieve their investment and hedging objectives, leading to a retreat from the listed options markets, where trades are subject to reporting requirements and daily surveillance.

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange are capable of properly identifying disruptive and/or manipulative trading activity. The Exchange also represents that it has adequate surveillances in place to detect potential manipulation, as well as reviews in place to identify continued compliance with the Exchange's listing standards. These procedures monitor market activity via automated surveillance techniques to identify unusual activity in both options and the underlyings, as applicable. The Exchange also notes that large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G,⁴⁰ which are used to report ownership of stock which exceeds 5% of a company's total stock issue and may assist in providing information in monitoring for any potential manipulative schemes. Further, the Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in equity options. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a Members and Member Organizations must maintain for a large position held by itself or by its customer.⁴¹ In addition, Rule 15c3-1⁴² imposes a capital charge on participants to the extent of any margin deficiency resulting from the higher margin requirement.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁴³ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁴⁴ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in

general, to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5)⁴⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that increasing the position limit and exercise limit for options on IBIT to 1,000,000 contracts is consistent with the Act. This proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it will provide market participants with the ability to more effectively execute their trading and hedging activities. Also, based on current trading volume, the resulting increase in the position (and exercise) limits for IBIT options may allow Market Makers to maintain their liquidity in these options in amounts commensurate with the continued high consumer demand in IBIT options. The increased position and exercise limits may also encourage other liquidity providers to continue to trade on the Exchange rather than shift their volume to OTC markets, which will enhance the process of price discovery conducted on the Exchange through increased order flow. Further, this proposal would allow institutional investors to utilize IBIT options for prudent risk management purposes.

In addition, the Exchange believes that the current liquidity in IBIT will continue to mitigate concerns regarding potential manipulation of IBIT options and/or disruption of IBIT upon amending the table of position limits in Rule 904, Commentary .07(f). ISE compared IBIT's data relative to the market capitalization of the entire Bitcoin market in terms of exercise risk and availability of deliverables and concluded that if a position limit of 1,000,000 contracts were considered, the exercisable risk would represent 7.474%⁴⁶ of the shares outstanding of IBIT. Since IBIT has a creation and redemption process managed through the issuer (whereby Bitcoin is used to create IBIT shares), the position limit can be compared to the total market capitalization of the entire Bitcoin market and in that case, the exercisable risk for options on IBIT would represent less than 0.278% of all Bitcoin

³⁸ OCC through the Large Option Position Reporting ("LOPR") system acts as a centralized service provider for Participant compliance with position reporting requirements by collecting data from each Participant, consolidating the information, and ultimately providing detailed listings of each Participant's report to the Exchange, as well as Financial Industry Regulatory Authority, Inc. ("FINRA"), acting as its agent pursuant to a regulatory services agreement ("RSA").

³⁹ See Rule 906.

⁴⁰ 17 CFR 240.13d-1.

⁴¹ See Section 9. Margin Rules.

⁴² 17 CFR 240.15c3-1.

⁴³ 15 U.S.C. 78f(b).

⁴⁴ 15 U.S.C. 78f(b)(5).

⁴⁵ 15 U.S.C. 78f(b)(5).

⁴⁶ This percentage is arrived at with this equation: (1,000,000 contract limit * 100 share per option / 1,337,920,000 shares outstanding). This information was captured on February 11, 2026.

outstanding.⁴⁷ This analysis demonstrated that a 1,000,000 contracts position and exercise limits would be appropriate.

Comparing a position limit of 1,000,000 for IBIT options against other options on ETFs with an underlying commodity, namely GLD, SLV and BITO, a position limit exercise in GLD represents 6.63% of the float of GLD, a position limit exercise in SLV represents 4.53% of the float of SLV, and a position limit exercise of BITO represents 12.44% of the float of BITO. In comparison, a 1,000,000-contract position limit in IBIT options would represent 7.474%⁴⁸ of the float of IBIT. Consequently, a 1,000,000 IBIT options position limit is generally aligned with the standards applied to GLD, SLV and BITO, and, therefore, appropriate.

ISE noted that IBIT began trading in penny increments on January 2, 2025 pursuant to the Penny Interval Program.⁴⁹ The Commission noted that evidence and analysis provided in connection with the Penny Pilot demonstrated that the Pilot benefitted investors and other market participants in the form of narrower spreads.⁵⁰ The most actively traded options classes are included in the Penny Program based on certain objective criteria (trading volume thresholds and initial price tests).⁵¹ As noted in the Penny Approval Order, the Penny Program reflects a certain level of trading interest (either because the class is newly listed or a class that experience a significant growth in investor interest) to quote in finer trading increments, which in turn should benefit market participants by reducing the cost of trading such options.⁵² IBIT options are among a select group of products that have achieved a certain level of liquidity that have garnered it the ability to trade in finer increments pursuant to the Penny Interval Program. Failing to permit IBIT options to potentially increase position and exercise limits given the trading in finer increments, may artificially inhibit liquidity and create price inefficiency for IBIT options.

⁴⁷ This number was arrived at with this calculation: (1,000,000 limit * 100 shares per option * \$38.29 IBIT NAV) / (20,528,687 BTC outstanding * \$66,938 BTC price).

⁴⁸ This percentage is arrived at with this equation: (1,000,000 contract limit * 100 share per option / 1,337,920,000 shares outstanding). This information was captured on February 11, 2026.

⁴⁹ See 960.1NY.

⁵⁰ Penny Approval Order *supra* Note 36.

⁵¹ Options on iShares MSCI Emerging Markets, iShares China Large-Cap ETF and iShares MSCI EAFE ETF also trade in penny increments based on their liquidity.

⁵² Penny Approval Order, *supra* Note 36.

Finally, as discussed above, the Exchange's surveillance and reporting safeguards continue to be designed to deter and detect possible manipulative behavior that might arise from increasing or eliminating position and exercise limits in certain classes. The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in the options on the underlying securities, further promoting just and equitable principles of trading, the maintenance of a fair and orderly market, and the protection of investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is substantially similar in all material respects to proposals submitted by ISE, PHLX and BOX.⁵³

The Exchange does not believe that the proposed rule change will impose any burden on inter-market competition as the proposal is not competitive in nature. The Exchange expects that all option exchanges have or will adopt substantively similar proposals, such that the Exchange's proposal would benefit competition. For these reasons, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal does not burden intra-market competition because all Members and Member Organizations would be subject to the position limits in Rule 904 and corresponding exercise limits in Rule 905. The Exchange believes that the proposed rule change will also provide additional opportunities for market participants to continue to efficiently achieve their investment and trading objectives for equity options on the Exchange

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

⁵³ ISE Approval Order, PHLX Notice and BOX Notice, *supra* Note 5.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁵⁴ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁵⁵

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)⁵⁶ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that the proposal will conform the Exchange's IBIT options position and exercise limits with IBIT options position and exercise limits on ISE, PHLX, and BOX Exchange LLC.⁵⁷ Therefore, the proposal raises no novel legal or regulatory issues. Thus, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.⁵⁸

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.

⁵⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁵⁶ 17 CFR 240.19b-4(f)(6)(iii).

⁵⁷ See *supra* note 5 and accompanying text.

⁵⁸ 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).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEAMER-2026-60 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEAMER-2026-60. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEAMER-2026-60 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-14526 Filed 7-16-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105903; File No. SR-C2-2026-018]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Options Regulatory Fee ("ORF")

July 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 29, 2026, Cboe C2 Exchange, Inc. (the "Exchange" or "C2") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule relating to the Options Regulatory Fee ("ORF"). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/options/regulation/rule_filings/ctwo/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 2, 2025, the Exchange adopted a new methodology for the assessment and collection of an On-Exchange ORF whereby ORF is assessed by the Exchange only for options transactions that occur on the Exchange that clear in the customer³ range at The Options Clearing Corporation ("OCC").⁴ In its filing, the Exchange set forth a July 1, 2026 implementation date for the new methodology. The Exchange proposes to increase ORF from \$0.0003 per contract under the current method that assesses ORF to all customer range transactions regardless of the Exchange on which it occurs to \$0.01417 per contract under the new method that assesses ORF to all customer range transactions that occur on the Exchange only, effective July 1, 2026.⁵ The Exchange is also proposing nonsubstantive changes to the fees schedule to clarify its description of ORF and delete outdated language.

Beginning July 1, 2026, ORF will be assessed to only Exchange transactions that would clear in the customer range at OCC. The ORF is collected by OCC on behalf of the Exchange from the Clearing Trading Permit Holder ("CTPH") that was the clearing firm for the transaction or a non-TPH that was the clearing firm, where a CTPH was the executing clearing firm for the transaction. The ORF is not assessed on outbound linkage trades.⁶

³ ORF is assessed by the Exchange and collected via OCC on executions for the account of Public Customers, including Professionals, and Broker-Dealers including Foreign Broker-Dealers. These market participants clear in the "C" range at OCC. On the Exchange, a "Public Customer" means a person that is not a broker or dealer in securities and includes Professionals. A "Professional" is any person or entity that (a) is not a broker or dealer in securities, and (b) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). Executions for the account of an OCC clearing member firm proprietary account, joint back office account clearing in the Firm range, or account of a market maker clearing in the Market Maker range are not charged an ORF.

⁴ See Securities Exchange Act Release No. 104395 (December 15, 2025), 90 FR 59242 (December 18, 2025) (SR-C2-2025-027).

⁵ Today, ORF is assessed by the Exchange to each Trading Permit Holder ("TPH") for options transactions cleared by the TPH that are cleared by the OCC in the customer range, regardless of the exchange on which the transaction occurs. In other words, the Exchange imposes the ORF on all customer-range transactions cleared by a TPH, even if the transactions do not take place on the Exchange.

⁶ The current language in the fees schedule states ORF is collected by OCC on behalf of the Exchange from the CTPH or a non-CTPH on each side of the transaction that ultimately clears the transaction.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁵⁹ 17 CFR 200.30-3(a)(12), (59).

Revenues generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, are designed to recover a material portion of the regulatory costs to the Exchange of the supervision and regulation of TPH customer options business, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. Regulatory costs include direct regulatory expenses⁷ and certain indirect expenses in support of the regulatory function.⁸ Indirect expenses are estimated to be approximately 24% of the Exchange's total regulatory costs for 2026. Thus, direct expenses are estimated to be approximately 76% of total regulatory costs for 2026. In addition, it is the Exchange's practice that revenue generated from ORF not exceed more than 75% of total regulatory costs. These expectations are estimated, preliminary and may change. There can be no assurance that our final costs for 2026 will not differ materially from these expectations and prior practice; however, the Exchange believes that revenue generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs.

The Exchange monitors its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs in a given year, the Exchange will adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the "Commission"). The Exchange also notifies TPHs of adjustments to the ORF via an Exchange Notice, including for the change being proposed herein.⁹ Based on the Exchange's review of regulatory costs and revenues in preparation for implementation of the new On-Exchange ORF, the Exchange is proposing to increase the amount of ORF that will be collected by the

Exchange from \$0.0003 per contract side on all customer range transactions regardless of the Exchange on which the transaction executed to \$0.01417 per contract side for only those transactions that execute on the Exchange and clear in the customer range.

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs.

The Exchange also proposes to delete the provision stating that the Exchange uses reports from OCC when assessing and collecting the ORF. The Exchange currently uses its own reports when assessing and collecting the ORF, so the current language is outdated.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹¹ which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fee change is reasonable because it would permit the Exchange to collect revenue from the ORF, in combination with other regulatory fees and fines, in a manner that would help offset, but not exceed, the Exchange's total regulatory costs. As discussed, the Exchange has designed the ORF to generate revenues that would be less than or equal to 75% of the Exchange's regulatory costs, which is consistent with the practice across the options industry and the view of the Commission that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. The Exchange determined to modify the ORF rate in conjunction with implementation of the On-Exchange ORF,¹³ a new methodology for assessment and collection of ORF, and

after its review of its regulatory costs and regulatory revenues, which includes revenues from ORF and other regulatory fees and fines. When taking into account recent options volume, coupled with the anticipated regulatory fees and anticipated reductions in other regulatory fees, the Exchange believes it's reasonable to increase the ORF rate from \$0.0003 per contract side on all customer range transactions regardless of the Exchange on which the transaction executed to \$0.01417 per contract side for only those transactions that execute on the Exchange and clear in the customer range. Particularly, the proposed change is reasonable as it would offset the anticipated increased regulatory costs, while still not exceeding 75% of the Exchange's total regulatory costs.

As noted above, the Exchange will also continue to monitor on at least a semi-annual basis the amount of revenue collected from the ORF, even as amended, to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. If the Exchange determines regulatory revenues would exceed its regulatory costs in a given year, the Exchange will reduce the ORF by submitting a fee change filing to the Commission.¹⁴

The Exchange also believes the proposed change is reasonable, equitable and not unfairly discriminatory in that it is charged to all Exchange transactions that clear in the customer range at the OCC. The Exchange believes On-Exchange ORF it is fair and reasonable to assess a specific fee to those TPHs that require more Exchange regulatory services based on the amount of customer options business they conduct. Over recent years, options trading volume has increased with a growing percentage of the volume applicable to customer transactions. Customers trading on the Exchange (through a TPH) benefit from the protections of a robust regulatory program, including the maintenance of fair and orderly markets and protections against fraud and other manipulation. The Exchange believes it is equitable and not unfairly discriminatory to assess a regulatory fee to transactions that clear in the customer range to cover regulatory costs, but not to transactions clearing in the Firm or Market Maker range because CTPHs and Market Maker TPHs (who clear in the Firm and Market Maker range, respectively), as those

The Exchange proposes to revise this language as set forth above. The Exchange believes the proposed language provides additional clarity regarding how ORF is collected, but has no impact on that process. The proposed rule change also updates outdated references of "Clearing Participant" to "Clearing Trading Permit Holder."

⁷ Direct expenses include in-house and third-party service provider costs to support the day-to-day regulatory work such as surveillances, investigations, and examinations.

⁸ Indirect expenses include support from areas such as human resources, legal, compliance, information technology, facilities and accounting.

⁹ See Exchange Notice, C2026052000 "Choe Options Exchanges Regulatory Fee Update Effective July 1, 2026" (May 20, 2026).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(5).

¹³ See Securities Exchange Act Release No. 104395 (December 15, 2025), 90 FR 59242 (December 18, 2025) (SR-C2-2025-027).

¹⁴ Consistent with Rule 2.2 (Regulatory Revenue), the Exchange notes that should excess ORF revenue be collected prior to any reduction in an ORF rate, such excess revenue will not be used for nonregulatory purposes.

market participants are generally subject to other Exchange fees, fines and obligations. For example, CTPHs and Market Maker TPHs are required to pay Exchange application fees, permit fees, and connectivity fees, amongst others. In addition, all fines issued by the Exchange for regulatory infractions are assessed only to TPHs and would be applied to regulatory revenues. As with today's ORF, the Exchange expects that CTPHs from whom On-Exchange ORF is collected will pass through the fee to their customers (as the Exchange understands occurs today). In addition, Market Makers are subject to various quoting and other obligations so that they provide stable and liquid markets, which benefit all market participants including customers. Excluding Market Maker transactions from On-Exchange ORF will allow Market Makers to manage their costs more effectively thus enabling them to better allocate resources toward technology, risk management, and capacity to ensure continued liquidity provision.

In addition to the overall increase in customer-range activity, regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. For example, there are costs associated with main office and branch office examinations (e.g., staff and travel expenses), as well as investigations into customer complaints and the terminations of registered persons. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (e.g., TPH proprietary transactions) of its regulatory program.¹⁵ While the Exchange notes that it has broad regulatory responsibilities with respect to its TPHs' activities, irrespective of where their transactions take place, the Exchange believes it is reasonable to assess the proposed fee to only those transactions occurring on the Exchange.

The Exchange also believes the proposed rule change is equitable and not unfairly discriminatory because the On-Exchange ORF model more narrowly tailors the fee to products and transactions with a direct connection to the Exchange. Today, a customer

transaction may be assessed an ORF from every options exchange totaling as much as \$0.023 per transaction per side.¹⁶ While the Exchange's proposed ORF rate under the On-Exchange ORF model of \$0.01417 is higher than its current ORF rate of \$0.0003 under the current model, beginning July 1, 2026, the Exchange understands all U.S. options exchanges will implement a similar on-exchange model, and ORF rates may decrease for individual transactions overall because the proposed On-Exchange ORF will avoid overlapping ORFs that would otherwise be assessed by the Exchange and other options exchanges that also assess an ORF. Beginning July 1, 2026, transactions that would clear in the customer range occurring on other exchanges would no longer be subject to an ORF assessed by the Exchange.

The Exchange believes the proposed nonsubstantive changes to the rule text will protect investors and the public interest, as it provides additional clarity regarding how ORF is collected and deletes outdated language, but has no impact on that process and thus will have no impact on customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This proposal does not create an unnecessary or inappropriate intramarket burden on competition because ORF applies to all customer activity on the Exchange, thereby raising regulatory revenue to offset regulatory expenses. It also supplements the regulatory revenue derived from non-customer activity. The Exchange notes, however, the proposed change is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate intermarket burden on competition because it is a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs.

The proposed nonsubstantive changes have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-C2-2026-018 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-C2-2026-018. 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

¹⁵ If the Exchange changes its method of funding regulation or if circumstances otherwise change in the future, the Exchange may decide to modify the ORF or assess a separate regulatory fee on TPH proprietary transactions if the Exchange deems it advisable.

¹⁶ As of June 1, 2026.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

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-C2-2026-018 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-14399 Filed 7-16-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105902; File No. SR-CBOE-2026-058]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Options Regulatory Fee ("ORF")

July 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 29, 2026, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule relating to the Options Regulatory Fee ("ORF"). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/options/regulation/rule_filings/cone/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 12, 2025, the Exchange adopted a new methodology for the assessment and collection of an On-Exchange ORF whereby ORF is assessed by the Exchange only for options transactions that occur on the Exchange³ that clear in the customer⁴ range at The Options Clearing Corporation ("OCC").⁵ In its filing, the Exchange set forth a July 1, 2026 implementation date for the new methodology. The Exchange proposes to increase ORF from \$0.0023 per contract under the current method that assesses ORF to all customer range transactions regardless of the Exchange on which it occurs to \$0.01248 per contract under the new method that assesses ORF to all customer range transactions that occur on the Exchange only, effective July 1, 2026.⁶ The Exchange is also proposing

³ The Exchange notes ORF also applies to Customer-range transactions executed during Global Trading Hours.

⁴ ORF is assessed by the Exchange and collected via OCC on executions for the account of Public Customers, including Professionals, and Broker-Dealers including Foreign Broker-Dealers. These market participants clear in the "C" range at OCC. On the Exchange, a "Public Customer" means a person that is not a broker or dealer in securities and includes both Priority Customers and Professionals. A "Priority Customer" means a person or entity that is a Public Customer and is not a Professional. A "Professional" is any person or entity that (a) is not a broker or dealer in securities, and (b) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). Executions for the account of an OCC clearing member firm proprietary account, joint back office account clearing in the Firm range, or account of a market maker clearing in the Market Maker range are not charged an ORF.

⁵ See Securities Exchange Act Release No. 104417 (December 17, 2025), 90 FR 59899 (December 22, 2025) (SR-CBOE-2025-086).

⁶ Today, ORF is assessed by the Exchange to each Trading Permit Holder ("TPH") for options transactions cleared by the TPH that are cleared by

nonsubstantive changes to the fees schedule to clarify its description of ORF and delete outdated language.

Beginning July 1, 2026, ORF will be assessed to only Exchange transactions that would clear in the customer range at OCC. The ORF is collected by OCC on behalf of the Exchange from the Clearing Trading Permit Holder ("CTPH") that was the clearing firm for the transaction or a non-TPH that was the clearing firm, where a CTPH was the executing clearing firm for the transaction. The ORF is not assessed on outbound linkage trades.⁷

Revenues generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, are designed to recover a material portion of the regulatory costs to the Exchange of the supervision and regulation of TPH customer options business, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. Regulatory costs include direct regulatory expenses⁸ and certain indirect expenses in support of the regulatory function.⁹ Indirect expenses are estimated to be approximately 43% of the Exchange's total regulatory costs for 2026. Thus, direct expenses are estimated to be approximately 57% of total regulatory costs for 2026. In addition, it is the Exchange's practice that revenue generated from ORF not exceed more than 75% of total regulatory costs. These expectations are estimated, preliminary and may change. There can be no assurance that our final costs for 2026 will not differ materially from these expectations and prior practice; however, the Exchange believes that revenue generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs.

the OCC in the customer range, regardless of the exchange on which the transaction occurs. In other words, the Exchange imposes the ORF on all customer-range transactions cleared by a TPH, even if the transactions do not take place on the Exchange.

⁷ The current language in the fees schedule states ORF is collected by OCC on behalf of the Exchange from the CTPH or a non-CTPH on each side of the transaction that ultimately clears the transaction. The Exchange proposes to revise this language as set forth above. The Exchange believes the proposed language provides additional clarity regarding how ORF is collected, but has no impact on that process.

⁸ Direct expenses include in-house and third-party service provider costs to support the day-to-day regulatory work such as surveillances, investigations, and examinations.

⁹ Indirect expenses include support from areas such as human resources, legal, compliance, information technology, facilities and accounting.

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The Exchange monitors its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs in a given year, the Exchange will adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the "Commission"). The Exchange also notifies TPHs of adjustments to the ORF via an Exchange Notice, including for the change being proposed herein.¹⁰ Based on the Exchange's review of regulatory costs and revenues in preparation for implementation of the new On-Exchange ORF, the Exchange is proposing to increase the amount of ORF that will be collected by the Exchange from \$0.0023 per contract side on all customer range transactions regardless of the Exchange on which the transaction executed to \$0.01248 per contract side for only those transactions that execute on the Exchange and clear in the customer range.

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs.

The Exchange also proposes to delete the provision stating that the Exchange uses reports from OCC when assessing and collecting the ORF. The Exchange currently uses its own reports when assessing and collecting the ORF, so the current language is outdated.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹¹ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹² which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fee change is reasonable because it

would permit the Exchange to collect revenue from the ORF, in combination with other regulatory fees and fines, in a manner that would help offset, but not exceed, the Exchange's total regulatory costs. As discussed, the Exchange has designed the ORF to generate revenues that would be less than or equal to 75% of the Exchange's regulatory costs, which is consistent with the practice across the options industry and the view of the Commission that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. The Exchange determined to modify the ORF rate in conjunction with implementation of the On-Exchange ORF,¹⁴ a new methodology for assessment and collection of ORF, and after its review of its regulatory costs and regulatory revenues, which includes revenues from ORF and other regulatory fees and fines. When taking into account recent options volume, coupled with the anticipated regulatory fees and anticipated reductions in other regulatory fees, the Exchange believes it's reasonable to increase the ORF rate from \$0.0023 per contract side on all customer range transactions regardless of the Exchange on which the transaction executed to \$0.01248 per contract side for only those transactions that execute on the Exchange and clear in the customer range. Particularly, the proposed change is reasonable as it would offset the anticipated increased regulatory costs, while still not exceeding 75% of the Exchange's total regulatory costs.

As noted above, the Exchange will also continue to monitor on at least a semi-annual basis the amount of revenue collected from the ORF, even as amended, to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. If the Exchange determines regulatory revenues would exceed its regulatory costs in a given year, the Exchange will reduce the ORF by submitting a fee change filing to the Commission.¹⁵

The Exchange also believes the proposed change is reasonable, equitable and not unfairly discriminatory in that it is charged to all Exchange transactions that clear in the customer range at the OCC. The Exchange believes On-Exchange ORF it is fair and reasonable to assess a specific

fee to those TPHs that require more Exchange regulatory services based on the amount of customer options business they conduct. Over recent years, options trading volume has increased with a growing percentage of the volume applicable to customer transactions. Customers trading on the Exchange (through a TPH) benefit from the protections of a robust regulatory program, including the maintenance of fair and orderly markets and protections against fraud and other manipulation. The Exchange believes it is equitable and not unfairly discriminatory to assess a regulatory fee to transactions that clear in the customer range to cover regulatory costs, but not to transactions clearing in the Firm or Market Maker range because CTPHs and Market Maker TPHs (who clear in the Firm and Market Maker range, respectively), as those market participants are generally subject to other Exchange fees, fines and obligations. For example, CTPHs and Market Maker TPHs are required to pay Exchange application fees, permit fees, and connectivity fees, amongst others. In addition, all fines issued by the Exchange for regulatory infractions are assessed only to TPHs and would be applied to regulatory revenues. As with today's ORF, the Exchange expects that CTPHs from whom On-Exchange ORF is collected will pass through the fee to their customers (as the Exchange understands occurs today). In addition, Market Makers are subject to various quoting and other obligations so that they provide stable and liquid markets, which benefit all market participants including customers. Excluding Market Maker transactions from On-Exchange ORF will allow Market Makers to manage their costs more effectively thus enabling them to better allocate resources toward technology, risk management, and capacity to ensure continued liquidity provision.

In addition to the overall increase in customer-range activity, regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. For example, there are costs associated with main office and branch office examinations (e.g., staff and travel expenses), as well as investigations into customer complaints and the terminations of registered persons. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the

¹⁰ See Exchange Notice, C2026052000 "Cboe Options Exchanges Regulatory Fee Update Effective July 1, 2026" (May 20, 2026).

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ See Securities Exchange Act Release No. 014417 (December 17, 2025), 90 FR 59899 (December 22, 2025) (SR-CBOE-2025-086).

¹⁵ Consistent with Rule 2.2 (Regulatory Revenue), the Exchange notes that should excess ORF revenue be collected prior to any reduction in an ORF rate, such excess revenue will not be used for nonregulatory purposes.

non-customer component (e.g., TPH proprietary transactions) of its regulatory program.¹⁶ While the Exchange notes that it has broad regulatory responsibilities with respect to its TPHs' activities, irrespective of where their transactions take place, the Exchange believes it is reasonable to assess the proposed fee to only those transactions occurring on the Exchange.

The Exchange also believes the proposed rule change is equitable and not unfairly discriminatory because the On-Exchange ORF model more narrowly tailors the fee to products and transactions with a direct connection to the Exchange. Today, a customer transaction may be assessed an ORF from every options exchange totaling as much as \$0.023 per transaction per side.¹⁷ While the Exchange's proposed ORF rate under the On-Exchange ORF model of \$0.01248 is higher than its current ORF rate of \$0.0023 under the current model, beginning July 1, 2026, the Exchange understands all U.S. options exchanges will implement a similar on-exchange model, and ORF rates may decrease for individual transactions overall because the proposed On-Exchange ORF will avoid overlapping ORFs that would otherwise be assessed by the Exchange and other options exchanges that also assess an ORF. Beginning July 1, 2026, transactions that would clear in the customer range occurring on other exchanges would no longer be subject to an ORF assessed by the Exchange.

The Exchange believes the proposed nonsubstantive changes to the rule text will protect investors and the public interest, as it provides additional clarity regarding how ORF is collected and deletes outdated language, but has no impact on that process and thus will have no impact on customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This proposal does not create an unnecessary or inappropriate intramarket burden on competition because ORF applies to all customer activity on the Exchange, thereby raising regulatory revenue to offset regulatory expenses. It also supplements the regulatory revenue

derived from non-customer activity. The Exchange notes, however, the proposed change is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate intermarket burden on competition because it is a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs.

The proposed nonsubstantive changes have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁸ and paragraph (f) of Rule 19b-4¹⁹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2026-058 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-CBOE-2026-058. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CBOE-2026-058 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105908; File No. SR-EMERALD-2026-19]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 100, Definitions, and Rule 204, Members and Persons Associated With a Member Who Are or Become Subject to a Statutory Disqualification

July 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 6, 2026, MIAX Emerald, LLC ("MIAX Emerald" 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.

¹⁶ If the Exchange changes its method of funding regulation or if circumstances otherwise change in the future, the Exchange may decide to modify the ORF or assess a separate regulatory fee on TPH proprietary transactions if the Exchange deems it advisable.

¹⁷ As of June 1, 2026.

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f).

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding Members and persons associated with a Member who are or become subject to a statutory disqualification. The proposal is similar to a proposal that Cboe Exchange, Inc. ("Cboe") filed with the Commission.³

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/emerald-options/rule-filings>, and at MIAX's principal office.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 204, Members and Persons Associated with a Member Who Are or Become Subject to a Statutory Disqualification, to conform (with certain exceptions) to rules of the Financial Industry Regulatory Authority, Inc. ("FINRA")⁴ and to industry standard rules.⁵ The Exchange's proposal also includes the proposed Statutory Disqualification Circular ("SD Regulatory Circular") that outlines the applicable eligibility procedures. The amended rules would incorporate by reference the procedures in the SD Regulatory Circular. As further detailed in the SD Regulatory Circular, the need for a Member⁶ to file

an application with the Exchange for approval, notwithstanding the disqualification would depend on (i) the type of disqualification; (ii) the date of disqualification; and (iii) whether the firm or individual is seeking admission, readmission or continuation in the securities industry.

By way of background, Section 3(a)(39) of the Act defines the term "statutory disqualification" and the circumstances that can cause a person (either a Member, or a person associated with a Member) to be subject to a statutory disqualification.⁷ Absent relief, a statutory disqualification would preclude a Member or person associated with a Member from certain activities, including membership in a self-regulatory organization ("SRO").

There is, however, a well-established process through which a Member (or a person associated with a broker-dealer) may continue to operate in the securities industry (and either become a Member of, or continue as a Member of, one or more SROs) despite being subject to a statutory disqualification.⁸

In particular, SEC Rule 19h-1⁹ describes several ways an SRO may seek relief for a member (or prospective member) that is subject to a statutory disqualification, including whether an SRO must file a notice with the Commission in order to allow the disqualified firm to become or continue as a member with the SRO (a "19h-1 Notice").

The existing Rule 204(b) and (c) provides that either (i) a Member shall submit an application to the exchange within 30 days of becoming subject to a statutory disqualification or, (ii) alternatively, if the Exchange becomes aware that a Member or associated person of a Member is subject to a statutory disqualification, then, in either event, the Exchange shall then appoint a panel to conduct a hearing concerning the matter.¹⁰

deemed "members" under the Exchange Act. See Exchange Rule 100.

⁷ 15 U.S.C. 78c(a)(39).

⁸ See FINRA Regulatory Notice 09-19 ("Amendments to FINRA Rule 9520 Series to Establish Procedures Applicable to Firms and Associated Persons Subject to Certain Statutory Disqualifications").

⁹ 17 CFR 240.19h-1.

¹⁰ The Exchange notes that Cboe proposes to amend the required time period for submitting an application from 10 days to 10 business days. See *supra* note 3. The Exchange proposes to amend its corresponding requirement from 30 days to 10 business days. See proposed Exchange Rule 204(b)(1)(ii)-(iii). While the current rules provide different application submission deadlines, the proposed rule change would align the Exchange's requirement with Cboe's by establishing a uniform deadline of 10 business days.

Currently, FINRA processes statutory disqualification applications on behalf of the Exchange.¹¹ Notably, having different rules has led to outcomes where FINRA is not required to process an application and/or an applicable 19h-1 Notice under its rules, but the Exchange (or FINRA acting on the Exchange's behalf) is required under its existing Rule 204. As such, the Exchange proposes to, in large part, conform to FINRA Rule Series 9520 Eligibility Proceedings in order to prevent different outcomes when FINRA is reviewing potential statutory disqualifications on behalf of the Exchange. The Exchange also notes that its existing Rule 204 is an outlier when compared to industry standards, as other exchanges have adopted rules similar to FINRA's. This may lead to inconsistent results when a firm is a member of multiple exchanges and/or FINRA.¹²

To aid in further conformity between the Exchange and FINRA, the Exchange further proposes that it shall also rely on the no-action letter issued to FINRA in 2009 that provides interpretive guidance regarding (i) the effect of certain time-limited bars or license revocations, (ii) the effect of bars by State securities commissions that are based solely upon a disciplinary action taken by an SRO, (iii) the notice requirements for willful violations of the Municipal Securities Rulemaking Board and aiding and abetting violations, and (iv) enforcement action to the Commission under Exchange Action 15A(g)(2) or Rule 19h-1(a) if an SRO does not file a notice with the Commission for any person subject to a statutory disqualification under Section 3(a)(39) that an SRO proposes to admit or continue in membership or association with a member under specific circumstances.¹³ Due to FINRA's No-Action Letter, there have been instances where review of the same circumstances had resulted in different outcomes regarding when a notice is required pursuant to Rule 19h-1.¹⁴ Specifically, the No-Action Letter

¹¹ FINRA processes these applications on behalf of the Exchange pursuant to a Regulatory Services Agreement ("RSA") between the Exchange and FINRA.

¹² See, e.g., Cboe Rule 3.13, NYSE Rule 9520, IEX Rule 9.520 and Nasdaq Rule 9520.

¹³ See Financial Industry Regulatory Authority, Inc., SEC No-Action Letter, 2009 SEC No-Act. (March 17, 2009) ("FINRA No-Action Letter").

¹⁴ For example, the FINRA No-Action Letter grants FINRA relief from notice requirements regarding a member's continued association with a disqualified person when the statutory disqualification is based on willful violations of the CEA. Because of the relief granted by the No Action Letter and pursuant to Regulatory Notice 09-19, FINRA would not require a member to file an application. However, the Exchange's current Rule

³ See Securities Exchange Act Release No. 105289 (April, 22, 2026), 91 FR 22562 (April 27, 2026) (SR-CBOE-2026-038).

⁴ See Securities Exchange Act Release No. 59586 (March 17, 2009), 74 FR 12166 (March 23, 2009) (SR-FINRA-2008-045); Securities Exchange Act Release No. 59722 (April 7, 2009), (SR-FINRA-2009-022).

⁵ See, e.g., Cboe Rule 3.13, NYSE Rules 9520-9550 or IEX Rule Series 9.520.

⁶ The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are

makes clear certain instances where they will grant no-action relief if FINRA does not file a 19h–1 Notice with the Commission. For example, the Commission explicitly grants no-action relief if FINRA does not file a 19h–1 Notice if the subject person is subject to a statutory disqualification solely due to a finding of a willful violation of the CEA or the rules or regulations thereunder, provided that the sanctions are no longer in effect. The FINRA No-Action Letter ultimately requires fewer 19h–1 Notices to be filed.

The Exchanges notes that other exchanges, such as The Nasdaq Stock Market LLC (“Nasdaq”), Investors Exchange (“IEX”), New York Stock Exchange (“NYSE”) and Cboe, have already adopted similar changes to more materially align their rules with FINRA’s.

Proposed Rule 204 would govern eligibility proceedings for persons subject to statutory disqualifications. Proposed Rule 204(a) would add certain definitions relating to eligibility proceedings that are not currently part of the Exchange’s rules, including “Application,” “disqualified Member,” “disqualified person,” “sponsoring Member,” and “Exchange staff.” The Exchange notes that this is substantially similar to FINRA’s Rule 9521, with the following exceptions: (i) “member” has been replaced with “Member;” (ii) references to FINRA By-Laws have been replaced with references to the Exchange Act and Exchange rules (where applicable); (iii) a new term of Exchange staff has been added to account for the relationship between the Exchange and FINRA, where the Exchange has a regulatory services agreement in place with FINRA and FINRA may act within the bounds of the agreed upon services; (iv) the definition of a disqualified Member differs; and (v) proposed Rule 204(a)(1) does not include reference to FINRA By-Laws.

The Exchange proposes to define “disqualified Member” as a Member that is or becomes subject to a disqualification under Section 3(a)(39) of the Exchange Act. This differs from the definition in FINRA Rule 9521(b)(2), which includes various other industry participants in addition to existing members in the definition. The

204 does not offer relief from application requirements for the firm to continue its association with an associated person, notwithstanding their disqualification. Relief is also not provided under the Exchange Act Rule 19h–1(a)(3)(iii), since the disqualifying event is a finding by the CFTC of a willful violation of the CEA and not a finding by the SEC or SRO of a willful violation of the Exchange Act, among others. As such, a notice pursuant to Rule 19h–1 for the Exchange is required, but is not required for FINRA.

Exchange limited its definition to Members, as the Exchange has jurisdiction over Members.¹⁵

Further, while the Exchange differs from FINRA in that it does not include reference to FINRA By-Laws or Exchange Rules under proposed Rule 204(a)(1), the Exchange believes this language better suits the intended purpose of this section. Specifically, proposed Exchange Rule 204 specifies procedures to be followed in the event of a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act. FINRA’s equivalent Rule 9521 states that the Rule 9520 Series sets forth procedures for a person to become or remain associated with a member, notwithstanding the existence of a statutory disqualification as defined in Article III, Section 4 of the FINRA By-Laws and for a current member or person associated with a member to obtain relief from the eligibility or qualification requirements of the FINRA By-Laws and FINRA rules. Such actions hereinafter are referred to as “eligibility proceedings.” While the Exchange only references statutory disqualification events in its equivalent rule, for its purposes, it believes it is more fitting as different procedures would be followed in the event a Member, or Member applicant, is ineligible for other reasons.

Proposed Rule 204(b) is largely mirrored off of FINRA’s Rule 9522; however, there were adjustments made to account for updating rule references, adjusting “member” to “Member”, and replacing the “National Adjudicatory Council” with the “Business Conduct Committee.” First, the proposed Rules 204(b)(1)¹⁶ and 204(b)(2) would govern

¹⁵ The Exchange notes the definition excludes Member applicants (the Exchange understands FINRA’s definition also does not apply to FINRA member applicants), because the Exchange would address a disqualification of a Member applicant as part of the Member application process, and the Exchange would not file a 19h–1 Notice with the Commission for a Member applicant. The proposed rule language, like FINRA’s, indicates the provisions that are applicable to a Member applicant. If the Exchange approves the Member application of an applicant that is or becomes subject to a disqualification, the firm would then be a Member that could take advantage of the provisions of the proposed rule that apply to a disqualified Member. The Exchange understands this is consistent with FINRA’s process with respect to member applicants that are or become subject to a disqualification.

¹⁶ The Exchange notes that for instances in which Exchange staff will not issue written notice to Members or applicants for membership with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act (when a Member or application for membership under Exchange Rules is not required to file an application pursuant to the SD Regulatory Circular), information regarding the disqualifying event and the resolution of any fines,

the initiation of an eligibility proceeding by the Exchange and the obligation for a Member to file an application to initiate an eligibility proceeding if it or a Member’s associated person¹⁷ has been subject to certain disqualifications.

Next, Rule 204(b)(3) sets out the process for a withdrawal of an application and Rule 204(b)(4) sets out prohibitions against ex parte communications when Exchange staff has initiated the eligibility proceedings. The Exchange notes that its rule text does differ from FINRA’s; however, this is due to FINRA having a panel that reviews the matter prior to an appeal and thus, ex parte communication concerns arise before appeals. Under the Exchange’s proposed rule, with Exchange staff making determinations, a firm will need to talk to the Exchange and FINRA while their application is pending. Thus, the Exchange proposes to note that the proposed ex parte communications provision shall become effective only when an appeal is initiated. Further, under the proposed Rule 204(b)(5), the Exchange could approve a written request for relief from the eligibility requirements under certain circumstances. Specifically, Rule 204(b)(5)(i) describes certain circumstances of which a matter may be approved by the Exchange staff without the filing of an application. This provision is the same as the corresponding provisions of FINRA, Nasdaq, and IEX, with one exception. Specifically, under proposed Rule 204(b)(5)(i)(C), Exchange staff may approve a written request for relief without the filing of an application if a disqualified Member or sponsoring Member is a Member or seeking to become a Member is a member of both the Exchange and another SRO and the other SRO intends to file a Notice under Exchange Act Rule 19h–1 approving the membership continuance of the disqualified Member or, in the case of a sponsoring Member, the proposed association or continued association of the disqualified person and Exchange staff concurs with that determination. This proposed provision is the same as that of Nasdaq, FINRA, and IEX, except it applies to those seeking to become a Member in addition to Members, while the corresponding rules of Nasdaq, FINRA, and IEX apply solely to

sanctions, or undertakings related to the disqualification are recorded in WebCRD.

¹⁷ Under proposed Rule 204(b)(1)(iii), if a Member fails to file the application or, where appropriate, the written request for relief, within the 10-day period, the registration of the disqualified person shall be revoked and the sponsoring Member must promptly terminate association with the disqualified person.

members of those SROs. However, other organizations have acknowledged this gap in their rules, noting it would be their practice to apply this provision to prospective members as well as members. Therefore, despite the differences in the rule text of these other organizations, the Exchange believes the outcome under its proposed rule would be the same as both IEX and Nasdaq from a practical perspective.¹⁸

Proposed Rule 204(b)(5)(ii) covers matters that may be approved by¹⁹ the Exchange staff after the filing of an application. Notably, under proposed Rule 204(b)(5)(ii) the Exchange staff may approve an application with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Act or arising under Section 3(a)(39)(E) of the Act. Proposed Rule 204(b)(6) specifies the process for implementing an interim plan of heightened supervision during the application process for a disqualified person.

Proposed Rules 204(b)(7) and 204(b)(8) cover the process for determining that an application is substantially incomplete and the consequences for not remedying an application in a timely manner.²⁰ In the event an applicant fails to remedy an application under Rule 204(b)(8), Exchange staff will serve a written notice on the sponsoring Member of its determination to reject the application and the sponsoring Member must promptly terminate association with the disqualified person. Under FINRA's Rule 9522, there is reference to FINRA's application fee and that FINRA shall refund the application fee, less \$1,000 which shall be retained by FINRA as a processing fee. The Exchange notes, however, that the Exchange has its own

application fee program reflected in its fee schedule that is distinct from FINRA's. As a result, the Exchange proposes to not include this in its proposed rule.

As further explained, proposed Rule 204(c) largely mirrors FINRA Rule 9523, with technical changes to account for different defined terms and functions across the SROs. This proposed rule would allow the Exchange staff (handled by FINRA) to recommend a supervisory plan to which the disqualified Member, sponsoring Member, and/or disqualified person, as the case may be, may consent and by doing so, waive the right to appeal if the plan is accepted and right to claim bias or prejudgment, or prohibited ex parte communications. If such a supervisory plan were rejected, proposed Rule 204(d) would allow a request for review by the applicant to the Business Conduct Committee and would provide that a filing of an application for review would not stay the effectiveness of final action by the Exchange unless the Commission otherwise ordered.

Proposed Rule 204(c) is covered under two parts: (i) to cover all disqualification except those arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act and (ii) to cover disqualifications that arise solely from findings or orders specified in Section 15(b)(4)(D), (E) or (H). The Exchange notes that the latter (proposed Rule 204(c)(2)) is intended to cover events where an application is required under the SD Regulatory Circular, as under the proposed rule, events arising from findings or order specified in Section 15(b)(4)(D), (E) or (H) of the Exchange Act do not typically require an application unless otherwise specified in the SD Regulatory Circular.

The text of the proposed rule change is similar to that in FINRA's counterpart rules, except for conforming and technical changes and except as follows. First, under proposed Rule 204(c), if the disqualified Member, sponsoring Member, and/or disqualified person executed a letter consenting to a supervisory plan, it would be submitted to the Exchange staff. Under FINRA's rule, the letter is submitted to FINRA Office of General Counsel, which submits it to the Chairman of the Statutory Disqualification Committee, acting on behalf of the NAC; the Chairman may accept or reject the plan or refer it to the NAC for action. The Exchange does not propose to utilize the NAC or the Statutory Disqualification Committee Chairman for this purpose. The Exchange believes that its staff can provide an appropriate review. The staff

is performing this same function today when it reviews statutory disqualification decisions reached by FINRA subject to an RSA Agreement between the Exchange and FINRA. In addition, under FINRA's rule, the waiver of bias or prejudgment is with respect to the Department of Member Regulation, the FINRA General Counsel, the NAC and any member thereof, while under proposed Rule 204(c), the waiver would be with respect to the Exchange staff, the Exchange, the Business Conduct Committee, or any member of the Business Conduct Committee.

Next, under proposed Rule 204(d), if the Exchange staff rejects the plan, the Member or applicant may request a review by the Business Conduct Committee.²¹ This differs from FINRA's process, which provides for a hearing before the NAC and further consideration by the FINRA Board of Directors. Because the Exchange does not propose to utilize the NAC, the Exchange proposes instead that any appeal be heard by the Business Conduct Committee. FINRA Rule 9525 also allows for discretionary review by the FINRA Board and the Exchange does not propose to adopt a comparable rule. The Exchange believes that the Exchange staff's role in the process will provide sufficient oversight and independence.

The Exchange does not propose to adopt the text of FINRA Rule 9526, which provides for expedited proceedings by the FINRA Board of Governors in certain instances. The Exchange believes that its proposed rules for review can be carried out in a timely manner and would sufficiently protect investors. The Exchange historically has not provided an expedited statutory disqualification review.

Lastly, the Exchange also notes that it will adopt a definition of "associated person" in Exchange Rule 100, specifically as it pertains to statutory disqualifications. This rule will be similar to the definitions of associated persons implemented by other exchanges to specifically apply to the process of statutory disqualifications.²² Currently, the Exchange's definition for associated person is any partner, officer, director, or branch manager of a Member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or

¹⁸ See, e.g., Securities Exchange Act Release No. 101799 (November 29, 2024), 89 FR 96698 (December 5, 2024) (SR-IEX-2024-26), where IEX states "In the course of reviewing this membership application, IEX identified that its rules do not specifically address this situation, which has not previously occurred with respect to IEX. Specifically, the Exchange believes that its rules regarding the process by which a prospective Member that is subject to a statutory disqualification can be approved for membership on IEX notwithstanding the statutory disqualification could be enhanced to provide additional clarity and more clearly align with the processes set forth in Rule 19h-1 for a membership applicant that is subject to a statutory disqualification."

¹⁹ The Exchange notes that approval of such an application allows for a Member's continued participation on the Exchange.

²⁰ Proposed Rule 204(b)(7) applies to applications that are deemed substantially incomplete if they do not include information related to an interim plan of heightened supervision. Plans of heightened supervisions are issued solely for associated persons (and not Members), and thus this provision applies solely to associated persons.

²¹ The Exchange's proposed Rule 204(d) closely aligns with NYSE Rule 9524 and Cboe Rule 3.13(d) except for conforming and technical changes.

²² See IEX Rule 1.160(y)(2) and Nasdaq General 3, Rule 1002(b)(2).

under common control with a Member, or any employee of a Member, except that any person associated with a Member whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of these Rules. As the proposed rule requires Members to submit an application for continuance as a Member if any person associated with the Member becomes subject to a statutory disqualification, the Exchange's current rules require Members to file applications for affiliates under common control that would be subject to a statutory disqualification under securities law. In contrast, FINRA does not define "Person Associated with a member" or "Associated Person of a Member" as including affiliates under common control of the FINRA member.²³ Thus, a firm that is both an Exchange Member and FINRA member, which has an affiliate under common control that would be subject to a statutory disqualification under securities laws, is required to file an application with the Exchange, but not with FINRA.

The Exchange proposes to adopt a similar definition to Nasdaq, Cboe, and IEX²⁴ except that it shall (i) remove the reference to investment banking as that is not applicable for the Exchange's functions and (ii) remove subpoint (3) which specifies that for the purposes of another exchange rule of Nasdaq and IEX²⁵ (that is not the exchange's statutory disqualification rule), that it shall also include any other person listed in Schedule A of Form BD of a member. As the Exchange does not have this rule, the Exchange proposes not to include this subpoint (3) in its adopted definition of associated persons for the purpose of statutory disqualifications.

As noted above, other exchanges, such as Nasdaq, IEX, NYSE, and Cboe, have already adopted similar changes to more materially align its rules with FINRA's, and similar to the Exchange, have made some edits to align its

proposed rules with existing exchange processes.²⁶

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers, because the rule applies uniformly to all Members and does not unfairly discriminate against any Member or type of market participant. The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,³⁰ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Members and persons associated with its Members with the Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the proposed rule change will better enable the Exchange to streamline the administration of its statutory disqualification program and better protect investors and the public interest, as it will eliminate the need for Members or associated persons of Members to submit Statutory Disqualification Applications for prior statutory qualifications that have been resolved. Similar to Nasdaq, IEX, Cboe, and NYSE, the Exchange proposes to harmonize its description of statutory disqualification to align its application of statutory disqualification to FINRA.³¹ This proposal would avoid potentially

different outcomes for members of both FINRA and the Exchange with respect to ineligibility for membership and association.

The proposed changes will provide greater harmonization between Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for dual members. As previously noted, in many instances the proposed rule text is substantially similar to FINRA's current rule text, which already has been approved by the Commission, and in many other cases the differences between current FINRA rules and the proposed rules would be strictly technical in nature. Further, in other instances, such as the Exchange's proposed Rule 204(d), the Exchange's rule closely follows Cboe's Rule 3.13. The proposal is similar to a proposal that Cboe filed with the Commission for immediate effectiveness, and therefore, does not raise any new or novel issues, not already considered by the Commission.³²

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 designed to address any competitive issues but rather is designed to provide greater harmonization between Exchange and FINRA rules of similar purpose for investigations and disciplinary matters, resulting in less burdensome and more efficient regulatory compliance for dual members and facilitating FINRA's performance of its regulatory functions under the RSA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section

²³ FINRA Regulation, Inc. By-laws, Article I, paragraph (ee) defines the terms "person associated with a member" or "associated person of a member" in relevant part as: "(2) a sole proprietor, partner, officer, director, or branch manager of a member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with the Corporation under these By-Laws or the Rules of the Corporation; and (3) for purposes of Rule 8210, any other person listed in Schedule A of Form BD."

²⁴ See Nasdaq General 3, Rule 1002(b), Cboe 1.1, and IEX Rule 1.160(y).

²⁵ See IEX Rule 8.210 and Nasdaq General 5, Rule 8210.

²⁶ See, e.g., Securities Exchange Act Release Nos. 61703 (March 12, 2010), 75 FR 13620 (March 22, 2010) (SR-NASDAQ-2010-023), 68678 (January 16, 2013), 78 FR 5213 (January 24, 2013) (SR-NYSE-2013-02), and *supra* note 3.

²⁷ 15 U.S.C. 78f(b).

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ *Id.*

³⁰ 15 U.S.C. 78f(b)(1).

³¹ See *supra* note 12.

³² See *supra* note 3.

19(b)(3)(A)(iii) of the Act³³ and subparagraph (f)(6) of Rule 19b–4 thereunder.³⁴

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)³⁵ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>), or
- Send an email to rule-comments@sec.gov. Please include file number SR-EMERALD-2026-19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-EMERALD-2026-19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-EMERALD-2026-19 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-14404 Filed 7-16-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105906; File No. SR-MIAX-2026-30]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule

July 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 1, 2026, Miami International Securities Exchange, LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Options Exchange Fee Schedule ("Fee Schedule") to: (1) amend the tables applicable to the Market Maker Sliding Scales to increase Maker fees for executions of simple orders in tiers 4 and 5 in Penny and non-Penny Classes; and (2) modify the Priority Customer Rebate Program ("PCRP") table to establish new tier 5 and corresponding rebates and volume thresholds (all terms described below).

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/miax-options/rule-filings>, and at the Exchange's principal office.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to: (1) amend Section 1(a)i) of the Fee Schedule to modify the tables applicable to the Market Maker³ Sliding Scales to increase Maker (defined below) fees for executions of simple orders⁴ in tiers 4 and 5 in Penny and non-Penny Classes (described below); and (ii) modify the PCRP⁵ table to establish new tier 5 and corresponding rebates and volume thresholds.

Background

In general, the Exchange assesses transaction fees to all Market Makers, which are based upon a threshold tier structure. Section 1(a)i) of the Fee Schedule sets forth the tables applicable to the Market Maker Sliding Scales for Market Maker transaction fees (referred to herein as the "Sliding Scales").⁶ Pursuant to the Sliding Scales, the

³ The term "Market Makers" refers to "Lead Market Makers," "Primary Lead Market Makers," and "Registered Market Makers" collectively. See Exchange Rule 100.

⁴ Executions of simple orders refers to executions on the Exchange's Simple Order Book. The "Simple Order Book" is the Exchange's regular electronic book of orders and quotes. See Exchange Rule 100.

⁵ Under the PCRP, MIAX credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding, in simple or complex as applicable, QCC and cQCC Orders, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Exchange Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the Priority Customer Rebate Program table. See Fee Schedule, Section 1(a)iii). The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

⁶ There are two Sliding Scales in Section 1(a)i) of the Fee Schedule. The first Sliding Scale table applies to Members and their Affiliates (defined below) that are in PCRP volume tier 3 or higher. The second Sliding Scale table applies to Members and their Affiliates that are not in PCRP volume tier or higher.

³³ 15 U.S.C. 78s(b)(3)(A).

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ 15 U.S.C. 78s(b)(2)(B).

³⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Exchange assesses a per contract transaction fee to a Market Maker for the execution of simple orders and quotes (collectively, “simple orders”) and complex orders and quotes (collectively, “complex orders”) based on the tier achieved. For Market Makers, the tier is based on the Market Maker’s percentage of total national Market Maker volume in all multiply-listed options classes that trade on the Exchange during a particular calendar month, or total aggregated volume (“TAV”), and the Exchange aggregates the volume executed by Market Makers in both simple and complex orders for purposes of determining the applicable tier and corresponding per contract transaction fee amount. The calculation of the volume thresholds does not include QCC⁷ and cQCC Orders,⁸ PRIME⁹ and cPRIME¹⁰ AOC Responses, and unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders that are received during the Response Time Interval¹¹ and executed against the PRIME Order and unrelated MIAX Market Maker complex quotes or unrelated MIAX Market Maker complex orders that are received during the Response Time Interval and executed against a cPRIME Order.¹² The Sliding Scales apply to all MIAX Market Makers for transactions in all multiply-listed products, with fees established for standard option classes in the Penny Interval Program¹³ (“Penny Classes”) and separate fees for standard option classes which are not in the Penny Program (“non-Penny Classes”), and further based on whether the Market

Maker is acting as a “Maker” or a “Taker” in simple orders.¹⁴ Market Makers that place resting liquidity, *i.e.*, quotes or orders on the MIAX System,¹⁵ are assessed the “maker” fee (each a “Maker”). Market Makers that execute against (remove) resting liquidity are generally assessed a higher “taker” fee (each a “Taker”).

Pursuant to the PCR, the Exchange credits each Member the per contract amount set forth in the PCR table in Section 1)a)iii) of the Fee Schedule, as applicable, resulting from each Priority Customer¹⁶ order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes, provided the Member meets certain percentage thresholds in a month as described in the PCR table. The calculation of volume thresholds does not include, in simple or complex as applicable, QCC and cQCC Orders, Priority Customer-to-Priority Customer Orders, C2C¹⁷ and cC2C Orders,¹⁸ PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400.¹⁹

In brief, pursuant to the PCR, Priority Customer volume for transactions in simple, PRIME Agency, complex, and cPRIME Agency are aggregated to determine the appropriate volume tier threshold applicable to each transaction. Volume is recorded for, and credits are delivered to, the Member that submits the order to the Exchange. MIAX aggregates the contracts resulting

from Priority Customer Orders²⁰ transmitted and executed electronically on MIAX from Members and Affiliates²¹ for purposes of the thresholds described in the PCR table. Further, the PCR tier achieved by the Member determines which Market Maker Sliding Scale applies to Market Maker transactions, as described in detail below.

Proposal To Amend Certain Maker Fees in the Market Maker Sliding Scales

The Exchange proposes to amend Section 1)a)i) of the Fee Schedule to modify the tables applicable to the Sliding Scales to increase Maker fees for executions of simple orders in tiers 4 and 5 in Penny and non-Penny Classes. Currently, the Sliding Scales provide the following volume thresholds applicable to all Members and their Affiliates, regardless of the PCR tier the Members and their Affiliates achieve in a given month: (i) 0.00% to 0.40% in tier 1; (ii) above 0.40% to 0.80% in tier 2; (iii) above 0.80% to 1.20% in tier 3; (iv) above 1.20% to 1.60% in tier 4; and (v) above 1.60% in tier 5.

For transactions where a Member and its Affiliates are in PCR volume tier 3 or higher, and where a Market Maker is a Maker in Penny Classes for simple

²⁰ The term “Priority Customer Order” means an order for the account of a Priority Customer. *See* Exchange Rule 100.

²¹ For purposes of the MIAX Options Fee Schedule, the term “Affiliate” means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm’s Form BD, Schedule A, (“Affiliate”), or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An “Appointed Market Maker” is a MIAX Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an “Appointed EEM” is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker) that has been appointed by a MIAX Market Maker, pursuant to the following process. A MIAX Market Maker appoints an EEM and an EEM appoints a MIAX Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to membership@miaxglobal.com no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange’s acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. *See* Fee Schedule, Section 1)a)i), note 1.

⁷ A Qualified Contingent Cross Order is comprised of an originating order to buy or sell at least 1,000 contracts, that is identified as being part of a qualified contingent trade, as that term is defined in Interpretations and Policies .01, coupled with a contra-side order or orders totaling an equal number of contracts. *See* Exchange Rule 516(j).

⁸ A Complex Qualified Contingent Cross or “cQCC” Order is comprised of an originating complex order to buy or sell where each component is at least 1,000 contracts that is identified as being part of a qualified contingent trade, as defined in Rule 516, Interpretations and Policies .01, coupled with a contra-side complex order or orders totaling an equal number of contracts. Trading of cQCC Orders is governed by Rule 515(h)(4). *See* Exchange Rule 518(b)(6).

⁹ PRIME is a process by which a Member may electronically submit for execution (“Auction”) an order it represents as agent (“Agency Order”) against principal interest, and/or an Agency Order against solicited interest. *See* Exchange Rule 515A(a).

¹⁰ A Complex Prime or “cPRIME” Order is a complex order (as defined in Rule 518(a)(5)) that is submitted for participation in a cPRIME Auction. *See* Exchange Rule 518(b)(7).

¹¹ *See* Exchange Rule 518(d)(3).

¹² *See* Fee Schedule, Section 1)a)i).

¹³ *See* Securities Exchange Act Release No. 88988 (June 2, 2020), 85 FR 35153 (June 8, 2020) (SR–MIAX–2020–13). *See also* Exchange Rule 510(c).

¹⁴ *See* Securities Exchange Act Release No. 78519 (August 9, 2016), 81 FR 54162 (August 15, 2016) (SR–MIAX–2016–21).

¹⁵ The term “System” means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

¹⁶ The term “Priority Customer” means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Exchange Rule 100.

¹⁷ A Customer Cross Order is comprised of a Priority Customer Order to buy and a Priority Customer Order to sell at the same price and for the same quantity. *See* Exchange Rule 516(i).

¹⁸ A Complex Customer Cross or “cC2C” Order is comprised of one Priority Customer complex order to buy and one Priority Customer complex order to sell at the same price and for the same quantity. Trading of cC2C Orders is governed by Rule 515(h)(3). *See* Exchange Rule 518(b)(5).

¹⁹ *See* Fee Schedule, Section 1)a)iii).

orders, the Exchange assesses per contract fees as follows: \$0.21 in tier 1; \$0.16 in tier 2; \$0.10 in tier 3; \$0.05 in tier 4; and \$0.03 in tier 5. For transactions where a Member and its Affiliates are in PCRP volume tier 3 or higher, and where a Market Maker is a Maker in non-Penny Classes for simple orders, the Exchange assesses per contract fees as follows: \$0.25 in tier 1; \$0.19 in tier 2; \$0.12 in tier 3; \$0.08 in tier 4; and \$0.06 in tier 5.

The Exchange proposes to increase the Maker fees in tiers 4 and 5 for Penny and non-Penny Classes for the Market Maker Sliding Scale applicable to Members and their Affiliates that are in PCRP volume tier 3 or higher as follows: the tier 4 Maker fee for simple orders in Penny Classes will increase from \$0.05 per contract to now be \$0.09 per contract; the tier 5 Maker fee for simple orders in Penny Classes will increase from \$0.03 per contract to now be \$0.08 per contract; the tier 4 Maker fee for simple orders in non-Penny Classes will increase from \$0.08 per contract to now be \$0.11 per contract; and the tier 5 Maker fee for simple orders in non-Penny Classes will increase from \$0.06 per contract to now be \$0.10 per contract.

Currently, for transactions where a Member and its Affiliates are not in PCRP volume tier 3 or higher, and where a Market Maker is a Maker in Penny Classes for simple orders, the Exchange assesses per contract fees as follows: \$0.23 in tier 1; \$0.18 in tier 2; \$0.12 in tier 3; \$0.07 in tier 4; and \$0.05 in tier 5. For transactions where a Member and its Affiliates are not in PCRP volume tier 3 or higher, and where a Market Maker is a Maker in non-Penny Classes for simple orders, the Exchange assesses per contract fees as follows: \$0.27 in tier 1; \$0.21 in tier 2; \$0.14 in tier 3; \$0.10 in tier 4; and \$0.08 in tier 5.

The Exchange proposes to increase the Maker fees in tiers 4 and 5 for Penny and non-Penny Classes for the Market Maker Sliding Scale applicable to Members and their Affiliates that are not in PCRP volume tier 3 or higher as follows: the tier 4 Maker fee for simple orders in Penny Classes will increase from \$0.07 per contract to now be \$0.11 per contract; the tier 5 Maker fee for simple orders in Penny Classes will increase from \$0.05 per contract to now be \$0.10 per contract; the tier 4 Maker fee for simple orders in non-Penny Classes will increase from \$0.10 per contract to now be \$0.13 per contract; and the tier 5 Maker fee for simple orders in non-Penny Classes will increase from \$0.08 per contract to now be \$0.12 per contract.

The purpose of adjusting certain Maker fees in the Sliding Scales is for business and competitive reasons and in light of recent volume and growth on the Exchange. In order to attract order flow, the Exchange initially set lower Maker fees.²² The Exchange now believes that it is appropriate to adjust certain Maker fees so that they are more in line with other exchanges, but will still remain highly competitive such that it should enable the Exchange to continue to attract order flow and maintain market share.²³

Proposal To Amend the PCRP To Establish New Tier 5

The Exchange proposes to modify the PCRP table to establish new tier 5 and corresponding rebates and volume thresholds. Currently, the PCRP table provides the following volume thresholds applicable to Priority Customer Orders, which are based on a percentage of national customer volume in multiply-listed options classes listed on MIAx during the relevant month: 0.00% to 0.50% in tier 1; above 0.50% to 1.50% in tier 2; above 1.50% to 2.00% in tier 3; and above 2.00% in tier 4. The per contract credit to be provided to Members for their Priority Customer Orders under the PCRP is further determined by segment, *i.e.*, whether the Priority Customer Orders are in Select Symbols²⁴ or non-Select Symbols listed on MIAx; whether the order is a PRIME Agency Order or cPRIME Agency Order; or whether the order is a complex order.²⁵ Further, Priority Customer Orders that are part of a PRIME Agency Order are subject to a per contract adjustment based on the breakup percentage of the order in

²² See, *e.g.*, *supra* note 13 (establishing the second Market Maker Sliding Scale table applicable to Members and their Affiliates that are not in PCRP volume tier 3 or higher and assessing Maker fees ranging from \$0.21 to \$0.02 Penny Classes and \$0.30 to \$0.10 in non-Penny Classes).

²³ See NYSE American, LLC ("NYSE American") Options Fee Schedule, Section I.C., NYSE American Options Market Maker Sliding Scale—Electronic (assessing NYSE American Options Market Makers fees for non-take volume ranging from \$0.25 to \$0.09 per contract based on ADV as a percentage of TCADV or assessing fees for non-take volume ranging from \$0.21 to \$0.06 per contract for NYSE American Options Market Makers utilizing the prepayment program).

²⁴ The term "Select Symbols" means options listed on MIAx overlying AAL, AAPL, AMAT, AMD, AMZN, BA, BABA, BB, BIDU, BP, C, CAT, CLF, CVX, DAL, EBAY, EEM, FCX, GE, GILD, GLD, GM, GOOGL, GPRO, HAL, INTC, IWM, JNJ, JPM, KMI, KO, META, MO, MRK, NFLX, NOK, ORCL, PBR, PFE, PG, QCOM, QQQ, RIG, SPY, T, TSLA, USO, VALE, WFC, WMB, XHB, XLE, XLF, XLP, XOM and XOP. See Fee Schedule, Section 1(a)iii), note 14.

²⁵ See Fee Schedule, Section 1(a)iii) for the different rebates provided for each type of order under the PCRP.

PRIME. The rebates to be provided to Members for Priority Customer Orders that are part of a cPRIME Agency Order also depend on the breakup percentage of the order in cPRIME.²⁶

The Exchange now proposes to amend the PCRP table to add new tier 5. With the proposed addition of tier 5, the Exchange proposes to amend the volume threshold applicable to tier 4 to now be above 2.00% to 3.50%. The Exchange proposes that the volume threshold for tier 5 will be above 3.50%. The Exchange proposes the following rebates applicable to Priority Customer Orders in new tier 5 of the PCRP: \$0.24 per contract for simple orders in non-Select Symbols listed on MIAx; \$0.25 per contract for simple orders in Select Symbols listed on MIAx; and \$0.13 per contract for PRIME Agency Orders. For Priority Customer Orders that are part of a cPRIME Agency Order, the Exchange proposes that the new tier 5 rebates will be determined by the cPRIME Agency Order Break-up Table in Section 1(a)iii) of the Fee Schedule. For Priority Customer Orders that are part of a complex order, the Exchange proposes that the new tier 5 rebates will be either \$0.27 or \$0.28 per contract, depending on whether the executing buyer and seller are the same Member or Affiliates. These two rebates will be denoted by symbols " " or "■", respectively, in the PCRP table.

The purpose of the proposed changes to the PCRP table is for business and competitive reasons in order to attract additional Priority Customer volume from Members by establishing the enhanced rebates of proposed tier 5 in the PCRP. The Exchange believes that this may, in turn, encourage Members to submit more Priority Customer Orders, leading to increased liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads.

Implementation

The proposed changes are effective beginning July 1, 2026.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act.²⁷

²⁶ A Member or its Affiliate that qualifies for PCRP volume tier 4 and executes Priority Customer standard, non-paired complex volume at least equal to or greater than three (3) times their Priority Customer cPRIME Agency Order volume, on a monthly basis, will receive an enhanced credit of \$0.12 per contract for cPRIME Agency Orders instead of the rebate that would otherwise apply (*i.e.*, \$0.10 per contract where the breakup percentage exceeds 40%). See Fee Schedule, Section 1(a)iii), including note "***".

²⁷ 15 U.S.C. 78f(b).

in general, and furthers the objectives of Section 6(b)(4) of the Act²⁸ in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act²⁹ in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”³⁰

There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based and singly-listed options, no single exchange had more than approximately 11–12% of the multiply-listed equity options market share for the month of June 2026.³¹ Therefore, no exchange possesses significant pricing power. More specifically, the Exchange had a market share of approximately 8.28% of executed volume of multiply-listed equity options for the month of June 2026.³²

Proposal To Amend Certain Maker Fees in the Market Maker Sliding Scales

The Exchange believes its proposal to modify the Market Maker Sliding Scales to increase Maker fees for executions of simple orders in tiers 4 and 5 in Penny and non-Penny Classes is reasonable, equitably allocated and not unfairly discriminatory. The Exchange believes that even with the proposed increases, the Exchange’s Maker fees for Market Makers will remain competition and continue to encourage such market

participants to provide liquidity to the Exchange. In turn, this should continue to contribute to a deep and liquid market to the benefit of all market participants and allow the Exchange to maintain its attractiveness as a trading venue. The Exchange believes the proposal is reasonable in light of recent volume and growth on the Exchange. In order to attract order flow, the Exchange initially set lower Maker fees.³³ The Exchange now believes that it is reasonable to adjust certain Maker fees applicable to Market Makers so that they are more in line with other exchanges, but will still remain highly competitive such that it should enable the Exchange to continue to attract order flow and maintain market share.³⁴ The Exchange further believes the proposed increased Maker fees are equitable and not unfairly discriminatory because the proposed increased fees will apply to all Market Makers.

Proposal To Amend the PCRP To Establish New Tier 5

The Exchange believes its proposal to amend the PCRP table to establish new tier 5 and the enhanced rebates is reasonable, equitable and not unfairly discriminatory because it may further incentivize Priority Customer Orders to the Exchange. The Exchange believes that this may, in turn, encourage Members to submit more Priority Customer Orders, leading to increased liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads. The Exchange believes the proposed change to the PCRP is equitable and not unfairly discriminatory because it will apply equally to all market participants who provide Priority Customer Orders in various segments.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange believes that the proposed change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange does not believe that the proposal will impose any burden on intra-market competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that its proposal to increase certain Maker fees for Market Makers will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because these changes are for business and competitive reasons and in light of recent volume growth on the Exchange. The Exchange notes that despite the increases proposed herein, the Exchange’s Maker fees under the Market Maker Sliding Scales remain competitive with the maker fees charged by at least one other options exchange for similar executions.³⁵

The Exchange believes its proposal to amend the PCRP will not impose any burden on intra-market competition. Instead, the Exchange believes this proposed change will promote competition because it will further incentivize Priority Customer Orders to the Exchange. The Exchange believes that this may, in turn, encourage Members to submit more Priority Customer Orders, leading to increased liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads.

Inter-Market Competition

The Exchange does not believe that the proposed changes will impose any burden on inter-market competition and the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange had more than approximately 11–12% of the multiply-listed equity options market share for the month of June 2026.³⁶ Therefore, no exchange possesses significant pricing power. More specifically, the Exchange had a market share of approximately 8.28% of executed volume of multiply-listed equity options for the month of June 2026.³⁷

In such an environment, the Exchange must continually adjust its rebates and tiers to remain competitive with other options exchanges. Because competitors are free to modify their own fees and tiers in response, and because market participants may readily adjust their

²⁸ 15 U.S.C. 78f(b)(4).

²⁹ 15 U.S.C. 78f(b)(5).

³⁰ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

³¹ See the “Market Share” section of the Exchange’s website, available at <https://www.miaxglobal.com/> (last visited June 30, 2026).

³² See *id.*

³³ See, e.g., *supra* note 13 (establishing the second Market Maker Sliding Scale table applicable to Members and their Affiliates that are not in PCRP volume tier 3 or higher and assessing Maker fees ranging from \$0.21 to \$0.02 Penny Classes and \$0.30 to \$0.10 in non-Penny Classes).

³⁴ See *supra* note 23.

³⁵ See *supra* note 23.

³⁶ See *supra* note 31.

³⁷ See *id.*

order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's tiers and rebates in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,³⁸ and Rule 19b-4(f)(2)³⁹ thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MIAX-2026-30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-MIAX-2026-30. This file number should be included on the

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MIAX-2026-30 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-14402 Filed 7-16-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105911; File No. SR-SAPPHIRE-2026-29]

Self-Regulatory Organizations; MIAx Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 100, Definitions, and Rule 204, Members and Persons Associated With a Member Who Are or Become Subject to a Statutory Disqualification

July 14, 2026.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 6, 2026, MIAx Sapphire, LLC ("MIAx Sapphire" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding Members and persons

associated with a Member who are or become subject to a statutory disqualification. The proposal is similar to a proposal that Cboe Exchange, Inc. ("Cboe") filed with the Commission.³

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/miax-sapphire/rule-filings>, and at MIAx's principal office.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 204, Members and Persons Associated with a Member Who Are or Become Subject to a Statutory Disqualification, to conform (with certain exceptions) to rules of the Financial Industry Regulatory Authority, Inc. ("FINRA")⁴ and to industry standard rules.⁵ The Exchange's proposal also includes the proposed Statutory Disqualification Circular ("SD Regulatory Circular") that outlines the applicable eligibility procedures. The amended rules would incorporate by reference the procedures in the SD Regulatory Circular. As further detailed in the SD Regulatory Circular, the need for a Member⁶ to file an application with the Exchange for approval, notwithstanding the

³ See Securities Exchange Act Release No. 105289 (April, 22, 2026), 91 FR 22562 (April 27, 2026) (SR-CBOE-2026-038).

⁴ See Securities Exchange Act Release No. 59586 (March 17, 2009), 74 FR 12166 (March 23, 2009) (SR-FINRA-2008-045); Securities Exchange Act Release No. 59722 (April 7, 2009), (SR-FINRA-2009-022).

⁵ See, e.g., Cboe Rule 3.13, NYSE Rules 9520-9550 or IEX Rule Series 9.520.

⁶ The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

³⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

³⁹ 17 CFR 240.19b-4(f)(2).

⁴⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

disqualification would depend on (i) the type of disqualification; (ii) the date of disqualification; and (iii) whether the firm or individual is seeking admission, readmission or continuation in the securities industry.

By way of background, Section 3(a)(39) of the Act defines the term “statutory disqualification” and the circumstances that can cause a person (either a Member, or a person associated with a Member) to be subject to a statutory disqualification.⁷ Absent relief, a statutory disqualification would preclude a Member or person associated with a Member from certain activities, including membership in a self-regulatory organization (“SRO”).

There is, however, a well-established process through which a Member (or a person associated with a broker-dealer) may continue to operate in the securities industry (and either become a Member of, or continue as a Member of, one or more SROs) despite being subject to a statutory disqualification.⁸

In particular, SEC Rule 19h-1⁹ describes several ways an SRO may seek relief for a member (or prospective member) that is subject to a statutory disqualification, including whether an SRO must file a notice with the Commission in order to allow the disqualified firm to become or continue as a member with the SRO (a “19h-1 Notice”).

The existing Rule 204(b) and (c) provides that either (i) a Member shall submit an application to the exchange within 30 days of becoming subject to a statutory disqualification or, (ii) alternatively, if the Exchange becomes aware that a Member or associated person of a Member is subject to a statutory disqualification, then, in either event, the Exchange shall then appoint a panel to conduct a hearing concerning the matter.¹⁰

Currently, FINRA processes statutory disqualification applications on behalf of the Exchange.¹¹ Notably, having

different rules has led to outcomes where FINRA is not required to process an application and/or an applicable 19h-1 Notice under its rules, but the Exchange (or FINRA acting on the Exchange’s behalf) is required under its existing Rule 204. As such, the Exchange proposes to, in large part, conform to FINRA Rule Series 9520 Eligibility Proceedings in order to prevent different outcomes when FINRA is reviewing potential statutory disqualifications on behalf of the Exchange. The Exchange also notes that its existing Rule 204 is an outlier when compared to industry standards, as other exchanges have adopted rules similar to FINRA’s. This may lead to inconsistent results when a firm is a member of multiple exchanges and/or FINRA.¹²

To aid in further conformity between the Exchange and FINRA, the Exchange further proposes that it shall also rely on the no-action letter issued to FINRA in 2009 that provides interpretive guidance regarding (i) the effect of certain time-limited bars or license revocations, (ii) the effect of bars by State securities commissions that are based solely upon a disciplinary action taken by an SRO, (iii) the notice requirements for willful violations of the Municipal Securities Rulemaking Board and aiding and abetting violations, and (iv) enforcement action to the Commission under Exchange Action 15A(g)(2) or Rule 19h-1(a) if an SRO does not file a notice with the Commission for any person subject to a statutory disqualification under Section 3(a)(39) that an SRO proposes to admit or continue in membership or association with a member under specific circumstances.¹³ Due to FINRA’s No-Action Letter, there have been instances where review of the same circumstances had resulted in different outcomes regarding when a notice is required pursuant to Rule 19h-1.¹⁴ Specifically, the No-Action Letter

Agreement (“RSA”) between the Exchange and FINRA.

¹² See, e.g., Cboe Rule 3.13, NYSE Rule 9520, IEX Rule 9.520 and Nasdaq Rule 9520.

¹³ See Financial Industry Regulatory Authority, Inc., SEC No-Action Letter, 2009 SEC No-Act. (March 17, 2009) (“FINRA No-Action Letter”).

¹⁴ For example, the FINRA No-Action Letter grants FINRA relief from notice requirements regarding a member’s continued association with a disqualified person when the statutory disqualification is based on willful violations of the CEA. Because of the relief granted by the No Action Letter and pursuant to Regulatory Notice 09-19, FINRA would not require a member to file an application. However, the Exchange’s current Rule 204 does not offer relief from application requirements for the firm to continue its association with an associated person, notwithstanding their disqualification. Relief is also not provided under the Exchange Act Rule 19h-1(a)(3)(iii), since the

makes clear certain instances where they will grant no-action relief if FINRA does not file a 19h-1 Notice with the Commission. For example, the Commission explicitly grants no-action relief if FINRA does not file a 19h-1 Notice if the subject person is subject to a statutory disqualification solely due to a finding of a willful violation of the CEA or the rules or regulations thereunder, provided that the sanctions are no longer in effect. The FINRA No-Action Letter ultimately requires fewer 19h-1 Notices to be filed.

The Exchanges notes that other exchanges, such as The Nasdaq Stock Market LLC (“Nasdaq”), Investors Exchange (“IEX”), New York Stock Exchange (“NYSE”) and Cboe, have already adopted similar changes to more materially align their rules with FINRA’s.

Proposed Rule 204 would govern eligibility proceedings for persons subject to statutory disqualifications. Proposed Rule 204(a) would add certain definitions relating to eligibility proceedings that are not currently part of the Exchange’s rules, including “Application,” “disqualified Member,” “disqualified person,” “sponsoring Member,” and “Exchange staff.” The Exchange notes that this is substantially similar to FINRA’s Rule 9521, with the following exceptions: (i) “member” has been replaced with “Member;” (ii) references to FINRA By-Laws have been replaced with references to the Exchange Act and Exchange rules (where applicable); (iii) a new term of Exchange staff has been added to account for the relationship between the Exchange and FINRA, where the Exchange has a regulatory services agreement in place with FINRA and FINRA may act within the bounds of the agreed upon services; (iv) the definition of a disqualified Member differs; and (v) proposed Rule 204(a)(1) does not include reference to FINRA By-Laws.

The Exchange proposes to define “disqualified Member” as a Member that is or becomes subject to a disqualification under Section 3(a)(39) of the Exchange Act. This differs from the definition in FINRA Rule 9521(b)(2), which includes various other industry participants in addition to existing members in the definition. The Exchange limited its definition to

disqualifying event is a finding by the CFTC of a willful violation of the CEA and not a finding by the SEC or SRO of a willful violation of the Exchange Act, among others. As such, a notice pursuant to Rule 19h-1 for the Exchange is required, but is not required for FINRA.

⁷ 15 U.S.C. 78c(a)(39).

⁸ See FINRA Regulatory Notice 09-19 (“Amendments to FINRA Rule 9520 Series to Establish Procedures Applicable to Firms and Associated Persons Subject to Certain Statutory Disqualifications”).

⁹ 17 CFR 240.19h-1.

¹⁰ The Exchange notes that Cboe proposes to amend the required time period for submitting an application from 10 days to 10 business days. See *supra* note 3. The Exchange proposes to amend its corresponding requirement from 30 days to 10 business days. See proposed Exchange Rule 204(b)(1)(ii)–(iii). While the current rules provide different application submission deadlines, the proposed rule change would align the Exchange’s requirement with Cboe’s by establishing a uniform deadline of 10 business days.

¹¹ FINRA processes these applications on behalf of the Exchange pursuant to a Regulatory Services

Members, as the Exchange has jurisdiction over Members.¹⁵

Further, while the Exchange differs from FINRA in that it does not include reference to FINRA By-Laws or Exchange Rules under proposed Rule 204(a)(1), the Exchange believes this language better suits the intended purpose of this section. Specifically, proposed Exchange Rule 204 specifies procedures to be followed in the event of a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act. FINRA's equivalent Rule 9521 states that the Rule 9520 Series sets forth procedures for a person to become or remain associated with a member, notwithstanding the existence of a statutory disqualification as defined in Article III, Section 4 of the FINRA By-Laws and for a current member or person associated with a member to obtain relief from the eligibility or qualification requirements of the FINRA By-Laws and FINRA rules. Such actions hereinafter are referred to as 'eligibility proceedings.' While the Exchange only references statutory disqualification events in its equivalent rule, for its purposes, it believes it is more fitting as different procedures would be followed in the event a Member, or Member applicant, is ineligible for other reasons.

Proposed Rule 204(b) is largely mirrored off of FINRA's Rule 9522; however, there were adjustments made to account for updating rule references, adjusting "member" to "Member", and replacing the "National Adjudicatory Council" with the "Business Conduct Committee." First, the proposed Rules 204(b)(1)¹⁶ and 204(b)(2) would govern

the initiation of an eligibility proceeding by the Exchange and the obligation for a Member to file an application to initiate an eligibility proceeding if it or a Member's associated person¹⁷ has been subject to certain disqualifications.

Next, Rule 204(b)(3) sets out the process for a withdrawal of an application and Rule 204(b)(4) sets out prohibitions against ex parte communications when Exchange staff has initiated the eligibility proceedings. The Exchange notes that its rule text does differ from FINRA's; however, this is due to FINRA having a panel that reviews the matter prior to an appeal and thus, ex parte communication concerns arise before appeals. Under the Exchange's proposed rule, with Exchange staff making determinations, a firm will need to talk to the Exchange and FINRA while their application is pending. Thus, the Exchange proposes to note that the proposed ex parte communications provision shall become effective only when an appeal is initiated. Further, under the proposed Rule 204(b)(5), the Exchange could approve a written request for relief from the eligibility requirements under certain circumstances. Specifically, Rule 204(b)(5)(i) describes certain circumstances of which a matter may be approved by the Exchange staff without the filing of an application. This provision is the same as the corresponding provisions of FINRA, Nasdaq, and IEX, with one exception. Specifically, under proposed Rule 204(b)(5)(i)(C), Exchange staff may approve a written request for relief without the filing of an application if a disqualified Member or sponsoring Member is a Member or seeking to become a Member is a member of both the Exchange and another SRO and the other SRO intends to file a Notice under Exchange Act Rule 19h-1 approving the membership continuance of the disqualified Member or, in the case of a sponsoring Member, the proposed association or continued association of the disqualified person and Exchange staff concurs with that determination. This proposed provision is the same as that of Nasdaq, FINRA, and IEX, except it applies to those seeking to become a Member in addition to Members, while the corresponding rules of Nasdaq, FINRA, and IEX apply solely to members of those SROs. However, other organizations have acknowledged this

gap in their rules, noting it would be their practice to apply this provision to prospective members as well as members. Therefore, despite the differences in the rule text of these other organizations, the Exchange believes the outcome under its proposed rule would be the same as both IEX and Nasdaq from a practical perspective.¹⁸

Proposed Rule 204(b)(5)(ii) covers matters that may be approved by¹⁹ the Exchange staff after the filing of an application. Notably, under proposed Rule 204(b)(5)(ii) the Exchange staff may approve an application with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Act or arising under Section 3(a)(39)(E) of the Act. Proposed Rule 204(b)(6) specifies the process for implementing an interim plan of heightened supervision during the application process for a disqualified person.

Proposed Rules 204(b)(7) and 204(b)(8) cover the process for determining that an application is substantially incomplete and the consequences for not remedying an application in a timely manner.²⁰ In the event an applicant fails to remedy an application under Rule 204(b)(8), Exchange staff will serve a written notice on the sponsoring Member of its determination to reject the application and the sponsoring Member must promptly terminate association with the disqualified person. Under FINRA's Rule 9522, there is reference to FINRA's application fee and that FINRA shall refund the application fee, less \$1,000 which shall be retained by FINRA as a processing fee. The Exchange notes, however, that the Exchange has its own application fee program reflected in its fee schedule that is distinct from

¹⁵ The Exchange notes the definition excludes Member applicants (the Exchange understands FINRA's definition also does not apply to FINRA member applicants), because the Exchange would address a disqualification of a Member applicant as part of the Member application process, and the Exchange would not file a 19h-1 Notice with the Commission for a Member applicant. The proposed rule language, like FINRA's, indicates the provisions that are applicable to a Member applicant. If the Exchange approves the Member application of an applicant that is or becomes subject to a disqualification, the firm would then be a Member that could take advantage of the provisions of the proposed rule that apply to a disqualified Member. The Exchange understands this is consistent with FINRA's process with respect to member applicants that are or become subject to a disqualification.

¹⁶ The Exchange notes that for instances in which Exchange staff will not issue written notice to Members or applicants for membership with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act (when a Member or application for membership under Exchange Rules is not required to file an application pursuant to the SD Regulatory Circular), information regarding the disqualifying event and the resolution of any fines, sanctions, or undertakings related to the disqualification are recorded in WebCRD.

¹⁷ Under proposed Rule 204(b)(1)(iii), if a Member fails to file the application or, where appropriate, the written request for relief, within the 10-day period, the registration of the disqualified person shall be revoked and the sponsoring Member must promptly terminate association with the disqualified person.

¹⁸ See, e.g., Securities Exchange Act Release No. 101799 (November 29, 2024), 89 FR 96698 (December 5, 2024) (SR-IEX-2024-26), where IEX states "In the course of reviewing this membership application, IEX identified that its rules do not specifically address this situation, which has not previously occurred with respect to IEX. Specifically, the Exchange believes that its rules regarding the process by which a prospective Member that is subject to a statutory disqualification can be approved for membership on IEX notwithstanding the statutory disqualification could be enhanced to provide additional clarity and more clearly align with the processes set forth in Rule 19h-1 for a membership applicant that is subject to a statutory disqualification."

¹⁹ The Exchange notes that approval of such an application allows for a Member's continued participation on the Exchange.

²⁰ Proposed Rule 204(b)(7) applies to applications that are deemed substantially incomplete if they do not include information related to an interim plan of heightened supervision. Plans of heightened supervisions are issued solely for associated persons (and not Members), and thus this provision applies solely to associated persons.

FINRA's. As a result, the Exchange proposes to not include this in its proposed rule.

As further explained, proposed Rule 204(c) largely mirrors FINRA Rule 9523, with technical changes to account for different defined terms and functions across the SROs. This proposed rule would allow the Exchange staff (handled by FINRA) to recommend a supervisory plan to which the disqualified Member, sponsoring Member, and/or disqualified person, as the case may be, may consent and by doing so, waive the right to appeal if the plan is accepted and right to claim bias or prejudice, or prohibited ex parte communications. If such a supervisory plan were rejected, proposed Rule 204(d) would allow a request for review by the applicant to the Business Conduct Committee and would provide that a filing of an application for review would not stay the effectiveness of final action by the Exchange unless the Commission otherwise ordered.

Proposed Rule 204(c) is covered under two parts: (i) to cover all disqualification except those arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act and (ii) to cover disqualifications that arise solely from findings or orders specified in Section 15(b)(4)(D), (E) or (H). The Exchange notes that the latter (proposed Rule 204(c)(2)) is intended to cover events where an application is required under the SD Regulatory Circular, as under the proposed rule, events arising from findings or order specified in Section 15(b)(4)(D), (E) or (H) of the Exchange Act do not typically require an application unless otherwise specified in the SD Regulatory Circular.

The text of the proposed rule change is similar to that in FINRA's counterpart rules, except for conforming and technical changes and except as follows. First, under proposed Rule 204(c), if the disqualified Member, sponsoring Member, and/or disqualified person executed a letter consenting to a supervisory plan, it would be submitted to the Exchange staff. Under FINRA's rule, the letter is submitted to FINRA Office of General Counsel, which submits it to the Chairman of the Statutory Disqualification Committee, acting on behalf of the NAC; the Chairman may accept or reject the plan or refer it to the NAC for action. The Exchange does not propose to utilize the NAC or the Statutory Disqualification Committee Chairman for this purpose. The Exchange believes that its staff can provide an appropriate review. The staff is performing this same function today when it reviews statutory

disqualification decisions reached by FINRA subject to an RSA Agreement between the Exchange and FINRA. In addition, under FINRA's rule, the waiver of bias or prejudice is with respect to the Department of Member Regulation, the FINRA General Counsel, the NAC and any member thereof, while under proposed Rule 204(c), the waiver would be with respect to the Exchange staff, the Exchange, the Business Conduct Committee, or any member of the Business Conduct Committee.

Next, under proposed Rule 204(d), if the Exchange staff rejects the plan, the Member or applicant may request a review by the Business Conduct Committee.²¹ This differs from FINRA's process, which provides for a hearing before the NAC and further consideration by the FINRA Board of Directors. Because the Exchange does not propose to utilize the NAC, the Exchange proposes instead that any appeal be heard by the Business Conduct Committee. FINRA Rule 9525 also allows for discretionary review by the FINRA Board and the Exchange does not propose to adopt a comparable rule. The Exchange believes that the Exchange staff's role in the process will provide sufficient oversight and independence.

The Exchange does not propose to adopt the text of FINRA Rule 9526, which provides for expedited proceedings by the FINRA Board of Governors in certain instances. The Exchange believes that its proposed rules for review can be carried out in a timely manner and would sufficiently protect investors. The Exchange historically has not provided an expedited statutory disqualification review.

Lastly, the Exchange also notes that it will adopt a definition of "associated person" in Exchange Rule 100, specifically as it pertains to statutory disqualifications. This rule will be similar to the definitions of associated persons implemented by other exchanges to specifically apply to the process of statutory disqualifications.²² Currently, the Exchange's definition for associated person is any partner, officer, director, or branch manager of a Member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a Member, or any employee of a Member, except

that any person associated with a Member whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of these Rules. As the proposed rule requires Members to submit an application for continuance as a Member if any person associated with the Member becomes subject to a statutory disqualification, the Exchange's current rules require Members to file applications for affiliates under common control that would be subject to a statutory disqualification under securities law. In contrast, FINRA does not define "Person Associated with a member" or "Associated Person of a Member" as including affiliates under common control of the FINRA member.²³ Thus, a firm that is both an Exchange Member and FINRA member, which has an affiliate under common control that would be subject to a statutory disqualification under securities laws, is required to file an application with the Exchange, but not with FINRA.

The Exchange proposes to adopt a similar definition to Nasdaq, Cboe, and IEX²⁴ except that it shall (i) remove the reference to investment banking as that is not applicable for the Exchange's functions and (ii) remove subpoint (3) which specifies that for the purposes of another exchange rule of Nasdaq and IEX²⁵ (that is not the exchange's statutory disqualification rule), that it shall also include any other person listed in Schedule A of Form BD of a member. As the Exchange does not have this rule, the Exchange proposes not to include this subpoint (3) in its adopted definition of associated persons for the purpose of statutory disqualifications.

As noted above, other exchanges, such as Nasdaq, IEX, NYSE, and Cboe, have already adopted similar changes to more materially align its rules with FINRA's, and similar to the Exchange, have made some edits to align its

²³ FINRA Regulation, Inc. By-laws, Article I, paragraph (ee) defines the terms "person associated with a member" or "associated person of a member" in relevant part as: "(2) a sole proprietor, partner, officer, director, or branch manager of a member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with the Corporation under these By-Laws or the Rules of the Corporation; and (3) for purposes of Rule 8210, any other person listed in Schedule A of Form BD."

²⁴ See Nasdaq General 3, Rule 1002(b), Cboe 1.1, and IEX Rule 1.160(y).

²⁵ See IEX Rule 8.210 and Nasdaq General 5, Rule 8210.

²¹ The Exchange's proposed Rule 204(d) closely aligns with NYSE Rule 9524 and Cboe Rule 3.13(d) except for conforming and technical changes.

²² See IEX Rule 1.160(y)(2) and Nasdaq General 3, Rule 1002(b)(2).

proposed rules with existing exchange processes.²⁶

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers, because the rule applies uniformly to all Members and does not unfairly discriminate against any Member or type of market participant. The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,³⁰ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Members and persons associated with its Members with the Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the proposed rule change will better enable the Exchange to streamline the administration of its statutory disqualification program and better protect investors and the public interest, as it will eliminate the need for Members or associated persons of Members to submit Statutory Disqualification Applications for prior statutory qualifications that have been resolved. Similar to Nasdaq, IEX, Cboe, and NYSE, the Exchange proposes to harmonize its description of statutory disqualification to align its application of statutory disqualification to FINRA.³¹ This proposal would avoid potentially

different outcomes for members of both FINRA and the Exchange with respect to ineligibility for membership and association.

The proposed changes will provide greater harmonization between Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for dual members. As previously noted, in many instances the proposed rule text is substantially similar to FINRA's current rule text, which already has been approved by the Commission, and in many other cases the differences between current FINRA rules and the proposed rules would be strictly technical in nature. Further, in other instances, such as the Exchange's proposed Rule 204(d), the Exchange's rule closely follows Cboe's Rule 3.13. The proposal is similar to a proposal that Cboe filed with the Commission for immediate effectiveness, and therefore, does not raise any new or novel issues, not already considered by the Commission.³²

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 designed to address any competitive issues but rather is designed to provide greater harmonization between Exchange and FINRA rules of similar purpose for investigations and disciplinary matters, resulting in less burdensome and more efficient regulatory compliance for dual members and facilitating FINRA's performance of its regulatory functions under the RSA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section

19(b)(3)(A)(iii) of the Act³³ and subparagraph (f)(6) of Rule 19b-4 thereunder.³⁴

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)³⁵ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>), or
- Send an email to rule-comments@sec.gov. Please include file number SR-SAPPHIRE-2026-29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-SAPPHIRE-2026-29. 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 also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-SAPPHIRE-2026-29 and should be submitted on or before August 7, 2026.

²⁶ See, e.g., Securities Exchange Act Release Nos. 61703 (March 12, 2010), 75 FR 13620 (March 22, 2010) (SR-NASDAQ-2010-023), 68678 (January 16, 2013), 78 FR 5213 (January 24, 2013) (SR-NYSE-2013-02), and *supra* note 3.

²⁷ 15 U.S.C. 78f(b).

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ *Id.*

³⁰ 15 U.S.C. 78f(b)(1).

³¹ See *supra* note 12.

³² See *supra* note 3.

³³ 15 U.S.C. 78s(b)(3)(A).

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ 15 U.S.C. 78s(B)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-14407 Filed 7-16-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105913; File No. SR-Phlx-2026-44]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 4

July 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 2, 2026, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 7, Sections 4, Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based index options symbols listed within Options 7, Section 5.A).³

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes to modify its Pricing Schedule at Options 7, Section 4 to: (1) increase the Non-Penny Symbol Floor Options Transaction Charge⁴ for Lead Market Makers⁵ and Market Makers;⁶ and (2) amend the Floor Broker⁷ Incentive Program to adopt a new Floor Broker rebate and amend the Tier 4 rebate. Each change will be described below.

First, the Exchange proposes to increase the Non-Penny Symbol Floor Options Transaction Charge for Lead Market Makers and Market Makers. Today, the Exchange assesses the following Non-Penny Floor Options Transaction Charges: \$0.00 for

Customers⁸ and Professionals,⁹ \$0.50 per contract for Lead Market Makers and Market Makers, \$0.25 per contract for Firms¹⁰ and Broker-Dealers.¹¹ At this time, the Exchange proposes to increase the Non-Penny Symbol Floor Options Transaction Charges for Lead Market Makers and Market Makers from \$0.50 to \$1.00 per contract. The Exchange notes that the amount of the proposed fee for Lead Market Maker and Market Maker in Floor Options Transaction Charges is within the range of fees currently in place for transactions by Lead Market Maker and Market Makers (and other market participants) in non-Penny issues.¹²

Second, the Exchange proposes to amend the Floor Broker Incentive Program to pay a \$0.20 per contract rebate for open outcry floor executions that are contra a Lead Market Maker or Market Maker, in lieu of any Floor Broker Incentive Program rebate. Today, Floor Brokers are paid Floor Broker Incentive Program rebates for transactions executed on the trading floor, in open outcry¹³ based on qualifying volume at each threshold level as set forth below.¹⁴

⁸ The term “Customer” applies to any transaction that is identified by a member or member organization for clearing in the Customer range at OCC which is not for the account of a broker or dealer or for the account of a “Professional” (as that term is defined in Options 1, Section 1(b)(45)). See Phlx’s Pricing Schedule at Options 7, Section 1(c).

⁹ The term “Professional” applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Phlx’s Pricing Schedule at Options 7, Section 1(c).

¹⁰ The term “Firm” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation (“OCC”). See Phlx’s Pricing Schedule at Options 7, Section 1(c).

¹¹ The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. See Phlx’s Pricing Schedule at Options 7, Section 1(c).

¹² See, e.g., NYSE Arca Inc.’s (“NYSE Arca”) Fee Schedule, TRANSACTION FEE FOR ELECTRONIC EXECUTIONS—PER CONTRACT (providing for \$1.20 take fee for Market Maker electronic executions in non-Penny issues and \$1.10 take fee for Professional Customer electronic executions in non-Penny issues).

¹³ The following transactions are not considered qualifying volume: (1) dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions as defined in this Options 7, Section 4; (2) Firm Floor Options Transactions for members executing facilitation orders pursuant to Options 8, Section 30 when such members are trading in their own proprietary account (including Cabinet Options Transaction Charges); and (3) Customer-to-Customer transactions.

¹⁴ Floor QCC Orders, as defined in Options 8, Section 30(e), and electronic QCC Orders, as

Continued

³⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On May 1, 2026, the Exchange filed SR-Phlx-2026-28. On May 12, 2026, the Exchange withdrew SR-Phlx-2026-28 and filed this proposal. On May 26, 2026, the Exchange withdrew SR-Phlx-2026-31 and filed this proposal. On July 2, 2026, the Exchange withdrew SR-Phlx-2026-33 and filed this proposal.

⁴ The term “floor transaction” is a transaction that is effected in open outcry on the Exchange’s Trading Floor. See Phlx’s Pricing Schedule at Options 7, Section 1(c).

⁵ The term “Floor Lead Market Maker” is a member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a) and has a physical presence on the Exchange’s Trading Floor. See Phlx’s Pricing Schedule at Options 7, Section 1(c).

⁶ The term “Floor Market Maker” is a Market Maker who is neither an SQT or an RSQT. A Floor Market Maker may provide a quote in open outcry. See Phlx’s Pricing Schedule at Options 7, Section 1(c). The term “Streaming Quote Trader” or “SQT” is defined in Options 1, Section 1(b)(54) as a Market Maker who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. See Phlx’s Pricing Schedule at Options 7, Section 1(c). The term “Remote Streaming Quote Trader” or “RSQT” is defined in Options 1, Section 1(b)(49) as a Market Maker that is a member affiliated with an RSQT with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A Remote Streaming Quote Trader Organization or “RSQT,” which may also be referred to as a Remote Market Making Organization (“RMO”), is a member organization in good standing that satisfies the RSQT readiness requirements in Options 2, Section 1(a). See Phlx’s Pricing Schedule at Options 7, Section 1(c).

⁷ The term “Floor Broker” means an individual who is registered with the Exchange for the purpose, while on the Options Floor, of accepting and handling options orders. See Phlx’s Pricing Schedule at Options 7, Section 1(c).

	Qualifying contracts	Per contract rebate (Customer on one side)	Per contract rebate (Non-customer on both sides)
Tier 1	0–500,000	\$0.04	\$0.10
Tier 2	500,001–5,000,000	0.07	0.18
Tier 3	5,000,001–10,000,000	0.09	0.18
Tier 4	Greater than 10,000,000	0.10	0.22

The Exchange proposes to decrease the Tier 4 Floor Broker Incentive Program per contract rebate for Non-Customer on both sides from \$0.22 to \$0.20. While the Exchange's proposal decreases the Tier 4 rebate, the Exchange believes that the proposed rebate would continue to incentivize order flow to be brought to Phlx. Further, the rebate is payable to the Floor Broker on contracts even if those contracts qualified for the Broker-Dealer Transaction Cap.

The Exchange believes that the proposed \$0.20 per contract Floor Broker rebate for open outcry floor executions contra a Lead Market Maker or Market Maker would further incentivize Floor Brokers to participate in open outcry transactions, including when the contra-party to such trading is a Lead Market Maker or Market Maker. While the Exchange proposes to increase the Non-Penny Options Transaction Charge for Lead Market Makers and Market Makers, the increased transaction charge, taken together with the proposed \$0.20 Floor Broker rebate, on balance, should not discourage Lead Market Makers or Market Makers from continuing to participate in open outcry transactions, and should promote trading opportunities and competition on the Trading Floor for all market participants.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair

discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁷

Likewise, in *NetCoalition v. Securities and Exchange Commission*¹⁸ (“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.¹⁹ As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”²⁰

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”²¹ Although the court and the SEC were discussing the cash equities markets, the Exchange believes

that these views apply with equal force to the options markets.

The Exchange believes that the proposed \$0.20 per contract Floor Broker rebate for open outcry floor executions contra a Lead Market Maker or Market Maker is reasonable because it will incentivize Floor Brokers to direct additional open outcry orders to the Exchange, thereby creating more trading opportunities on the Trading Floor for all market participants, including Lead Market Makers and Market Makers, who, therefore, would not be discouraged from continuing to quote and trade actively on the Exchange. Despite the proposed increase in the Non-Penny Options Transaction Charge for Lead Market Makers and Market Makers, the Exchange believes that increasing the Non-Penny Options Transaction Charge for Lead Market Makers and Market Makers from \$0.50 to \$1.00 will not discourage active quoting and trading. The Exchange also believes that, in addition to benefitting all market participants, the \$1.00 Non-Penny Options Transaction Charge is reasonable, as it remains within the range of fees assessed by NYSE Arca.²²

Furthermore, the Exchange believes that assessing a higher fee for open outcry transactions on the Trading Floor is reasonable considering the distinct advantages afforded to Floor Lead Market Makers and Floor Market Makers. In May 2026, approximately 100% of Lead Market Maker and Market Maker Manual volume in Non-Pennies was generated by Floor Lead Market Maker and Floor Market Makers who, by virtue of their physical presence and participation model, are uniquely positioned to evaluate the full terms of a transaction, including size, pricing, and counterparty interest, immediately prior to execution. This capability enables these floor participants to

defined in Options 3, Section 12, are considered qualifying volume but are not paid rebates based on the above schedule, rather Floor QCC Orders and electronic QCC Orders would be paid the QCC Rebates noted in Options 7, Section 4. Additionally, Broker-Dealer Floor Options Transactions that are capped pursuant to the Broker-Dealer Transaction Cap will be considered qualifying volume but

would not be paid rebates based on the below schedule.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4) and (5).

¹⁷ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹⁸ *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

¹⁹ See *NetCoalition*, at 534–535.

²⁰ *Id.* at 537.

²¹ *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

²² See *supra* note 12.

exercise discretion in determining whether to engage in a trade under informed conditions that are not available to off-floor or fully electronic participants. In addition, the Exchange's rules provide Floor Lead Market Makers and Floor Market Makers with a guaranteed participation entitlement of up to 60% of the trade for Facilitation Cross Transactions,²³ even in the absence of price improvement. This allocation represents a meaningful structural advantage as it ensures a substantial share of order flow once a Floor Lead Market Maker or Floor Market Maker elects to participate.²⁴ Together, these features—the ability to assess trading opportunities in real time before committing capital and the certainty of receiving a guaranteed, significant allocation—enhance the likelihood of favorable execution outcomes and revenue opportunities for Floor Lead Market Makers and Floor Market Makers. Accordingly, the Exchange believes it is reasonable to assess higher fees on Floor Lead Market Maker and Floor Market Maker open outcry transactions in Non-Pennies. The differential reflects the enhanced trading privileges, informational advantages, and allocation guarantees that are uniquely available to floor-based participants and serves to appropriately align fees with the relative value of these benefits as compared to other market participants operating without such advantages.

The Exchange believes that the proposed changes are reasonably designed to incentivize Floor Brokers (and other participants on the Trading Floor) to increase the number of open outcry orders sent to the Exchange. Any increase in trading volume would create additional opportunities for Lead Market Makers, Market Makers and other floor participants, attracting further order flow to the Trading Floor and contributing to a deeper, more liquid market. The proposed rebate is similar in structure to incentive programs for Floor Brokers offered by NYSE Arca and NYSE American LLC.²⁵

²³ See Options 8, Section 25.

²⁴ This is a significant benefit. While some Floor Lead Market Maker and Floor Market Maker Manual volume derives from upstairs paired transactions, where these benefits are not present, such activity constitutes only a small percentage of overall market making activity in open outcry.

²⁵ NYSE Arca and NYSE American offer a floor broker rebate of \$0.20 for manual trades executed by a floor broker against a market maker on the trading floor. The rebate is in lieu of any rebates achieved via the manual billable rebate program. See NYSE Arca's Options Fees and Charges and NYSE American's Options Fee Schedule. Also, see, e.g., BOX Exchange Fee Schedule, Section V. Manual Transaction Fees, available at <https://boxexchange.com/assets/BOX-Fee-Schedule-as-of->

The Exchange further believes the proposal is reasonable because it is designed to offset costs associated with the proposed Floor Broker rebate through the increase to the Non-Penny Floor Options Transaction Charge for Lead Market Makers and Market Makers. To the extent this purpose is achieved, the Exchange believes that the proposed change would not disincentivize Lead Market Maker or Market Maker activity on the Trading Floor because increased order flow from Floor Brokers seeking to earn the proposed rebate would result in more opportunities to trade for all market participants. In addition, the Exchange notes that market participants are free to conduct transactions on competing venues instead if they believe other options markets offer more favorable pricing.

To the extent the proposed rule change continues to attract greater volume and liquidity by encouraging Floor Brokers to increase their options volume on the Exchange in an effort to earn the proposed rebate, the Exchange believes the proposed changes would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. Against the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.

The Exchange's proposal to pay Floor Brokers the \$0.20 per contract rebate in lieu of any Floor Broker Incentive Program rebate, continue to pay the rebate even if the transaction was subject to the Broker-Dealer Transaction Cap, and also decrease the Tier 4 Floor Broker Incentive Program per contract rebate for Non-Customer on both sides from \$0.22 to \$0.20 is reasonable because it balances the new Floor Broker rebate against the increased Non-Penny Floor Options Transaction Charge while allowing for the availability of other incentives. Further, despite the decrease to the Tier 4 rebate, the Exchange continues to pay a greater

January-22-2026.pdf (offering Floor Brokers that submit QOO and FOO Orders a \$0.20 per contract enhanced rebate for executions that trade with a Floor Market Maker, in lieu of lesser per contract rebates also available to Floor Brokers); MIAX Sapphire Options Exchange, Section 1) c) Trading Floor Transactions, available at https://www.miaxglobal.com/sites/default/files/fee_schedulefiles/MIAX_Sapphire_Fee_Schedule_01212026_b.pdf (providing for the "Floor Broker Breakup Credit," a \$0.20 credit applicable to Floor Brokers that submit a QFO or cQFO for executions that trade with a Floor Market Maker, instead of the \$0.10 Floor Broker rebate otherwise available).

Tier 4 rebate as compared to the Tier 1 through Tier 3 rebates. The Exchange believes that the proposed rebate will continue to incentivize order flow to be brought to Phlx.

The Exchange believes that the proposed \$0.20 per contract Floor Broker rebate for open outcry floor executions contra a Lead Market Maker or Market Maker is equitable and not unfairly discriminatory because the proposed rebate is based on the amount and type of business transacted on the Exchange, and participation in the rebate program is voluntary; Floor Brokers may, but are not required to, pursue qualifying volume. The Exchange also believes that the proposed change is equitable and not unfairly discriminatory because it is designed to balance costs associated with encouraging increased execution opportunities on the Trading Floor, and an increase in such orders would in turn enhance trading opportunities for all market participants. In addition, the proposed Lead Market Maker and Market Maker Non-Penny Options Transaction Charge of \$1.00 is within the range of fees currently applicable to transactions by Lead Market Makers, Market Makers and other market participants in Non-Penny Symbols.²⁶ The Exchange also believes that the proposed Floor Broker rebate is an equitable allocation of fees and credits because it is intended to support Floor Brokers' role in facilitating the execution of open outcry orders, a function that benefits all market participants on the Trading Floor.

Moreover, the proposal is designed to incentivize participation on the Trading Floor in an effort to make the Exchange a primary execution venue and to attract more open outcry transactions to the Trading Floor. To the extent that the proposed change attracts more Floor Broker orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all participants and attract additional order flow, further enhancing market quality and price discovery.

The Exchange believes it is not unfairly discriminatory to increase the Non-Penny Floor Options Transaction Charge for Lead Market Makers and Market Makers because the proposed change would apply in a uniform manner to all Lead Market Maker and Market Maker orders. Incentivizing order flow to the Trading Floor would

²⁶ See NYSE Arca's Options Fees and Charges.

enhance liquidity to the benefit of all market participants. The Exchange also believes that the proposed \$0.20 rebate payable to Floor Brokers for an open outcry transaction contra a Lead Market Maker or Market Maker is not unfairly discriminatory because it would be available to all similarly situated market participants on an equal and non-discriminatory basis. Further, all Floor Brokers would qualify for the proposed rebate. The proposal is intended to encourage the role performed by Floor Brokers in facilitating the execution of orders via open outcry, a function which the Exchange wishes to support for the benefit of all market participants. In addition, although the proposed change would increase the Non-Penny Options Transaction Charge applicable to Lead Market Maker and Market Maker floor transactions, the Exchange notes that the amount of the proposed fee is within the range of fees currently applicable to transactions by Lead Market Makers, Market Makers and other market participants in Non-Penny Symbols²⁷ and believes that Lead Market Makers and Market Makers would not be discouraged from continuing to participate actively on the Trading Floor and would benefit from increased open outcry order flow, including from Floor Brokers seeking to earn the proposed rebate, as a result of the proposed change. To the extent that this increased order flow attracts order flow from other market participants to the Trading Floor, the proposed rule change would improve market quality and promote additional trading opportunities for all market participants on the Exchange.

The Exchange further believes that assessing Floor Lead Market Makers and Floor Market Makers a higher fee for Non-Penny open outcry transactions is equitable because Floor Lead Market Makers and Floor Market Makers, who account for the majority of such volume, occupy a uniquely advantaged position relative to other market participants. Specifically, these participants benefit from the exclusive ability to evaluate the terms of a transaction immediately prior to execution as well as a guaranteed participation allocation of up to 60% of the trade under the Exchange's rules.²⁸ These features provide Floor Lead Market Maker and Floor Market Makers with meaningful informational and allocation advantages that are not available to off-floor or purely electronic participants. Accordingly, the Exchange believes that the differential in fees is appropriately

calibrated to the distinct structural benefits available to Floor Lead Market Makers and Floor Market Makers and therefore does not constitute unfair discrimination. Rather, the higher fee reflects a rational alignment between pricing and the value of the enhanced trading opportunities and execution certainty afforded to these participants. Moreover, to the extent that the exercise of these advantages contributes to increased Trading Floor activity and attracts additional order flow, the proposed fee would enhance overall market quality, deepen liquidity, and promote additional trading opportunities for all market participants on the Exchange.

Finally, Lead Market Makers and Market Makers may transact with any order flow that results from the increased incentive.

The proposals to pay Floor Brokers the \$0.20 per contract rebate in lieu of any Floor Broker Incentive Program rebate, continue to pay the rebate even if the transaction was subject to the Broker-Dealer Transaction Cap, and also decrease the Tier 4 Floor Broker Incentive Program per contract rebate for Non-Customer on both sides from \$0.22 to \$0.20 are equitable and not unfairly discriminatory because they would apply uniformly to all Floor Brokers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to the Trading Floor, thereby promoting market depth, price discovery, and transparency, and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."²⁹

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants another choice of where to transact options. The Exchange notes that it operates in a highly

competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that any burden on competition resulting from these pricing changes is extremely limited.

Intra-Market Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the increase to the Non-Penny Floor Options Transaction Charge for Lead Market Makers and Market Makers and the proposed Floor Broker rebate of \$0.20 per contract rebate for open outcry floor executions that are contra a Lead Market Maker or Market Maker would encourage Floor Broker open outcry flow and would not disincentivize Lead Market Maker or Market Maker activity on the Trading Floor. Greater liquidity benefits all market participants on the Exchange and increased order flow would increase opportunities for execution of other trading interest. The proposal would apply and be available to all similarly situated market participants that execute open outcry on the Trading Floor, and, accordingly, the proposed changes would not impose a disparate burden on competition among market participants on the Exchange.

The Exchange believes the proposed rule change reflects this competitive environment by modifying its pricing to continue incentivizing Trading Floor participants to direct order flow to, and provide liquidity to the Exchange. To the extent that Floor Brokers are encouraged to utilize Phlx as a primary trading venue for all floor transactions, all floor market participants stand to benefit from the improved market quality and increased opportunities for price improvement.

Finally, the proposals to pay Floor Brokers the \$0.20 per contract rebate in lieu of any Floor Broker Incentive Program rebate, continue to pay the rebate even if the transaction was subject to the Broker-Dealer Transaction Cap, and also decrease the Tier 4 Floor

²⁷ See NYSE Arca's Options Fees and Charges.

²⁸ See *supra* note 23.

²⁹ See Reg NMS Adopting Release, *supra* note 10, at 37499.

Broker Incentive Program per contract rebate for Non-Customer on both sides from \$0.22 to \$0.20 do not impose an undue burden on competition because they would apply uniformly to all Floor Brokers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.³⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-Phlx-2026-44 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-Phlx-2026-44. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying

at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-Phlx-2026-44 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-14409 Filed 7-16-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36253; File No. 812-15947]

Kennedy Lewis Capital Company, et al.

July 15, 2026.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Kennedy Lewis Capital Company, KLCC SPV GS1 LLC, KLCC SPV JPM1 LLC, Kennedy Lewis Capital Holdings LLC, Kennedy Lewis Management LP, and certain of their affiliated entities as described in Appendix A to the application.

FILING DATES: The application was filed on December 2, 2025, and amended on April 21, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at Secretarys-Office@sec.gov and serving the Applicants with a copy of the

request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on August 10, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at Secretarys-Office@sec.gov.

ADDRESSES: The Commission: Secretarys-Office@sec.gov. Applicants: Anthony Pasqua, Kennedy Lewis Capital Company, at anthony.pasqua@klimllc.com, with copies to Richard Horowitz, Esq., Dechert LLP, at richard.horowitz@dechert.com.

FOR FURTHER INFORMATION CONTACT: Kieran G. Brown, Senior Counsel, or Rachel Loko, Senior Special Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' first amended application, filed April 21, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC's Office of Investor Education and Assistance at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-14505 Filed 7-16-26; 8:45 am]

BILLING CODE 8011-01-P

³⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

³¹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0018]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 15b6-1 and Form BDW

Upon Written Request, Copies Available
From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (SEC or “Commission”) is submitting to the Office of Management and Budget (“OMB”) this request for extension of the proposed collection of information provided for in Rule 15b6-1 (17 CFR 240.15b6-1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Registered broker-dealers use Form BDW (17 CFR 249.501a) to withdraw from registration with the Commission, the self-regulatory organizations, and the states. On average, the Commission estimates that it would take a broker-dealer approximately one hour to complete and file a Form BDW to withdraw from Commission registration as required by Rule 15b6-1. The Commission estimates that approximately 283 broker-dealers withdraw from Commission registration annually¹ and, therefore, file a Form BDW via the internet with the Central Registration Depository, a computer system operated by the Financial Industry Regulatory Authority, Inc. that maintains information regarding registered broker-dealers and their registered personnel. The 283 broker-dealers that withdraw from registration by filing Form BDW would incur an aggregate annual reporting burden of approximately 283 hours.²

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.

¹ This estimate is based on Form BDW data collected over the past three years for fully registered broker-dealers. This estimate is based on the numbers of forms filed; therefore, the number may include multiple forms per broker-dealer if the broker-dealer's initial filing was incomplete. In fiscal year (from 10/1 through 9/30) 2023, 291 broker-dealers withdrew from registration. In fiscal year 2024, 304 broker-dealers withdrew from registration. In fiscal year 2025, 255 broker-dealers withdrew from registration. $(291 + 304 + 255)/3 = 283$ (rounded down from 283.33).

² $(283 \times 1 \text{ hour}) = 283 \text{ hours}$.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202605-3235-005 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by August 17, 2026.

Dated: July 14, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-14414 Filed 7-16-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36251; File No. 812-15973]

Cliffwater Corporate Lending Fund, *et al.*

July 14, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (“BDCs”), closed-end management investment companies, and open-end management investment companies to co-invest in portfolio companies with each other and with certain of their wholly-owned subsidiaries.

APPLICANTS: Cliffwater Corporate Lending Fund, Cliffwater Enhanced Lending Fund, Cascade Private Capital Fund, Cliffwater LLC, and certain of their affiliated entities as described in Schedule A to the Application.

FILING DATES: The application was filed on January 13, 2026, and amended on June 11, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at Secretaries-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant

Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern Time, on August 10, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at Secretaries-Office@sec.gov.

ADDRESSES: The Commission: Secretaries-Office@sec.gov. Applicants: Jonathan Rogal, jrogal@cliffwater.com, Stephen L. Nesbitt, snesebitt@cliffwater.com, Michael Cowart mcowart@cliffwater.com; and Joshua B. Deringer, Esq. and Gwendolyn A. Williamson, Esq., Faegre Drinker Biddle & Reath LLP, joshua.deringer@faegredrinker.com and gwendolyn.williamson@faegredrinker.com.

FOR FURTHER INFORMATION CONTACT: Adam Large, Senior Special Counsel, or Laura L. Solomon, Senior Counsel at (202) 551-6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and conditions, please refer to Applicants’ amended application, filed June 11, 2026, which may be obtained via the Commission’s website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC’s EDGAR system.

The SEC’s EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC’s Office of Investor Education and Assistance at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-14413 Filed 7-16-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105905; File No. SR–NYSE–2026–33]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List

July 14, 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 July 1, 2026, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List regarding the gross FOCUS fee charged to member organizations, effective July 1, 2026. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to provide for a temporary waiver of the Gross FOCUS fee from

July 1, 2026 to December 31, 2026 (the “Waiver Period”).

The Exchange proposes to implement the fee changes effective July 1, 2026.

Background

NYSE Rule 129 provides that the Exchange’s Board may, from time to time, impose such charge(s) on members and member organizations as it deems appropriate to reimburse the Exchange, in whole or in part, for regulatory oversight services provided to the membership by the Exchange.

Generally, the Exchange may only use regulatory fees “to fund the legal, regulatory and surveillance operations” of the Exchange.⁴

Consistent with the foregoing, the Exchange currently charges each member organization a monthly regulatory fee of \$0.11 per \$1,000 of gross revenue reported on its FOCUS Report (“Gross FOCUS Fee”). Member organizations are subject to certain minimum annual Gross FOCUS Fees, which are \$500 for carrying firms and designated market makers, \$250 for introducing firms, and \$45 for member organizations who do not conduct a public business.

The revenue collected pursuant to the Gross FOCUS Fee funds the performance of the Exchange’s regulatory activities with respect to member organizations. More specifically, the Gross FOCUS Fee funds a material portion, but not all, of the Exchange’s expenses related to its regulatory program, including legal expenses associated with regulation, the costs related to in-house staff, third-party service providers, and technology that facilitates regulatory functions such as surveillance, investigation, examinations, and enforcement. Gross FOCUS Fee funds may also be used for indirect expenses such as human resources and other administrative costs (collectively, “Regulatory Costs”).

The Exchange monitors the amount of revenue collected from the Gross FOCUS Fee to ensure that these funds, in combination with its other regulatory fees and fines, do not exceed Regulatory Costs. The Exchange monitors Regulatory Costs and revenues on an annual basis, at a minimum. If the Exchange determines that regulatory revenues exceed or are projected to exceed Regulatory Costs, the Exchange will adjust the Gross FOCUS Fee downward or seek a partial waiver of

the fee by submitting a filing to the Commission. As described below, the Exchange has determined that continued collection of Gross FOCUS Fees at the current rate for the proposed Waiver Period would exceed a material portion of the Exchange’s anticipated Regulatory Costs, justifying the proposed waiver of the Gross FOCUS Fee for member organizations through the end of 2026.

Proposed Rule Change

Based on the Exchange’s recent review of current and anticipated Regulatory Costs and Gross FOCUS Fee revenue, the Exchange proposes to waive the Gross FOCUS Fee from July 1, 2026 through December 31, 2026, in order to help ensure that the amounts collected from the Gross FOCUS Fee, in combination with other regulatory fees and fines, do not exceed the Exchange’s total projected Regulatory Costs. The Exchange proposes to waive the Gross FOCUS Fee because it believes that if the fee is not adjusted, Gross FOCUS Fee revenue to the Exchange year-over-year could exceed a material portion of the Exchange’s Regulatory Costs. The Exchange’s position is based on its periodic analysis of actual and anticipated costs to fund its regulatory program and revenue to offset those costs, including the Gross FOCUS Fee, and takes into consideration the projected regulatory spending landscape going forward. Moreover, the Exchange believes that a waiver rather than adjusting the fee would most efficiently accomplish the goal of reasonably ensuring that Gross FOCUS Fee collection does not exceed anticipated Regulatory Costs and allow for further consideration of the appropriate Gross FOCUS Fee rate going forward.

The Exchange would announce the proposed waiver of the Gross FOCUS Fee by Trader Update.

The proposed change is not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁶ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

⁴ See Fourteenth Amended and Restated Operating Agreement of New York Stock Exchange LLC, Art. IV, Sec. 4.05, available at https://www.nyse.com/publicdocs/nyse/regulation/nyse/Fourteenth_Amended_and_Restated_Operating_Agreement_of_New_York_Stock_Exchange.pdf.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4) & (5).

facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change Is Reasonable

The Exchange believes the proposed fee change is reasonable because it would help ensure that revenue collected from the Gross FOCUS Fee does not exceed a material portion of the Exchange's projected Regulatory Costs. The Exchange has targeted the Gross FOCUS Fee to generate revenues that would be less than or equal to the Exchange's regulatory costs, which is consistent with both Rule 129 and the Commission's view that regulatory fees be used for regulatory purposes. As noted above, the principle that the Exchange may only use regulatory fees "to fund the legal, regulatory, and surveillance operations" of the Exchange is reflected in the Exchange's operating agreement.⁷ In this regard, the Gross FOCUS Fee has been calculated to recover a material portion, but not all, of the Exchange's Regulatory Costs. As also noted above, based on the Exchange's recent review of current and projected regulatory costs and Gross FOCUS Fee collections, a waiver of the Gross FOCUS Fee would be the most efficient way to lessen the potential for generating excess funds that may otherwise occur using the current rate and allow for further consideration of the appropriate Gross FOCUS Fee rate going forward. The Exchange thus believes that the proposed waiver would be a fair and reasonable method for ensuring that the amounts collected from the Gross FOCUS Fee, in combination with other regulatory fees and fines, do not potentially exceed Regulatory Costs. The Exchange further believes that resuming the current rate as of January 1, 2027, would be reasonable because it would permit the Exchange to resume assessing the Gross Focus Fee in a way that is designed to recover a material portion, but not all, of the Exchange's projected Regulatory Costs. The Exchange would continue monitoring Regulatory Costs in advance of the fee resumption next year and, if the Exchange determines that the rate should be further modified to help ensure that Gross FOCUS Fee collections would not exceed a material portion of Regulatory Costs, would make an appropriate rule filing with the Commission.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes its proposal is an equitable allocation of fees among its

market participants. The Exchange further believes that the proposed Gross FOCUS Fee waiver would benefit all member organizations because all member organizations would be eligible for the waiver, and would benefit from the waiver, on full and equal terms. For the same reasons, the proposed waiver neither targets nor will it have a disparate impact on any particular category of market participant. All member organizations would qualify for the waiver of the Gross FOCUS Fee on an equal and non-discriminatory basis. The Exchange also believes that recommencing the Gross FOCUS Fee effective January 1, 2027, at the current rate, unless the Exchange determines it would be necessary to further adjust the fee, is equitable because the Gross FOCUS Fee would resume applying to all member organizations on an equal basis.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. The proposed waiver of the Gross FOCUS Fee would benefit all similarly-situated market participants on an equal and non-discriminatory basis. Moreover, the proposal neither targets nor will it have a disparate impact on any particular category of market participant. The proposed fee change is designed to pause collection of a fee that applies to member organizations on an equal and non-discriminatory basis, waiver of which would apply to and benefit all member organizations equally. The Exchange also believes that recommencing the Gross FOCUS Fee on January 1, 2027, at the current rate, unless the Exchange determines it would be necessary to further adjust the rate to ensure that collections do not exceed a material portion of its Regulatory Costs, is not unfairly discriminatory because the resumed fee would apply equally to all member organizations.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,⁸ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition. The Exchange believes the proposed fee change would not impose an undue

burden on competition as the fee waiver would apply to all member organizations on an equal and non-discriminatory basis. The Exchange believes that the proposed waiver would also not place certain market participants at an unfair disadvantage because all member organizations would be eligible for the same waiver. For the same reasons, the proposed fee waiver neither targets nor will it have a disparate impact on any particular category of market participant. All similarly-situated member organizations would be eligible for the proposed waiver. The Exchange also believes recommencing the Gross FOCUS Fee on January 1, 2027, at the same current rate (unless the Exchange determines it necessary at that time to adjust the fee to ensure that collections do not exceed a material portion of its Regulatory Costs) would not impose an undue burden on competition because the proposed rate would apply equally to all member organizations subject to the Gross FOCUS Fee and would permit the Exchange to resume assessing a fee that is designed to recover a material portion, but not all, of the Exchange's projected Regulatory Costs.

Intermarket Competition. The proposed fee change is not designed to address any competitive issues. Rather, the proposed change is designed to help the Exchange adequately fund its regulatory activities while seeking to ensure that total collections from regulatory fees do not exceed total Regulatory Costs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,⁹ and Rule 19b-4(f)(2) thereunder¹⁰ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. 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

⁷ See note 4, *supra*.

⁸ 15 U.S.C. 78f(b)(8).

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4.

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–NYSE–2026–33 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–NYSE–2026–33. 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–NYSE–2026–33 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–14401 Filed 7–16–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105900; File No. SR–CboeBZX–2026–057]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.23

July 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on June 30, 2026, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b–4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission” or “SEC”) a proposed rule change to amend (1) the definition of “Collar Price Range” under Exchange Rule 11.23(a)(6) and to remove the existing Collar Midpoint definition therefrom; (2) Exchange Rule 11.23(a)(22) to adopt a standalone definition of the term “Collar Midpoint” that provides the Exchange with discretion to set the Collar Midpoint in any circumstance where no Volume Based Tie Breaker is available; and (3) Exchange Rule 11.23(d)(2)(F)(i) to separately articulate the price determination standards applicable to IPO Auctions in BZX-listed corporate securities and ETP IPO Auctions. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b–4(f)(6).

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 11.23(a)(6), Rule 11.23(a)(22), and Rule 11.23(d)(2)(F)(i) to: (1) remove the existing Collar Midpoint⁵ definition language from Rule 11.23(a)(6); (2) adopt a standalone definition of the term “Collar Midpoint” under Rule 11.23(a)(22) that provides the Exchange with discretion to set the Collar Midpoint in any circumstance where no Volume Based Tie Breaker⁶ is available. This authority is similar to, but broader in scope than, the Exchange's existing authority under Rule 11.23(a)(6) to adjust the issue price as Collar Midpoint for ETP IPO Auctions; and (3) separately articulate the price determination standards applicable to IPO Auctions in BZX-listed corporate securities and ETP IPO Auctions, including the express elimination of the Collar Price Range for ETP IPO Auctions. The proposed elimination of the Collar Price Range for ETP IPO Auctions is similar to the rules of NYSE Arca, Inc. (“NYSE Arca”), which does not apply Auction Collars to IPO Auctions in Derivative Securities Products (*i.e.*, ETPs) under NYSE Arca Rule 7.35–E(f)(2). The proposed Exchange discretion to set the Collar Midpoint when no Volume Based Tie Breaker is available is modeled on the Nasdaq Stock Market LLC (“Nasdaq”) Rule 4120(c)(7)(A)(i), which provides that in the event there is no Nasdaq last sale price or Nasdaq Official Closing Price (“NOCP”), Nasdaq's MarketWatch Department retains discretion to set the Auction Reference Price.

Background

Exchange Rule 11.23(a)(6) defines the term “Collar Price Range” as the range

⁵ See Exchange Rule 11.23(a)(6).

⁶ See Exchange Rule 11.23(a)(23).

¹¹ 17 CFR 200.30–3(a)(12).

from a set percentage below the Collar Midpoint to above the Collar Midpoint, with the applicable percentage determined by the value of the Collar Midpoint at the time of the auction. The Collar Midpoint is generally the Volume Based Tie Breaker for all applicable auctions, except for IPO Auctions in ETPs (as defined in Rule 11.8, Interpretation and Policy .02(d)(2)), for which the Collar Midpoint is the issue price, as may be adjusted by the Exchange in its discretion.⁷ Under the current rule, the Collar Price Range applies to all IPO Auctions on the Exchange, including ETP IPO Auctions. For ETP IPO Auctions, the rule designates the issue price, which is typically provided by the ETP issuer the day prior to the IPO launch, as the Collar Midpoint rather than the Volume Based Tie Breaker used in other auctions, but does not otherwise exempt ETP IPO Auctions from the application of a Collar Price Range. Exchange Rule 11.23(d)(2)(F)(i) governs the determination of the BZX IPO and Halt Auction Price and currently provides only that orders will be executed at the price that maximizes the number of shares executed in the auction, without separately distinguishing between BZX-listed corporate securities and ETP IPO Securities with respect to the application of the Collar Price Range.

The Exchange recently amended Rule 11.23 to, among other things, separately delineate provisions applicable to BZX-listed corporate securities and ETP IPO Securities and to adopt a price validation test⁸ for ETP IPO Auctions

⁷ The Exchange recently amended the definition of “Collar Price Range” to provide that The Collar Midpoint will be the Volume Based Tie Breaker for all applicable auctions, except for IPO Auctions in ETPs (as defined in Rule 11.8, Interpretation and Policy .02(d)(2)), for which the Collar Midpoint will be the issue price, *as may be adjusted by the Exchange in its discretion*. See Securities Exchange Act No. 105868 (June 15, 2026) 91 FR 36901 (June 18, 2026) (SR-CboeBZX–2026–055) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Provide the Exchange with Explicit Authority to Adjust the Issue Price of a ETP IPO Security for Purposes of Applying the Collar Price Range to an ETP IPO Auction) (the “Issue Price Amendment”).

⁸ Under the price validation test, beginning at 8:00 a.m. ET the System determines and displays the live Indicative Price of the ETP IPO Security to the lead market maker (the “LMM”), who may approve an Indicative Price (the most recently approved Indicative Price at the time of each application of the test being the “Expected Price”) and select upper and lower price bands around the Expected Price (defaulting to \$0.10 each if the LMM does not select price bands, and not to exceed \$0.50). Beginning at 9:30 a.m. ET, the ETP IPO Security is automatically subjected to the price validation test, which is reapplied in five-second increments following each failure. The ETP IPO Security does not pass the price validation test if the Indicative Price differs from the Expected Price by an amount in excess of the price bands, in which

under Rule 11.23(d)(2)(C)(vi).⁹ As adopted, Rule 11.23(d)(2)(C)(vi) provides that the price validation test applies beginning at 9:30 a.m. ET and that in no circumstance will the Quote-Only Period be extended past 9:45 a.m. ET under that provision. If the ETP IPO Security has not passed the price validation test by 9:45 a.m. ET, the price validation test will no longer apply and the Quote-Only Period will terminate, provided that no other conditions under Rule 11.23(d)(2)(C) are present. Although SR-CboeBZX–2025–149 established a robust price discovery framework for ETP IPO Auctions through the price validation test, it did not address the application of the Collar Price Range to ETP IPO Auctions.

Proposal

The Exchange proposes to amend Rule 11.23(a)(6) to remove the existing Collar Midpoint definition language from the Collar Price Range definition. Specifically, the Exchange proposes to delete the sentence currently providing that the Collar Midpoint will be the Volume Based Tie Breaker for all applicable auctions, except for IPO Auctions in ETPs (as defined in Rule 11.8, Interpretation and Policy .02(d)(2)), for which the Collar Midpoint will be the issue price, as well as the “as defined below” parenthetical reference to the Collar Midpoint in Rule 11.23(a)(6).

In lieu of the foregoing, the Exchange proposes to adopt a standalone definition of the term “Collar Midpoint” under Rule 11.23(a)(22) (currently reserved). As proposed, Rule 11.23(a)(22) will provide that the term “Collar Midpoint” will be the Volume Based Tie Breaker. When there is no Volume Based Tie Breaker (including no Final Last Sale Eligible Trade), the Exchange retains discretion to set the Collar Midpoint.

The Exchange’s retention of discretion to set the Collar Midpoint when no Volume Based Tie Breaker is available is substantively similar to, and builds upon, the authority the Exchange recently established via the Issue Price Amendment which amended Rule

11.23(a)(6) to provide the Exchange with explicit authority to adjust the issue price of an ETP IPO Security for purposes of applying the Collar Price Range to an ETP IPO Auction.¹⁰ In the Issue Price Amendment, the Exchange recognized that circumstances may arise in which the stated issue price does not accurately reflect the current anticipated value of an ETP IPO Security at the time of the auction—for example, where market conditions have materially changed since the issue price was established, where external market data for the underlying assets or portfolio indicates that the issue price is no longer reflective of anticipated value, or where the underlying assets of the ETP IPO Security have experienced significant price volatility between the time the issue price was established and the time of the auction—and that mechanically applying a Collar Price Range anchored to a stale or inaccurate issue price could impede efficient price discovery. The Issue Price Amendment addressed this concern by permitting the Exchange to adjust the issue price in its discretion for purposes of setting the Collar Midpoint.

The discretion proposed herein is effectively the same in operation, but is structured differently to reflect the new framework established by this filing. Rather than providing the Exchange with authority to adjust a specific reference price (the issue price), proposed Rule 11.23(a)(22) provides that when no Volume Based Tie Breaker exists, including where there is no Final Last Sale Eligible Trade, the Exchange retains discretion to set the Collar Midpoint itself. This approach is appropriate for two reasons. First, under the proposed rule, the Collar Midpoint is defined by reference to the Volume Based Tie Breaker rather than the issue price, so the relevant adjustment authority must correspondingly refer to the Collar Midpoint rather than the issue price. Second, by framing the discretion at the level of the Collar Midpoint, rather than as an adjustment to a specific reference price, the authority is broader in one respect: it is not limited to circumstances arising in an ETP IPO Auction but would extend to any situation in which no Volume Based Tie Breaker is available, including edge cases where a Halt Auction, rather than an IPO Auction, is required to initiate trading in an ETP IPO Security. In such circumstances, no prior trading history would exist from which to derive a Volume Based Tie Breaker, and the Exchange would need to determine an appropriate Collar

case the Quote-Only Period is automatically extended in five-second increments, but in no circumstance past 9:45 a.m. ET. If the ETP IPO Security has not passed the price validation test by 9:45 a.m. ET, the price validation test will no longer apply and the Quote-Only Period will terminate, provided that no other conditions under Rule 11.23(d)(2)(C) are present. See *infra* note 7.

⁹ See Securities Exchange Act Release No. 34–105124 (March 31, 2026) 91 FR 17011 (April 3, 2026) (SR-CboeBZX–2025–149) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1) (the “Approval Order”).

¹⁰ *Supra* note 7.

Midpoint by reference to external data sources—for example, market data vendors providing pricing information for comparable instruments or the security's underlying portfolio components—to ensure that the Collar Price Range is grounded in current market conditions.

As with the authority established in the Issue Price Amendment and consistent with the analogous provision adopted by Nasdaq in Nasdaq Rule 4120(c)(7)(A)(i), any exercise of this discretion would be limited solely to setting the Collar Midpoint for purposes of calculating the Collar Price Range and would not determine the ultimate price at which the security executes in the auction. The Exchange believes this approach ensures that any application of a Collar Price Range in such circumstances remains anchored to a current and accurate valuation, consistent with the principles underlying the Issue Price Amendment.

The Exchange believes that the application of a Collar Price Range to ETP IPO Auctions is unnecessary and is not well suited to the nature of ETP IPO Auctions. While an ETP issuer typically provides an issue price prior to the IPO launch, the application of a Collar Price Range around that price in an ETP IPO Auction is unnecessary in light of the price validation test adopted pursuant to the Approval Order, which already provides a robust and tailored mechanism for promoting orderly price formation in ETP IPO Auctions during the period from 9:30 a.m. ET to 9:45 a.m. ET. The Collar Price Range therefore adds no incremental investor protection beyond what the price validation test already provides during that period. After the price validation test expires at 9:45 a.m. ET, the Limit Up-Limit Down price bands (“LULD Price Bands”) established pursuant to the National Market System Plan to Address Extraordinary Market Volatility (the “LULD Plan”) are already in effect by operation of the LULD Plan for any ETP IPO Auction that has not yet occurred, providing a well-established, transparent, and market-wide investor protection framework calibrated to the security's reference price. Accordingly, robust price protections remain in place throughout the ETP IPO Auction process without the need for a Collar Price Range at any stage.

The Exchange also proposes to amend Rule 11.23(d)(2)(F)(i) to separately articulate the applicable price determination standard for each auction type. For IPO Auctions in BZX-listed corporate securities, the current standard (execution at the price level within the Collar Price Range that

maximizes the number of shares executed in the auction) is retained without modification. For ETP IPO Auctions, the proposed rule provides that orders will be executed at the price level that maximizes the number of shares executed in the auction, and that no Collar Price Range shall apply. For the avoidance of doubt, the proposed elimination of the Collar Price Range applies only to ETP IPO Auctions. For IPO Auctions in BZX-listed corporate securities, there is no substantive change herein, and the Collar Price Range will continue to apply as it does under the current rule.

Operative Date

The Exchange will announce the implementation date of this proposed rule change via Exchange Notice no later than 90 days after the operative date of this filing. In connection with this filing, the Exchange is also extending the implementation date of SR-CboeBZX-2025-149 for an additional 90 days after the operative date of this filing, to allow the Exchange sufficient time to implement all related changes in a coordinated manner. The Exchange will announce the extended implementation date of SR-CboeBZX-2025-149 via Exchange Notice concurrently with the announcement of the implementation date of this filing.

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.¹¹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ requirement that the rules of an exchange not be designed

to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed elimination of the Collar Price Range for ETP IPO Auctions removes impediments to and perfects the mechanism of a free and open market and a national market system by permitting ETP IPO Auctions to execute at a price that fully reflects market supply and demand without an artificial price constraint that is not well calibrated to the ETP IPO Auction context. The Collar Price Range was designed for contexts where a meaningful reference price, such as the IPO offering price for a BZX-listed corporate security established through an underwriting process, exists and is appropriate as an auction price constraint. In the ETP IPO Auction context, no analogous underwriting-derived price anchor exists, and the price validation test adopted pursuant to the Approval Order already provides a robust and tailored investor protection mechanism from 9:30 a.m. ET to 9:45 a.m. ET, making the additional application of a Collar Price Range duplicative and unnecessary during that period. After 9:45 a.m. ET, LULD Price Bands are already in effect by operation of the LULD Plan, providing a market-wide investor protection framework that applies consistently with the protections afforded to all listed securities. The Exchange therefore believes that eliminating the Collar Price Range for ETP IPO Auctions is consistent with the protection of investors and the public interest, as meaningful price protections remain in place throughout the ETP IPO Auction process through the price validation test and, thereafter, through the LULD Price Bands.

Moreover, the application of a Collar Price Range to an ETP IPO Auction can operate in tension with the price validation test. The price validation test constrains the ETP IPO Auction to a price within the LMM-selected price bands around the Expected Price, which reflects the LMM's real-time assessment of prevailing market conditions, whereas the Collar Price Range constrains the auction price to a percentage range around the Collar Midpoint, which for an ETP IPO Auction is anchored to the issue price established by the ETP issuer the day prior to the IPO launch. Because the two mechanisms are calibrated to different reference points, they can produce conflicting constraints: an Indicative Price that satisfies the price validation test, and thus reflects current market conditions and the LMM's and issuer's expectations, could nonetheless fall

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ *Id.*

outside a Collar Price Range anchored to a stale or no-longer-representative issue price, thereby preventing the ETP IPO Auction from executing at a validated, market-reflective price. Applying both mechanisms simultaneously could therefore impede efficient price discovery and undermine the tailored protections of the price validation test, rather than provide any incremental investor protection.

The Exchange further believes this aspect of the proposal promotes just and equitable principles of trade by aligning the Exchange's ETP IPO Auction framework with the approach taken by NYSE Arca, which does not apply Auction Collars to IPO Auctions in Derivative Securities Products under NYSE Arca Rule 7.35–E(f)(2).

The Exchange believes the proposed amendment to Rule 11.23(a)(22) to adopt a standalone definition of the term “Collar Midpoint” promotes clarity and transparency in the Exchange's rules, consistent with the Section 6(b)(5) requirement that exchange rules be designed to remove impediments to and perfect the mechanism of a free and open market. By separating the Collar Midpoint definition from the Collar Price Range definition in Rule 11.23(a)(6), the proposed amendment makes the Exchange's rules easier to navigate and understand for market participants, which the Exchange believes promotes just and equitable principles of trade.

The Exchange also believes the proposed Exchange discretion to set the Collar Midpoint when no Volume Based Tie Breaker is available is consistent with the protection of investors and the public interest. As described above, this authority is substantively similar to, and builds upon, the authority established in the Issue Price Amendment and is modeled on the analogous discretionary authority retained by Nasdaq's MarketWatch Department under Nasdaq Rule 4120(c)(7)(A)(i). The Exchange believes that retaining this discretion is necessary and appropriate to ensure that, in any circumstance where no Volume Based Tie Breaker is available, including edge cases where a Halt Auction is required to initiate trading in an ETP IPO Security, any application of a Collar Price Range remains anchored to a current and accurate reference point reflective of prevailing market conditions, rather than a stale or unavailable price. Mechanically applying a Collar Price Range in the absence of a meaningful reference point could impede efficient price discovery and result in an auction price that does not accurately reflect market supply and demand, which would be inconsistent

with the protection of investors and the public interest.

The Exchange notes that, consistent with the Issue Price Amendment, any exercise of this discretion would be limited solely to setting the Collar Midpoint for purposes of calculating the Collar Price Range and would not determine the ultimate price at which the security executes in the auction. The Exchange therefore believes this authority is appropriately cabined and does not raise concerns under the Section 6(b)(5) requirement that exchange rules not be designed to permit unfair discrimination, as it applies uniformly to all securities in circumstances where no Volume Based Tie Breaker is available and does not favor any particular market participant.

The Exchange believes the proposed amendment to Rule 11.23(d)(2)(F)(i) to separately articulate the price determination standards applicable to IPO Auctions in BZX-listed corporate securities and ETP IPO Auctions promotes clarity and transparency in the Exchange's rules, consistent with the Section 6(b)(5) requirement that exchange rules be designed to remove impediments to and perfect the mechanism of a free and open market. This organizational approach is consistent with the framework adopted in Approval Order, which separately delineated provisions applicable to BZX-listed corporate securities and ETP IPO Securities throughout Rule 11.23. By expressly stating in Rule 11.23(d)(2)(F)(i) that no Collar Price Range applies to ETP IPO Auctions, the proposed amendment ensures that the rule clearly and unambiguously reflects the Exchange's intended auction price determination process for each security type, which the Exchange believes promotes just and equitable principles of trade and the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition. The proposed amendments apply uniformly to all market participants that participate in ETP IPO Auctions on the Exchange. The elimination of the Collar Price Range for ETP IPO Auctions applies equally to all orders submitted to an ETP IPO Auction, regardless of the type of market participant submitting the order, and does not advantage or disadvantage any

particular category of market participant relative to any other. Similarly, the proposed standalone definition of the term “Collar Midpoint” under Rule 11.23(a)(22) and the Exchange's retention of discretion to set the Collar Midpoint when no Volume Based Tie Breaker is available applies uniformly across all securities and all market participants in circumstances where that discretion may be exercised. No market participant receives preferential treatment as a result of any aspect of the proposed rule change. The proposed amendment to Rule 11.23(d)(2)(F)(i) to separately articulate the price determination standards applicable to IPO Auctions in BZX-listed corporate securities and ETP IPO Auctions is organizational in nature and does not alter the substantive rights or obligations of any market participant. Accordingly, the Exchange does not believe the proposed rule change imposes any burden on intramarket competition.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition. To the contrary, the Exchange believes the proposed rule change will promote intermarket competition by aligning the Exchange's ETP IPO Auction framework more closely with those of competing national securities exchanges. As noted above, the proposed elimination of the Collar Price Range for ETP IPO Auctions is consistent with the approach taken by NYSE Arca, which does not apply Auction Collars to IPO Auctions in Derivative Securities Products under NYSE Arca Rule 7.35–E(f)(2), and the proposed Exchange discretion to set the Collar Midpoint when no Volume Based Tie Breaker is available is modeled on the analogous discretionary authority retained by Nasdaq's MarketWatch Department under Nasdaq Rule 4120(c)(7)(A)(i). By adopting rules that are consistent with, and in certain respects modeled on, those of competing exchanges, the proposed rule change promotes a level regulatory playing field across national securities exchanges with respect to the conduct of ETP IPO Auctions. To the extent the proposed changes make the Exchange a more attractive venue for ETP IPO listings by reducing unnecessary constraints on the ETP IPO Auction process, this reflects legitimate competition among exchanges to offer superior services and functionality, which is a goal the Act is designed to promote. Other exchanges remain free to propose similar or alternative functionality for their own ETP IPO listing programs.

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 designated this rule filing as non-controversial under Section 19(b)(3)(A) ¹⁴ of the Act and Rule 19b-4(f)(6) ¹⁵ thereunder. Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act ¹⁶ and Rule 19b-4(f)(6) thereunder. ¹⁷

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-CboeBZX-2026-057 on the subject line.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBZX-2026-057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2026-057 and should be submitted on or before August 7, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. ¹⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-14396 Filed 7-16-26; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21702 and #21703; KANSAS Disaster Number KS-20036]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Kansas

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the state of Kansas (FEMA-4926-DR), dated June 30, 2026. Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

DATES: Issued on June 30, 2026.

Incident Period: April 26, 2026 through April 27, 2026.

Physical Loan Application Deadline Date: August 31, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: March 30, 2027.

¹⁸ 17 CFR 200.30-3(a)(12).

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 President's major disaster declaration on June 30, 2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications 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: Cherokee, Morris, Osage, Saline, Wabaunsee.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
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>	
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21702C and for economic injury is 217030.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026-14433 Filed 7-16-26; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

Meeting of the Advisory Committee on Audit and Financial Management

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The U.S. Small Business Administration (SBA) Office of the Chief Financial Officer (OCFO) announces a meeting of the Advisory Committee on Audit and Financial Management (AFMAC). The AFMAC provides advice and recommendations to SBA on financial management, accounting, auditing, internal controls, and performance management.

DATES: The meeting will be held on Friday, July 24, 2026, from 10:00 a.m. to 3:00 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held virtually via Microsoft Teams. Information on how to access the meeting will be posted on SBA's website at <https://www.sba.gov> prior to the meeting.

The meeting is open to the public; however, a portion of the meeting, from 2:00 p.m. to 3:00 p.m. EDT, will be closed to the public pursuant to 5 U.S.C. 552b(c) and 41 CFR 102-3.155 to protect sensitive financial information.

FOR FURTHER INFORMATION CONTACT: Office of the Chief Financial Officer (OCFO), U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416; email: AFMAC@sba.gov.

SUPPLEMENTARY INFORMATION: The AFMAC is a discretionary advisory committee established under section 8(b)(13) of the Small Business Act (15 U.S.C. 637(b)(13)) and operates in accordance with the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2).

The purpose of the meeting is to discuss the following topics:

- SBA prior-year audited financial statements.
- Overview of SBA loan portfolios, including:
 - 7(a) Loan Program.
 - 504 Loan Program.
 - Disaster Loan Program.
 - Paycheck Protection Program (PPP).
 - COVID-19 Economic Injury Disaster Loan (EIDL) Program.
 - Shuttered Venue Operators Grant (SVOG) Program.
 - Restaurant Revitalization Fund (RRF).

Members of the public may request access to the meeting in advance and may submit written comments after the meeting to AFMAC@sba.gov.

Authority: 5 U.S.C. App. 2.

Dated: July 14, 2026.

Andrienne Johnson,
Committee Management Officer.

[FR Doc. 2026-14493 Filed 7-16-26; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21696 and #21697; NEBRASKA Disaster Number NE-20024]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Nebraska

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the state of Nebraska (FEMA-4920-DR), dated June 30, 2026.

Incident: Wildfires.

DATES: Issued on June 30, 2026.

Incident Period: March 12, 2026 through April 2, 2026.

Physical Loan Application Deadline Date: August 31, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: March 30, 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 President's major disaster declaration on June 30, 2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications 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: Arthur, Garden, Grant, Lincoln, Morrill.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

	Percent
<i>For Economic Injury:</i>	
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 216965 and for economic injury is 216970.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026-14427 Filed 7-16-26; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21692 and #21693; IDAHO Disaster Number ID-20033]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Idaho

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the state of Idaho (FEMA-4917-DR), dated June 30, 2026. Incident: Severe Storms, Straight-line Winds, Flooding, Landslides, and Mudslides.

DATES: Issued on June 30, 2026.

Incident Period: March 11, 2026 through March 15, 2026.

Physical Loan Application Deadline Date: August 31, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: March 30, 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 President's major disaster declaration on 06/30/2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications 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: Benewah, Bonner, Clearwater, Kootenai, Latah, Nez Perce.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
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>	
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 216926 and for economic injury is 216930.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026-14425 Filed 7-16-26; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21690 and #21691; MASSACHUSETTS Disaster Number MA-20005]

Presidential Declaration of a Major Disaster for Public Assistance Only for the Mashpee Wampanoag Tribe

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the MASHPEE WAMPANOAG TRIBE (FEMA-4919-DR), dated June 30, 2026. *Incident:* Severe Winter Storm and Snowstorm.

DATES: Issued on June 30, 2026.

Incident Period: February 22, 2026 through February 23, 2026.

Physical Loan Application Deadline Date: August 31, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: March 30, 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 President's major disaster declaration on June 30, 2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications 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 Area: Mashpee Wampanoag Tribe.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
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>	
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21690B and for economic injury is 216910.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026-14430 Filed 7-16-26; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21694 and #21695; NEW MEXICO Disaster Number NM-20025]

Presidential Declaration of a Major Disaster for Public Assistance Only for the PUEBLO OF ACOMA

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the Pueblo of Acoma (FEMA-4918-DR), dated June 30, 2026.

Incident: Severe Storms and Flooding.

DATES: Issued on June 30, 2026.

Incident Period: September 28, 2025 through September 29, 2025.

Physical Loan Application Deadline Date: August 31, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: March 30, 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 President's major disaster declaration on June 30, 2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications 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 Area: The Pueblo of Acoma.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

	Percent
<i>For Economic Injury:</i> Private Non-Profit Organiza- tions without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 216946 and for economic injury is 216950.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,
Associate Administrator, Office of Disaster Recovery & Resilience.
[FR Doc. 2026–14429 Filed 7–16–26; 8:45 am]
BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 13067]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Brancusi: The Artist and His Studio” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition “Brancusi: The Artist and His Studio” at The Museum of Modern Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). Themailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of

August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Sherry C. Keneson-Hall,
Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Bureau of Educational and Cultural Affairs, Department of State.
[FR Doc. 2026–14445 Filed 7–16–26; 8:45 am]
BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 13068]

30-Day Notice of Proposed Information Collection: Crisis Assistance Request Form

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to August 17, 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: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to OCSRegs@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Crisis Assistance Request Form.
- *OMB Control Number:* 1405–0259.
- *Type of Request:* Regular renewal of an approved information collection.
- *Originating Office:* Bureau of Consular Affairs.
- *Form Number:* No form.
- *Respondents:* For all crises, respondents include U.S. citizens; depending on the circumstances of the individual crisis, respondents may also include U.S. lawful permanent residents (LPRs), and eligible family members of

both U.S. citizens and LPRs, regardless of nationality, who are experiencing a natural disaster, armed conflict, or other crises in a foreign country, and are seeking U.S. government assistance.

- *Estimated Number of Respondents:* 120,000.
- *Estimated Number of Responses:* 120,000.
- *Average Time per Response:* 5 minutes.
- *Hourly Burden:* 10,000 hours.
- *Frequency:* Once.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The purpose of the collection is to enable the Department of State to provide information and/or consular services to U.S. citizens, eligible family members of U.S. citizens, Lawful Permanent Residents (LPRs) of the United States; or eligible family members of LPRs of the United States who may be in need of assistance in a country experiencing a crisis. The form asks individuals to share information with the Department about their current plans, the number of people in their group, and their exact location. It also asks for their latest contact information and contact information for an emergency contact not currently in the country. The Department of State may activate this collection on travel.state.gov when a crisis occurs. U.S. citizens are always eligible to complete the collection when activated. At the time of the crisis the Department of State will determine whether to activate the LPR and eligible family members of U.S. Citizens and LPRs options of the collection. Those options may be activated later in the crisis

rather than in the initial stage when the Department's primary focus is on U.S. citizens.

The Department is utilizing this form to acquire the most current and accurate data possible to inform our consular assistance efforts. It will allow the Department to build a more current picture of how many U.S. citizens and LPRs plan to remain in the country experiencing a crisis and any who may request assistance to depart or other consular assistance. Completion of the form is entirely voluntary.

The availability of U.S. government-coordinated departure assistance can vary depending on the nature of the crisis. In extreme situations, where local infrastructure is damaged or failing but the security situation still allows for some safe movement, the Department may work with the host government, other countries, and other U.S. government agencies to arrange chartered or non-commercial transportation based on information entered in this form. With respect to LPRs, the Department may accommodate special circumstances, such as when a spouse or other immediate relative of a U.S. citizen is traveling with the U.S. citizen family member.

Methodology

The collection will be completed 100 percent electronically. The respondent will access the form at the following link: <https://cacms.state.gov/s/crisis-intake>. The link will also be accessible from the crisis country's country information page on www.travel.state.gov, the U.S. embassy or consulate website for that country, and other Department of State communications. The Department may also choose as appropriate to distribute the form's URL through emails from @state.gov email addresses, or in messaging sent as consular information products. The link will only be activated when there is a need to collect the information.

Response to Public Comments

There was one relevant public comment in response to the 60 day notice. The commenter recommended that the Department evaluate the information collection through an "implementation-verification framework." In response, the Department asserts that identity information provided by the public in the crisis form is verified by the Department of State passport records check before eligibility for assistance is approved. Other elements of the public

comment did not pertain to this information collection.

Elizabeth M. Gracon,

Managing Director, Overseas Citizens Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2026-14499 Filed 7-16-26; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on the State Route (SR) 361 Realignment Project in Nevada

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by FHWA and other Federal agencies that are final. The actions relate to the proposed realignment of approximately 13 miles of State Route 361 (SR 361) between Gabbs, NV and Middlegate, NV. The project includes construction of a rerouted segment of SR 361 due to the US Navy's Fallon Range Training Complex expansion. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal Agency actions on the listed highway project will be barred unless the claim is filed on or before December 14, 2026. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

ADDRESSES: The Environmental Assessment and additional project documents can be viewed and downloaded from the project website at: <https://ndotsr361.com> or by contacting Nevada Department of Transportation (NDOT), Environmental Division, 1263 S Stewart Street, Carson City, NV 89712, normal business hours are 8 a.m. to 5 p.m. (Pacific Standard Time), Monday through Friday, except State holidays.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Jacob Waclaw, Acting Deputy Division Administrator, Federal Highway Administration Nevada Division, 705 North Plaza Street, Carson City, Nevada 89701-0602; 775-687-5320; Jacob.Waclaw@dot.gov. For NDOT: Mr. Chris Young, Chief, Environmental Services Division, 1263

S Stewart Street, Carson City, NV 89712; 775-888-7686; cyoung@dot.nv.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA and other Federal agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, or approvals for the SR 361 Realignment Project, MS-0361-(341), in Nevada. The project limits include approximately 13 miles of SR 361 between Gabbs, NV and Middlegate, NV located east of the existing SR 361 alignment. The proposed realignment of SR 361 will maintain a north-south highway in central Nevada, serving rural communities including Gabbs, NV and Luning, NV. The realignment will allow the US Navy to meet their mitigation commitments outlined in the 2020 EIS for the Fallon Range Training Complex Expansion. The actions by FHWA and other Federal agencies on the project, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on February 27, 2026, in the Finding of No Significant Impact (FONSI), approved on July 14, 2026, and in other documents in the project records. The EA, FONSI, and other project records are available by contacting NDOT at the address provided above.

This notice applies to all Federal agency decisions that are final as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321 *et seq.*]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109, 139, and 128].

2. *Air:* Clean Air Act (CAA) [42 U.S.C. 7401-7671(q)], with the exception of project level conformity determinations [42 U.S.C. 7506].

3. *Noise:* Noise Control Act of 1972 [42 U.S.C. 4901-4918].

4. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303]; Land and Water Conservation Fund (LWCF) Act [54 U.S.C. 200301 *et seq.*].

5. *Wildlife:* Endangered Species Act (ESA) [16 U.S.C. 1531-1544 and 1536]; Marine Mammal Protection Act [16 U.S.C. 1361-1423h], Anadromous Fish Conservation Act [16 U.S.C. 757(a)-757(f)]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)]; Migratory Bird Treaty Act (MBTA) [16 U.S.C. 703-712]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801-1891d].

6. *Historic and Cultural Resources:* Section 106 of the National Historic

Preservation Act of 1966, as amended [54 U.S.C. 306108]; Archaeological Resources Protection Act of 1979 (ARPA) [16 U.S.C. 470(aa)–470(mm)]; Archaeological and Historic Preservation Act [54 U.S.C. 312501–312508]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013; 18 U.S.C. 1170].

7. *Social and Economic*: American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

8. *Wetlands and Water Resources*: Clean Water Act (Section 319, Section 401, Section 404) [33 U.S.C. 1251–1387]; Coastal Barriers Resources Act (CBRA) [16 U.S.C. 3501–3510]; Coastal Zone Management Act (CZMA) [16 U.S.C. 1451–1466]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300f–300j–26]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3901, 3921]; Wetlands Mitigation, [23 U.S.C. 119(g) and 133(b)(3)]; Flood Disaster Protection Act [42 U.S.C. 4012a–4106].

9. *Hazardous Materials*: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601 *et seq.*]; Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9601 *et seq.*]; Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901 *et seq.*].

10. *Executive Orders*: The analysis pertaining to any applicable Executive Order considered during the environmental review process to the extent such analysis may be challenged in court. Such Executive Orders may include E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Khoa Nguyen,

Nevada Division Administrator, Federal Highway Administration.

[FR Doc. 2026–14473 Filed 7–16–26; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0317]

Hours of Service: Colorado Huntsman Transport, Inc. d/b/a Huntsman Transport; Application for Exemptions

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 from Colorado Huntsman Transport, Inc. doing business as Huntsman Transport, USDOT 4050798 (“Huntsman”) for reconsideration of the Agency’s denial of its original request on February 6, 2026. Huntsman seeks exemptions from the commercial motor vehicle (CMV) marking requirements and hours of service (HOS) prohibition against driving a CMV after accumulating 60 hours of on-duty time within 7 consecutive days. FMCSA is required by statute to publish a notice explaining each exemption request, and such 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 August 17, 2026.

ADDRESSES: You may submit comments identified by Federal Docket Number FMCSA–2024–0317 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–2024–0317) 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.

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–2024–0317), indicate the specific section of this document to which the comment applies, and provide a reason for 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-2024-0317/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 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–2024–0317 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 online by visiting Docket Operations in room W58–213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from 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 maintain a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption,

pursuant to the standard 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 390.21T, CMVs must be marked with the legal name or single trade name and USDOT number of the motor carrier. Under 49 CFR 395.5(b), drivers of passenger-carrying CMVs may not drive after having been on duty for 60 hours in any 7 consecutive days if the motor carrier does not operate CMVs every day of the week or after having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates CMVs every day of the week.

Applicant's Request

On March 28, 2025, FMCSA published Huntsman's application for exemptions and requested public comment (90 FR 14179). Huntsman is a third-party organization that partners with Federal, State, and local law enforcement agencies to provide prisoner transportation services. Through the exemption application, Huntsman sought relief from the marking requirement in 49 CFR 390.21T¹ due to the sensitive and high-risk nature of its operation and potential for interference with its routes by individuals who may seek to disrupt its operations.

Huntsman also sought relief from the HOS requirements in 49 CFR 395 to be permitted to extend the 60-hour/7-day on-duty period to an 80-hour/7-day on-duty period (from Sunday to Saturday), resetting every Sunday at 0000.

Lastly, Huntsman proposed a policy that restricts its agents' driving responsibilities to no more than three weeks in any four-week month or four weeks in any five-week month to guarantee that both drivers have enough time to rest.

On February 6, 2026, the Agency published notice of its decision to deny

¹ In the application Huntsman sought relief from 49 CFR 390.21, and FMCSA published the initial application citing that provision; however, the provision currently in effect is a temporary provision (which, in relevant part, mirrors the permanent provision) and is denoted by a "T" at the end.

Huntsman's application (91 FR 5553). FMCSA denied the applicant's request for an exemption from the vehicle marking requirements for:

- Failing to establish that it would likely achieve a level of safety equivalent to or greater than the level achieved without the exemption; and
- Failing to explain how operating unmarked CMVs would reduce the alleged security threat posed by encounters between prisoners and individuals they may know during traffic stops at other correctional facilities.

FMCSA denied the applicant's request for an exemption from the HOS requirements because the proposed 80-hour-per-week alternative provided by the applicant permits long work hours without proper rest or oversight, increases risk of fatigue-related crashes, and conflicts with science-based safety standards. FMCSA also did not believe the applicant's proposed policy was sufficient because the proposed extended time off did not mitigate daily or weekly fatigue.

Request for Reconsideration of Agency Decision

Huntsman is now requesting that FMCSA reconsider its denial of the exemptions from the CMV marking requirements in 49 CFR 390.21T and the HOS prohibition against driving a CMV after accumulating 60 hours of on-duty time within 7 consecutive days in 49 CFR 395. Huntsman contends that its current application requesting relief from 49 CFR 390.21 is due to documented safety hazards to its drivers. Huntsman is also seeking relief from the HOS requirements to permit a 10-day on/10-day off schedule with a maximum 7-hour daily driving limit for its prisoner/inmate transport operations.

Applicant's Equivalent Level of Safety

Huntsman stated that "Granting this exemption would allow us to operate without the prominent name and USDOT markings, thereby reducing public misidentification and the associated safety threats." Huntsman asserts that this would achieve a level of safety equivalent to, or greater than, that provided by compliance with § 390.21T. Huntsman further offers that its drivers and vehicles would continue to be fully identifiable through:

- Required registration documents and operating authority carried in each vehicle;
- Electronic Logging Devices (ELDs) and other onboard records;
- USDOT number availability via FMCSA's public Safety and Fitness Electronic Records (SAFER) system; and

- Strong internal safety management systems, including real-time GPS tracking and immediate response protocols.

A copy of Huntsman's application for exemptions 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 on Huntsman Transport's application for exemptions from the vehicle marking requirements in 49 CFR 390.21T and the 60-and 70-hour limits in 49 CFR 395.5(b). 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 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. 2026-14412 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2026-1387]

Hours of Service: CCS Transportation, Inc.; 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 CCS Transportation, Inc.'s (CCS) application for an exemption from certain provisions in the hours-of-service (HOS) regulations. The applicant requests an exemption to permit short-distance commercial motor vehicle (CMV) movements to be logged as on-duty (not driving) yard moves on its drivers' electronic logging devices (ELD) during brief travel on local public roadways separating two CCS facilities. 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 August 17, 2026.

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2026-1387 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-2026-1387) 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: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; richard.clemente@dot.gov.

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-2026-1387), 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-2026-1387/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–2026–1387 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, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Driving time is defined in 49 CFR 395.2 as all time spent at the driving controls of a CMV in operation. On-duty time is defined in 49 CFR 395.2 as all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work, excluding time spent behind the wheel operating the vehicle. On-duty time includes activities such as yard moves, loading/unloading, inspections, maintenance, and waiting for dispatch.

A yard move is a special status in the driver’s electronic logging device (ELD) for moving a CMV on private property

(for example, shippers, receivers, or terminal yards) without using the driver’s available 11 driving hours. The ELD logs this time as on-duty (not driving).

Applicant’s Request

CCS operates in interstate commerce and seeks a five-year exemption from the driving time limits of 49 CFR 395.3(a)(2), as “driving time” is defined in 49 CFR 395.2. CCS wants to record short-distance CMV movements on its drivers’ ELDs as on-duty (not driving) yard moves during brief travel on local public roadways separating two of CCS’s facilities/locations. CCS employs 130 drivers, has 128 CMVs, and operates two adjacent properties in Conway, Arkansas that are 1.3 miles apart and are used for low-speed equipment repositioning, trailer spotting, and tractor transfers. These movements do not involve interstate travel, highway speed operation, or linehaul transportation. The requested exemption would permit these specific movements to be logged as “yard moves” or as on-duty (not driving) time on the drivers’ ELDs despite brief travel on local public roadways separating the two locations. Without an exemption, CCS’s drivers are required to log these short, operationally necessary movements as driving time, which according to the applicant, inaccurately represents the nature of the work and consumes hours of service (HOS) in a manner inconsistent with the intent of those regulations. According to the applicant, the requested relief would allow accurate HOS duty status recording for movements that are functionally identical to yard jockey activity and confined terminal operations. Conversely, CCS indicates that denial of the exemption would result in continued misclassification of yard-type movements as driving time, inefficient use of driver hours, increased administrative burden, and reduced operational flexibility—without a corresponding safety benefit.

Applicant’s Equivalent Level of Safety

CCS believes the exemption will not diminish safety and will likely enhance compliance by improving log accuracy. The vehicle movements occur at low speed (less than or equal to 25 mph); are limited to a predefined local route; involve experienced commercial driver’s license (CDL) holders; do not involve public passenger transport; and are governed by a written company standard operating procedure (SOP). This SOP applies to all drivers conducting yard moves between designated adjacent facilities, all

tractors and trailers used solely for these operations, and all supervisors, dispatchers, and safety personnel overseeing these activities. Additional SOP safeguards include driver training, speed restrictions, daylight operation where feasible, ELD annotations, and tracking of all yard move time. CCS states that the SOP does not authorize public highway operations beyond the defined route and demonstrates that safety performance under the requested exemption will be equivalent to or greater than compliance with existing FMCSRs.

A copy of CCS’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 CCS’s application for an exemption from the proper logging of the definition of “driving time” in 49 CFR 395.2 in which all time spent at the driving controls of a CMV on a public road be classified that way. 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 of Policy.

[FR Doc. 2026–14395 Filed 7–16–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0015]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of denials.

SUMMARY: FMCSA announces its decision to deny applications from 18

individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 366-4001; fmcsamedical@dot.gov. Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments, go to www.regulations.gov. Insert the docket number, (FMCSA-2025-0015) in the keyword box and click "Search." Next, choose the only notice listed, and click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in room W58-213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL-14 FDMS (Federal Docket Management System), which can be reviewed under the "Department Wide System of Records Notices" link at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edit and are searchable by the name of the submitter.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the FMCSRs. FMCSA must publish a notice of each exemption

request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level of safety that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The physical qualification standard for drivers regarding seizures and loss of consciousness provides that a person is physically qualified to drive a CMV if that person has "no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control" a CMV (49 CFR 391.41(b)(8)). To assist in applying this standard, FMCSA publishes guidance for medical examiners (MEs) in the form of medical advisory criteria in Appendix A to 49 CFR part 391.¹ In 2007, FMCSA published recommendations from a Medical Expert Panel (MEP) that FMCSA tasked to review the existing seizure disorder guidelines for MEs.² The MEP performed a comprehensive, systematic literature review, including evidence available at the time. The MEP issued recommended criteria to evaluate whether an individual with a history of epilepsy, a single unprovoked seizure, or a provoked seizure should be allowed to drive a CMV.

On January 15, 2013, FMCSA began granting exemptions, on a case-by-case basis, to individual drivers from the

physical qualification standard regarding seizures and loss of consciousness in 49 CFR 391.41(b)(8) (78 FR 3069). The Agency considers the medical advisory criteria, the 2007 MEP recommendations, and each individual's medical information and driving record in deciding whether to grant the exemption.

On February 23, 2026, FMCSA published a notice announcing receipt of applications from 20 individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (91 FR 8571). The public comment period ended on March 25, 2026, and no comments were received. Two of the individuals' applications from the original notice have been published in different notices as they have since become eligible to be considered for a Federal seizure exemption and will not be included in this notice of denials.

IV. Discussion of Comments

FMCSA received no comments in this proceeding.

V. Basis for Exemption Determination

The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a seizure history and each applicant's certified driving record from their State Driver's Licensing Agency (SDLA). The information obtained from each applicant's driving record provides the Agency with details regarding any moving violations or reported crash data, which demonstrates whether the driver has a safe driving history and is an indicator of future driving performance. If the driving record revealed a crash, FMCSA requested and reviewed the related police reports and other relevant documents, such as the citation and conviction information. A summary of each applicant's seizure history was discussed in the February 23, 2026, **Federal Register** notice (91 FR 8571) and will not be repeated in this notice.

As part of the decision-making process, FMCSA received updated information from two applicants listed

¹ Appendix A to Part 391, Title 49, available at <https://www.ecfr.gov/current/title-49/part-391/appendix-Appendix A to Part 391>.

² "Expert Panel Recommendations, Seizure Disorders and Commercial Motor Vehicle Driver Safety," Medical Expert Panel (Oct. 15, 2007), available at <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/Seizure-Disorders-MEP-Recommendations-v2-prot%2010152007.pdf>.

in the initial notice, Jacob McNally (CT) and Ryan Moore (NC). Mr. McNally's application was republished in the **Federal Register** notice issued on March 17, 2026 (91 FR 12900) in docket FMCSA–2026–0035. Mr. Moore's application was republished in the **Federal Register** notice issued on March 2, 2026 (91 FR 10184) under the docket number FMCSA–2019–0031. FMCSA therefore considers the publication of Mr. McNally's and Mr. Moore's applications in this docket to be moot and will address these applications as part of the above dockets.

VI. Conclusion

Based upon its evaluation of the 18 remaining exemption applications, FMCSA determined that these applicants do not satisfy the eligibility criteria or meet the terms and conditions of the Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to, or greater than, the level of safety that would be obtained by complying with 49 CFR 391.41(b)(8). Therefore, these 18 have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(8).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitute final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by publishing names and reasons for denial.

The following 18 applicants do not meet the minimum time requirement for being seizure-free, either on or off anti-seizure medication:

Coby Alexander (MO)
Nathan Bauer (PA)
Robert Calvert (WY)
Daniel Diaz-Gonzalez (TX)
Muhammad Elbaba (MN)
Daniel Hernandez (AZ)
Adam Humlick (CA)
Jagpi Irish (NY)
Christopher Johnson (PA)
Kevin Lay (MT)
Daniel Lopez-Miranda (OK)
John R. Moore (TN)
Dwayne Paul (IN)
Camille Poindexter (MI)
Joel Tapper (WI)
Matthew Toy (MD)
Geordarius Tucker (MS)
Shannon Watkins (GA)

The following two applications were republished in other dockets and are being considered as part of those dockets: Jacob McNally (CT) (docket

FMCSA–2026–0035) and Ryan Moore (NC) (docket FMCSA–2019–0031).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–14415 Filed 7–16–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2025–0524]

Commercial Driver's License; Electronic Logging Device Requirements: Diamond Excursions Ladies Edition d/b/a Project GAP; Application for Exemptions

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; denial of application for exemptions.

SUMMARY: FMCSA announces its decision to deny the application from Diamond Excursions Ladies Edition, doing business as Project GAP (Project GAP), for exemptions from the commercial driver's license (CDL) and electronic logging device (ELD) regulations. FMCSA analyzed the application and public comments and determined that the exemptions would not achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemptions.

FOR FURTHER INFORMATION CONTACT:

Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; (202) 913–0704; or 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

Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2025-0524/document> 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 online by visiting Dockets Operations in room W58–213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., 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 from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

Under 49 CFR 383.23(a)(1), no person shall operate a commercial motor vehicle (CMV) without having taken and passed both knowledge and driving skills tests for a commercial learner's permit or CDL that meet the Federal standards contained in subparts F, G, and H of Part 383 for the CMV that person operates or expects to operate. Under 49 CFR 395.8(a)(1)(i), drivers required to prepare records of duty status must do so using ELDs. However, 49 CFR 395.8(a)(1)(ii)(A)(1) states a motor carrier may allow its drivers to record their duty status manually, rather than use an ELD, if the driver is operating a CMV “[i]n a manner requiring completion of a record of duty status on not more than 8 days within any 30-day period.”

Applicant's Request

Project GAP's application for exemption was described in detail in a **Federal Register** notice on November

24, 2025 (90 FR 53048) and will not be repeated, as the facts have not changed.

IV. Public Comments

The Agency received 81 comments to the docket. Two commenters supported granting both the CDL and ELD exemptions. Project GAP also filed a comment in support of its application. Seventy-five commenters opposed granting the CDL portion of the exemption. Twelve of the commenters who opposed granting the CDL portion of the exemption noted that they did not oppose granting an exemption from the ELD requirement only. Finally, there were three unrelated comments filed to the docket.

Commenters in favor of granting the exemptions believed the exemptions were necessary because the applicant's operation supports communities effected by natural disasters and is a non-profit organization. Erice Burnett stated, "I think having drivers be exempt from elog and being non CDL will help out the community in a great way to bring us closer together in the time of crisis because not only will more people be able to help the community out but supplies would be provided quicker than ever for the people in need." An anonymous individual wrote, "I think it's good for non profits to be exempt. It's not for money[,] it's to help people."

Commenters who opposed granting the CDL portion of the exemption cited safety concerns. For example, Tim Kyner said, "This is a safety issue, anyone driving a cmv should be properly trained and licensed to operate the vehicle it doesn't matter how often or how far. I'm my opinion it's unsafe to allow anyone to drive a truck that doesn't hold a valid commercial driver's license regardless of reason or frequency. The paper logs should be allowed everyone knows the HOS regulations are bull anyway."

Some of the commenters suggested alternatives that are available to the applicant. Lee Eastburn wrote, "First, the organization could operate several smaller, non CDL trucks, to move goods. Second, local LTL freight companies can be hired to move the goods for them safely. Third, sponsors could donate driver[s] and equipment to move the goods for this organization and take a tax credit for the lost time and associated costs on a per trip basis." An anonymous commenter said, "If they want to skirt around the law then get a box truck small enough to accommodate the request." Jefferson Murray wrote, "A valid CDL ensures a measure of safety, find volunteers that have a CDL or sell the semi and get something smaller.

How far could you be going to pickup donations that you need an ELD and not the qualify for short haul?"

Some commenters who opposed the CDL exemption did not oppose the ELD exemption but did not provide specific reasoning. Dave Nelson said, "Please DO NOT give an exemption from requiring a CDL, and I have no problem with those drivers running on paper logs." Mark Hulsart said, "I can understand no eld but if you're driving a tractor trailer you MUST have CDL[,] if not[,] why does anyone need a CDL. They are driving a truck[,] not a car!"

V. FMCSA Decision

FMCSA evaluated Project GAP's application and the public comments submitted in response to the November 24, 2025 notice and denies the requested exemptions. Project GAP failed to establish that the exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved without the exemptions. While Project GAP states that "All drivers are trained, insured, and comply with medical and safety screenings," and indicated that they maintain "detailed records of vehicle use, routes, and trip purposes," it did not provide information on what training the drivers receive and how that training compares to the training required for a driver to receive a CDL. In addition, Project GAP did not provide any information on the safety management controls it has in place to ensure its drivers would comply with the hours-of-service regulations in 49 CFR part 395 in the absence of an ELD.

In addition, Project GAP states that it provides support during emergencies and natural disasters. On October 13, 2023, FMCSA revised its regulations covering automatic emergency relief from Federal regulations that is triggered by an emergency declaration (88 FR 70897). In that final rule, the Agency acknowledged that although responding to emergency situations is a compelling reason to issue relief from some safety regulations, there was not a sufficient basis to include relief from ELD and CDL requirements in response to emergencies and natural disasters.

Finally, under 49 CFR 381.305, applicants are encouraged to carefully review the regulations to determine whether there are any practical alternatives already available that would allow the applicant to conduct its motor carrier operations. Project GAP did not address the alternatives that are available, including the option to use smaller CMVs that do not require a CDL and the option to use existing exceptions to the ELD requirement.

For the above reasons, Project GAP's application for exemptions is denied.

Derek D. Barrs,
Administrator.

[FR Doc. 2026-14468 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-1094]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V MAMBO

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

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before August 17, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-1094 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a

mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the

instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-14482 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-1091]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V TEXAS CORSAIR

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

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before August 17, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-1091 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional

documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

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Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

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(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a).)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-14485 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-1090]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V THUNDERBOLT

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

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before August 17, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-1090 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional

documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-14486 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-1093]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, S/V PIRATE CAT

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

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before August 17, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-1093 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional

documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

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(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-14483 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-1092]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V RUSH HOUR

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

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before August 17, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-1092 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620, Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

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documents as necessary. There is no limit on the length of the attachments.

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Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

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(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-14484 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2024-0019; Notice 2]

Tesla, Inc., Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition.

SUMMARY: Tesla, Inc. (Tesla) has determined that certain model year (MY) 2017–2023 Tesla Model 3 and Tesla Model Y motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, And Associated Equipment*. Tesla filed a noncompliance report dated March 15, 2024, and subsequently petitioned NHTSA (the "Agency") on April 8, 2024, and amended its petition on May 3, 2024, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the denial of Tesla's petition.

FOR FURTHER INFORMATION CONTACT:

Kelley Adams-Campos, Safety Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-7479.

SUPPLEMENTARY INFORMATION:

I. Overview: Tesla determined that certain MY 2017–2023 Tesla Model 3 and MY 2020–2023 Tesla Model Y motor vehicles do not fully comply with paragraph S10.14.6 of FMVSS No. 108, *Lamps, Reflective Devices, And Associated Equipment* (49 CFR 571.108).

Tesla filed a noncompliance report dated March 15, 2024, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Tesla petitioned NHTSA on April 9, 2024, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of Tesla's petition was published with a 30-day public comment period, on July 26, 2024, in the **Federal Register** (89 FR 60682). Two comments were received. To view the petition, the comments, and all supporting documents log onto the Federal Docket Management System

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

(FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2024–0019.”

II. Vehicles Involved: Approximately 19,917 MY 2017–2023 Tesla Model 3 and MY 2020–2023 Tesla Model Y motor vehicles, manufactured between October 27, 2017, and December 24, 2023, were reported by the manufacturer.

III. Rule Requirements: Paragraph S10.14.6 of FMVSS No. 108 includes the requirements relevant to this petition. Specifically, when tested according to the test procedure provided by paragraph S14.2.5 of FMVSS No. 108, each integral beam headlamp must be designed to conform to the photometry requirements of Table XIX of FMVSS No. 108 for lower beam, as specified in Table II-c for the specific headlamp unit and aiming method. As it relates to this petition, the maximum photometric intensity allowed in the 10°U to 90°U and 90°L to 90°R zone for the lower beam is 125 cd.

IV. Noncompliance: Tesla explains that the subject vehicles are equipped with headlamps that have a low-beam output that do not comply with the photometric requirements stated in paragraph S10.14.6 of FMVSS No. 108. Specifically, the affected right and left-hand headlamp lower beams may measure as much as 230.1 candela (cd) in the 10°U to 90°U and 90°L to 90°R zone, which exceeds the maximum photometric intensity allowed by 105.1 cd.

V. Summary of Tesla’s Petition: The following views and arguments presented in this section, “V. Summary of Tesla’s Petition,” are the views and arguments provided by Tesla. They do not reflect the views of the Agency. Tesla describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Tesla’s headlamp supplier, Marelli Automotive Lighting, tested 25 right-hand and 25 left-hand lamps, and for this sample, found the maximum photometric intensity measured in the 10°U to 90°U and 90°L to 90°R zone was between 136.2 cd and 230.1 cd for the right-hand lamps and between 117.5 cd and 160.3 cd for the left-hand lamps. According to Tesla, these tests revealed that the photometric intensity of the right-hand and left-hand headlamp lower beam on the subject vehicles may measure as much as 230.1 cd in the 10°U to 90°U and 90°L to 90°R zone, exceeding the maximum photometric intensity by 105.1 cd. Additionally, Tesla states that a left-hand lamp tested by a Transport Canada recognized

laboratory measured a maximum of 171.27 cd in the 10°U to 90°U and 90°L to 90°R zone. Despite these measurements exceeding the allowed photometric maximum of 125 cd, Tesla believes that the subject noncompliance is inconsequential to motor vehicle safety.

Tesla argues that the noncompliant illuminated area of the subject headlamp in the 10°U to 90°U and 90°L to 90°R zone is positioned off the roadway both horizontally and vertically, keeping it outside of the driver’s or other road users’ natural line of vision. Therefore, Tesla believes there is no increased risk of glare for surrounding traffic or the driver of the subject vehicle in any driving condition.

Tesla’s petition provides a plan, side, and orthogonal view (Figure 1) of the emitted light exceeding 125 cd overlaid onto the 10°U to 90°U and 90°L to 90°R zone. The noncompliant area falls in the 30° inboard and 20° upward area of the zone respectively for both the left-hand headlamp and the right-hand headlamp.

Figure 2 in Tesla’s petition shows the subject noncompliance from the view of the driver of the subject vehicle. Tesla explains that it simulated the illumination of the noncompliant 10°U to 90°U and 90°L to 90°R zone to demonstrate how the subject noncompliance affects the roadway from the view of the driver of the subject vehicle. The simulation in Figure 2 shows that the left-hand headlamp exceeds the maximum 125 cd by 35.3 cd (totaling 160.3 cd), while the right-hand headlamp exceeds it by 105.1 cd (totaling 230.1 cd). Tesla explains that these figures represent the largest measurements from the 25 sets of headlamps tested by Marelli Automotive Lighting.

Tesla asserts that the area illuminated by the noncompliant headlamps in the 10°U to 90°U and 90°L to 90°R zone does not affect the driver of the subject vehicle because its high and outboard position falls outside the driver’s line of vision.¹ Furthermore, Tesla believes that this illuminated area does not impact the field of vision of oncoming drivers or other road users due to its extreme location. The light from the subject headlamp in this zone is projected away from the roadway. Therefore, Tesla argues that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

On May 3, 2024, Tesla amended its petition to provide details of the low beam testing it conducted. Using the Adaptive Driving Beam (ADB) protocol test method provided in FMVSS No.

108, S14.9.3.12, Tesla conducted low beam tests on a proving ground. Tesla explains that the study aimed to characterize and quantify the low beam glare in the 10°U to 90°U zone on the subject vehicles compared to the same vehicles equipped with compliant headlamps. Specifically, the test involved one Model 3 and one Model Y vehicle, each equipped with the noncompliant left-hand and right-hand headlamps that exceeded the FMVSS No. 108 maximum permissible candela in the 10°U to 90°U and 90°L to 90°R zone. Tesla followed the test procedure described in Scenario #1 of FMVSS No. 108, Table XXII, at 60 mph and opposite direction.

Tesla argues that meeting the low beam maximum illuminance for adaptive driving beam photometry as detailed in Table XXI of FMVSS No. 108, despite having noncompliant headlamps, makes the noncompliance at issue inconsequential to motor vehicle safety. This, according to Tesla, ensures that drivers of vehicles equipped with the subject headlamps or other road users would not experience glare or distraction from them.

Tesla, in its amended petition, says that the subject vehicles did not exceed the permitted maximum illuminance values required by FMVSS No. 108, Table XXI. Tesla believes that these test results demonstrate that the subject noncompliance does not create glare for the driver of the subject vehicle or other road users. Therefore, Tesla contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Tesla has not found any complaints or reports of accidents or injuries related to this noncompliance in its records or NHTSA Vehicle Owner Questionnaires. Tesla also adds that it is not aware of any complaints, accidents, or injuries related to the subject noncompliance.

While Tesla acknowledges that this fact is not dispositive in the consideration of a petition for inconsequential noncompliance, it mentions this to illustrate that customers have not reported issues such as excessively bright or glaring headlamps, and no accidents or injuries have been attributed to the subject headlamps.²

Tesla distinguishes its petition from a 2022 petition denial to General Motors, LLC, (GM) in which Tesla claims GM argued that certain noncompliant replaceable bulb lower beam headlamps exceeding the photometry requirements

² See North American Subaru, Inc., Denial of Petition for Decision of Inconsequential Noncompliance; 87 FR 48764, August 10, 2022.

¹ Refer to Figure 1 of the petition for a visual.

of S10.15.6 and Table XIX of FMVSS No. 108 were inconsequential to motor vehicles safety.³ While Tesla's noncompliant lamps are an integral beam headlamp, integral beam headlamps follow similar photometry requirements to GM's replaceable bulb headlamps. Tesla explains that GM could not demonstrate that the noncompliant headlamps, which measured 450–470 cd and exceeded the photometric maximum by more than three times, did not cause glare or were not distracting to other road users. (*Id.*) Tesla believes that the subject noncompliance is distinguishable from GM's petition because the subject headlamps measure 230.1 cd at most. Tesla also uses the ADB-protocol testing it conducted to distinguish its petition from the GM petition by demonstrating that it believes the subject noncompliance does not create glare for the driver or other road users.

Tesla concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. Public Comments: NHTSA received two comments regarding Tesla's petition. The first commenter expressed concern that the subject vehicles are equipped with lower beam headlamps that produce significant glare, causing lingering spots in their vision after exposure. The commenter further noted that these vehicles are prevalent in their area and requested relief from the excessive glare.

The second commenter expressed the belief that the manufacturer did not successfully demonstrate that the subject noncompliance is inconsequential to motor vehicle safety. The commenter stated that the arguments and data provided in the petition are “not relevant, incomplete and unconvincing.” The commenter provided their own views, and arguments to support their belief that Tesla's petition should be denied. First, the commenter stated that Tesla underestimates the severity or maximum candela of the subject noncompliance. The commenter stated that the data Tesla provides regarding the testing of 25 sets of affected headlamps does not support its conclusion that the maximum photometric intensity is 230.1 cd

because there is nearly a 100 percent defect rate in the 25 sets of headlamps and the sample population size is relatively small. The commenter elaborated that the mean and standard deviation of the sample population are not reported in Tesla's petition and if that data were reported then statistical process capability estimates could be made of the affected population, and it would be clear that 230.1 is not the maximum photometric intensity of the subject noncompliance in the overall population.

Second, the commenter stated that Tesla's arguments concerning the subject noncompliance occurring outside the driver and other road users' line of vision are not relevant because the purpose of the 10 degrees up to 90 degrees up and 90 degrees left to 90 degrees right test points is not to prevent direct line of vision glare. The commenter pointed out that the purpose of these test points is to prevent veiling glare or back scatter of light to the driver in adverse weather conditions such as rain, fog, snow, and smog. The commenter noted that Tesla does not provide test data on the subject noncompliance's impact in these adverse weather conditions.

Next, the commenter stated that the ADB testing and conclusions are most relevant but are “misleading and incomplete.” The commenter stated that the purpose of the ADB maximum illumination values provided in Table XXI of FMVSS No. 108 is to evaluate direct glare light, not veiling glare light; further, the photometric intensity limits and illumination detector positions were not designed to detect veiling glare nor direct glare in the region of the 10 degrees up to 90 degrees up and 90 degrees left to 90 degrees right test points relevant to this petition. The commenter noted that Tesla's argument is also unpersuasive because only the first of eight (8) total scenarios provided in FMVSS No. 108 was tested, and, even without considering the ADB illumination detector vertical and horizontal angular limitations, if all scenarios had been tested, the other curve scenarios may have been more severe than the one tested because that one represents a straight road. The commenter asserted that, therefore, Tesla's ADB argument is incomplete.

Last, the commenter stated that even without consumer complaints or reports of accidents or injuries related to the subject noncompliance, the impact of real-world direct and veiling glare is a given because of the nature of higher intensity light above the horizon exceeding regulatory limits. The commenter pointed out that there are

too many contributors to real-world glare for cause and effect to be assigned, and these glare instances mainly occur at night when road users would likely look away and not try to identify the make, model, and year of the vehicle or find the specific cause and whether it came from glare test point maximum exceedance, misaim, road surface pitch, vehicle loading, etc. The commenter stated that observations would fall under the same common NHTSA consumer complaint umbrella of “too much headlamp glare.”

VII. NHTSA's Analysis: In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.⁴ In general, NHTSA does not consider the absence of complaints or injuries when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.⁵ Complaints are typically submitted to NHTSA via a form⁶ or verbal report to the NHTSA vehicle safety hotline⁷ and those complaints are published on the NHTSA website.⁸ While no reports of glare associated with the subject vehicles were received via a form or verbal report to the NHTSA vehicle safety hotline prior to the comment period, NHTSA did receive one comment from the public during the comment period stating that they have experienced glare from what the Agency believes to be the subject vehicle(s). NHTSA considers this comment as a customer complaint as it relates to this petition. NHTSA received one other comment from the public, and

⁴ See *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

⁵ See *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016); see also *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it “results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future”).

⁶ <https://www.nhtsa.gov/report-a-safety-problem>.

⁷ NHTSA Vehicle Safety Hotline 888–327–4236.

⁸ <https://www.nhtsa.gov/recalls>.

³ See *General Motors, LLC, Denial of Petition for Decision of Inconsequential Noncompliance*, 87 FR 12546, March 4, 2022.

NHTSA concurs with the commenter's points as it relates to this petition. Specifically, NHTSA agrees with the commenter's analysis of Tesla's arguments as described in this decision notice. In addition, NHTSA has previously received and ruled on a petition requesting NHTSA to issue an order of noncompliance related to headlamp glare in MY 2021 Tesla Model 3 vehicles, among others.⁹ While NHTSA disagreed with the petitioner's argument that LED headlamps are *de facto* noncompliant with FMVSS No. 108, the petition nonetheless complained of excessive glare from MY 2021 Tesla Model 3 vehicles. Further, because each inconsequential noncompliance petition must be evaluated on its own facts and determinations are highly fact-dependent, NHTSA does not consider prior determinations as binding precedent. In this instance, Tesla determined that there was in fact a noncompliance.

NHTSA disagrees with Tesla's conclusion that there is no increased risk of glare for surrounding traffic or the driver of the subject vehicle in any driving conditions. NHTSA believes, as previously stated in the GM petition also referenced by Tesla, that the purpose of having a maximum of 125 cd at test points 10 degrees up to 90 degrees up and 90 degrees left to 90 degrees right is to reduce the presence of glare and veiling glare¹⁰ from oncoming or surrounding vehicles. Certain weather conditions such as rain, snow, and fog could result in light from the noncompliant lamps causing veiling glare to the driver or other road users driving in the proximity of the vehicle having the noncompliant lamp(s).

NHTSA finds that the subject petition is similar to GM's petition, in that in both cases, the noncompliance exceeded the maximum requirement in the zone bounded by 10 degrees up to 90 degrees up and 90 degrees left to 90 degrees right. Regardless of the difference in amount of exceedance and different locations in the 10 degrees up to 90 degrees up and 90 degrees left to 90

degrees right zone, Tesla has not provided any argument, evidence, or justification that indicates the subject noncompliance would not cause veiling glare to the driver or other road users as mentioned previously.

NHTSA does not believe the additional ADB-protocol testing conducted by Tesla indicates that the subject noncompliance is inconsequential to safety and does not create glare for the driver or other road users. The additional ADB-protocol testing only considers glare directed at other road users in a single scenario with ideal driving conditions where the sky is clear and the road is dry. This additional testing is, therefore, insufficient to persuade the Agency that the subject noncompliance will not cause glare to other drivers or road users during adverse weather conditions such as rain, snow, and fog. Regardless, the ADB-protocol testing conditions¹¹ are not intended to evaluate glare as a result of the subject noncompliance.

VIII. NHTSA's Decision: In consideration of the foregoing, NHTSA has decided that Tesla has not met its burden of persuasion that the subject FMVSS No. 108 noncompliance is inconsequential to motor vehicle safety. Accordingly, Tesla's petition is hereby denied, and Tesla is consequently obligated to provide notification of and free remedy for that noncompliance under 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Eileen Sullivan,

Associate Administrator for Enforcement.

[FR Doc. 2026-14506 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

National Emergency Medical Services Advisory Council

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (Department or DOT).

ACTION: Notice; solicitation of nominations for membership.

SUMMARY: The Department solicits nominations for membership to serve as the State/Local 911 Officials

¹¹ In addition to the track testing required for ADB lamps, the standard also requires ADB lamps to meet laboratory test requirements as specified in S9.4.1.6.4.3 of FMVSS No. 108 which the subject lamp fails to meet.

representative on the National Emergency Medical Services Advisory Council (NEMSAC). The purpose of NEMSAC is to serve as a nationally recognized council of Emergency Medical Services (EMS) representatives and consumers to provide advice and recommendations regarding EMS to DOT. Through NHTSA, NEMSAC's advice is provided to the Secretary of Transportation and the Federal Interagency Committee on Emergency Medical Services (FICEMS).

DATES: Nominations for NEMSAC membership must be received on or before August 17, 2026.

ADDRESSES: All nomination materials should refer to the docket number above and be submitted by any of the following methods:

- *Email:* NEMSAC@dot.gov.

- *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W44-324, Washington, DC 20590-0001.

- *Hand Delivery:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Attention: Clary Mole, NHTSA Office of EMS.

FOR FURTHER INFORMATION CONTACT: Clary Mole, EMS Specialist, Office of Emergency Medical Services, Clary.Mole@dot.gov or 202-868-3275. All NEMSAC-related questions should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

Background: NEMSAC is an advisory committee established by the Secretary of Transportation pursuant to 42 U.S.C. 300d-4 and operated in accordance with the Federal Advisory Committee Act, 5 U.S.C. ch. 10. NEMSAC provides information, advice, and recommendations to the Secretary of Transportation via the Administrator of NHTSA, and through NHTSA to FICEMS on matters relating to all aspects of development and implementation of EMS. The Council is expected to meet quarterly, and unless otherwise required by law or approved by the Secretary, all meetings will be held virtually.

In this notice, the Department is soliciting nominations for State/Local 911 Officials representation for the Council. This member will serve a two-year term. The member may be reappointed but may not serve more than two consecutive terms unless the Secretary determines that term extensions or additional terms are required to ensure representation of all

⁹ See Soft Lights Foundation, Denial of Petition for Decision of Non-Compliance Order; 87 FR 75327, December 8, 2022.

¹⁰ Veiling glare or veiling reflection is defined by the Illuminating Engineering Society (IES) to be a regular (specular) reflection, superimposed on diffuse reflection from an object, that partially or totally obscures the details to be seen by reducing the contrast. This sometimes is called reflected glare. Another kind of veiling reflection occurs when one looks through a pane of glass. A reflected image of a bright element or surface may be seen superimposed on what is viewed through the glass pane. <https://www.ies.org/definitions/veiling-reflection/>. Accessed 14 November 2024.

sectors of EMS. Past members of the advisory committee are welcome to apply. The Department is interested in ensuring membership is balanced fairly in terms of the points of view represented and the functions to be performed by the advisory committee.

Description of Duties: In general, NEMSAC's responsibilities are to consider information and topics related to EMS and make recommendations and dispense advice to the Secretary of Transportation and FICEMS. Examples of areas where NEMSAC members may be tasked to provide recommendations or advice on EMS include:

- Expanded use of the National EMS Information System (NEMSIS)—the database used to store EMS data from the U.S., States, and territories.
- Use of NEMSIS for applied research and development of standards, guidelines, and performance benchmarks that are evidence-based.
- Development of Federal programs that will both improve the delivery of EMS throughout the Nation and coordination among Federal agencies supporting local, regional, State, Tribal, and territorial EMS, and 911 systems.
- National EMS system quality improvement projects and programs that will strengthen the resiliency of EMS systems into one that is inherently more adaptable, innovative, accessible, integrated, prepared, sustainable, and safe.

• Enhancements that promote, strengthen, and increase medical and operational education, professional development, safety, recruitment, retention, use of technology, healthcare system data linkages, etc.

In addition, NEMSAC is tasked with the following statutory responsibilities:

- a. Respond to requests for consultation on EMS issues from the Secretary of Transportation and FICEMS.

- b. Prepare an annual report to the Secretary of Transportation regarding its actions and recommendations.

Membership: In accordance with the NEMSAC charter, members should represent a cross-section of the agencies, organizations, and individuals involved in EMS activities and programs in the United States. NEMSAC members shall represent collectively all sectors of the EMS community. NEMSAC's broad-based membership will ensure that it has sufficient EMS system expertise to reflect the whole EMS community. Representatives are selected based on materials submitted. To the extent practical, NEMSAC membership may include representation from the following sectors of the EMS community:

- Volunteer EMS
- Fire-based (career) EMS
- Private (career non-fire) EMS
- Hospital-based EMS
- Tribal EMS
- Air Medical EMS
- Local EMS Service Officials
- EMS Physicians
- Emergency Physicians
- Trauma Surgeons
- Pediatric Emergency Physicians
- State EMS Officials
- State Highway Safety Officials
- EMS Educators
- State/Local 911 Officials
- EMS Data Management Officials
- EMS Quality Improvement Officials
- EMS Researchers
- Emergency Nurses
- Hospital Administration
- Public Health Officials
- Emergency Management Officials
- EMS Clinicians
- Consumers (not directly affiliated with healthcare)
- State or local legislative bodies

NHTSA is seeking a member to serve in a representative capacity on NEMSAC for the sector identified as State/Local 911 Officials. This member will be selected for their ability to represent local and State 911 officials' interests from across the EMS community, but the member will not represent a specific organization. This member may not also serve as a Special Government Employee. NEMSAC members will not receive pay or other compensation from NHTSA for their NEMSAC service, but are entitled to reimbursement of their travel expenses, including per diem. NEMSAC meets in plenary session approximately four times per year.

Process and Deadline for Submitting Nominations: Qualified individuals can self-nominate or be nominated by any individual or organization. An application for appointment must be submitted to one of the locations listed in the **ADDRESSES** section by the deadline listed in the **DATES** section and include the following materials:

- A Resume or Curriculum Vitae containing the applicant's full name, title, and relevant contact information (home address, phone number, email address) of the individual requesting consideration.
- At least two (2) but no more than four (4) letters of recommendation from a company, union, trade association, academic, or nonprofit organization, or individual on letterhead containing a brief description of why the applicant should be considered for appointment.
- A short biography of the nominee, including professional and academic credentials.

- An affirmative statement that the nominee meets all Council eligibility requirements.

- A letter of interest that identifies that the applicant seeks to represent the State/Local 911 Officials sector. Please do not send company, trade association, or organization brochures or any other information. Should more information be needed, DOT staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources, such as the internet.

Nominations must be received before August 17, 2026. The nominee selected for appointment to the Council will be notified by email.

Authority: 42 U.S.C. 300d-4(b); 49 CFR part 1.95(i)(4).

Issued in Washington, DC.

Jane Terry,

Acting Associate Administrator, Research and Program Development.

[FR Doc. 2026-14442 Filed 7-16-26; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2026-1156]

Pipeline Safety: Joint Meeting of the Gas and Liquid Pipeline Advisory Committees

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); Department of Transportation (DOT).

ACTION: Notice of advisory committee meeting.

SUMMARY: This notice announces a joint public meeting of the Technical Pipeline Safety Standards Committee, also known as the Gas Pipeline Advisory Committee (GPAC), and the Technical Hazardous Liquid Pipeline Safety Standards Committee, also known as the Liquid Pipeline Advisory Committee (LPAC). The meeting will be held virtually to discuss 13 notices of proposed rulemaking (NPRMs) covering topics such as special permit conditions, in-plant piping, incidental gathering lines, coating damage assessments, atmospheric corrosion, class change pressure tests, maximum allowable operating pressure (MAOP) reconfirmation, operator identification notifications, limitations on welding operators, remote monitoring valves, property damage definition, right-of-way patrols, and reporting deadlines.

DATES: The GPAC and LPAC will meet on Thursday, July 30, 2026, from 9:00

a.m. to 5:00 p.m. ET to discuss the NPRMs. The meeting may end early or later depending on when the committees complete their review. Members of the public who wish to attend are asked to register on the meeting website on <https://primis-meetings.phmsa.dot.gov/> no later than July 25, 2026. Individuals who require accommodations because of a disability must notify Joe Berry by email at joseph.berry1@dot.gov by that date as well.

ADDRESSES: The meeting will be held virtually. The agenda, registration details, and virtual access instructions will be posted at: <https://primis-meetings.phmsa.dot.gov/>. Presentations will be available on the meeting website and at <https://www.regulations.gov/> in docket number PHMSA–2026–1156 as soon as practicable following the meeting.

Comments: Public comments must be submitted by August 31, 2026. Submit comments to the docket number corresponding to the relevant proposal listed in section I below using any of the following methods:

- **E-Gov Web:** <https://www.regulations.gov>. This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.

- **Mail or Hand Delivery:** Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. Hand delivery is available between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays. Submit two copies if you submit your comment by mail, and, include a self-addressed stamped postcard if you wish to receive confirmation of receipt.

- **Fax:** 202–493–2251.

- **Instructions:** Identify the docket number PHMSA–2026–1156 and the docket number corresponding to the relevant proposal listed in section I below at the beginning of your comments.

Note: All comments received are posted without edits to <http://www.regulations.gov>, including any personal information provided.

- **Privacy Act Statement:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–

14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

- **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 (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments in response to this 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 this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to provide confidential treatment to information you give to the agency by taking the following steps: (1) mark each page of the original document submission containing CBI as “Confidential;” (2) send PHMSA a copy of the original document with the CBI deleted along with the original, unaltered document; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the Freedom of Information Act and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Joseph Berry at the email address listed below. Any material PHMSA receives that is not specifically designated as CBI will be placed in the public docket.

- **Docket:** Access the dockets of each rulemaking at <http://www.regulations.gov>. Specific docket numbers are provided below in section I. The dockets contain background documents and comments received. Alternatively, you may review the documents in person at the street address listed above.

FOR FURTHER INFORMATION CONTACT: Joe Berry by phone at 720–601–3577 or by email at joseph.berry1@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Meeting Agenda

The GPAC and LPAC will meet on Thursday, July 30, 2026, to discuss the following NPRMs:

1. *Pipeline Safety: Rationalize Special Permit Conditions*, Docket Number PHMSA–2025–0135. PHMSA proposed amendments to ensure that special permit conditions are connected directly to the provision being waived.

2. *Pipeline Safety: Integration of Innovative Remote Sensing Technologies for Right-of-Way Patrols on Gas and Hazardous Liquid Pipelines*,

Docket Number PHMSA–2025–0118. PHMSA proposed to clarify that right-of-way patrol requirements for gas, hazardous liquid, and carbon dioxide pipelines are technology neutral, and that operators can use remote sensing technologies, such as unmanned aerial systems and satellites, to satisfy those requirements.

3. *Pipeline Safety: Property Damage Definition for Reporting Incidents on Gas Pipelines and Accidents on Hazardous Liquid and Carbon Dioxide Pipelines*, Docket Number PHMSA–2025–0109. PHMSA proposed to revise the definition of property damage for determining when a release from a gas, hazardous liquid, or carbon dioxide pipeline facility meets the definition of a reportable incident or accident, including for immediate notifications to the National Response Center.

4. *Pipeline Safety: Adjustment to OPID Notifications for Construction*, Docket Number PHMSA–2026–1551. PHMSA proposed to increase the monetary threshold for Operator Identification Number (OPID) notifications for certain construction and maintenance tasks on gas, hazardous liquid, and carbon dioxide pipeline facilities. PHMSA also proposed to provide a mechanism in 49 CFR part 191, appendix A for annual updates to these thresholds.

5. *Pipeline Safety: Timeframe to Make RMs Operational*, Docket Number PHMSA–2026–1553. PHMSA proposed to amend the required timeframes for making rupture-mitigation valves and alternative equivalent technology operational on gas transmission, hazardous liquid, and carbon dioxide pipelines.

6. *Pipeline Safety: Exception for In-Plant Piping Systems*, Docket Number PHMSA–2025–0112. PHMSA proposed amendments to codify an exception in the gas pipeline safety regulations for in-plant piping systems.

7. *Pipeline Safety: Adjust Annual Report Deadlines*, Docket Number PHMSA–2025–0108. PHMSA proposed to extend from March 15 to June 15 the annual report data submission deadline for operators of gas pipelines, specifically gas distribution pipelines, gas transmission pipelines, regulated gas gathering pipelines, Type R gas gathering lines, underground natural gas storage facilities, and liquefied natural gas facilities. PHMSA also proposed to extend the National Pipeline Mapping System information submission deadline for operators of gas transmission and liquefied natural gas facilities.

8. *Pipeline Safety: Eliminating Limitations on Welders and Welding Operators*, Docket Number PHMSA–

2026–1552. PHMSA proposed to remove the exclusion from welding on compressor station pipe and components for welders or welding operators qualified by nondestructive testing.

9. *Pipeline Safety: Harmonize Class Change Pressure Test Requirements with Subpart J Pressure Test Requirements*, Docket Number PHMSA–2025–0116. PHMSA proposed amendments to align the minimum pressure testing duration for certain short segments affected by class location changes with the longstanding pressure test duration requirements for other short segments.

10. *Pipeline Safety: Removing Unnecessary Provision for Material Properties Verification During MAOP Reconfirmation*, Docket Number PHMSA–2026–1549. PHMSA proposed to remove an unnecessary provision from the MAOP reconfirmation requirements for testing pipe materials cut out from test manifold sites.

11. *Pipeline Safety: Codify Enforcement Discretion on Incidental Gathering Lines*, Docket Number PHMSA–2025–0113. PHMSA proposed to codify a 2022 exercise of limited enforcement discretion applicable to certain incidental gathering lines.

12. *Pipeline Safety: Eliminating Burdensome and Duplicative Deadlines for Gas Pipeline Coating Damage Assessments and Remedial Actions*, Docket Number PHMSA–2025–0114. PHMSA proposed to eliminate unnecessarily prescriptive and burdensome deadlines on gas transmission and certain gas gathering lines for completing coating damage assessments following trench backfilling of newly installed pipe and remedial actions following failed coating assessments. This proposal would replace those existing requirements with a general requirement to complete, prior to the in-service date of the pipeline, any coating damage assessments for newly installed pipe, as well as remedial actions undertaken in response to a failed coating damage assessment.

13. *Pipeline Safety: Atmospheric Corrosion Reassessment for Pipeline Replacements*, Docket Number PHMSA–2025–0115. PHMSA proposed to eliminate an existing requirement for a 3-year atmospheric corrosion reassessment interval for gas distribution service lines following replacement of pipeline segments or

components undertaken in response to a previous identification of atmospheric corrosion. Operators replacing a pipeline facility would instead be able to employ on that replacement facility the default 5-year reassessment interval provided for elsewhere in the Federal pipeline safety regulations.

The GPAC and LPAC will review the NPRMs and their associated regulatory analyses, including, but not limited to, the cost-benefit and risk assessment analyses contained in the preliminary regulatory impact analyses, environmental assessments, and other materials pertaining to the NPRM provided in the respective public docket.

Following the meeting, PHMSA will evaluate the recommendations provided by the GPAC and LPAC and publish final rules that address the comments received and relevant information from the meeting report.

II. Information on the Committees

The GPAC and LPAC are statutorily mandated advisory committees that provide PHMSA and the Secretary of Transportation with recommendations on proposed standards for the transportation of gas and liquid by pipelines. The committees were established in accordance with 49 U.S.C. 60115 and the Federal Advisory Committee Act of 1972 (FACA, 5 U.S.C. Ch. 10) to review PHMSA's regulatory initiatives and determine their technical feasibility, reasonableness, cost-effectiveness, and practicability. Each committee consists of 15 members, with membership evenly divided among Federal and State governments, regulated industry, and the general public.

III. Public Participation

This virtual meeting will be open to the public. PHMSA will also record the meeting and post a record to the public docket.

Though verbal statements from members of the public will not be permitted during this meeting, PHMSA invites written comments during a 30-day period following the meeting. Written public comments on the proceedings of the meeting must be submitted by August 31, 2026.

PHMSA is not always able to publish a notice in the **Federal Register** quickly enough to provide timely notice regarding last-minute issues that impact a previously announced advisory

committee meeting. Therefore, individuals should check the meeting website or contact Joe Berry regarding any possible changes.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Linda Daugherty,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 2026–14503 Filed 7–16–26; 8:45 am]

BILLING CODE 4910–60–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 July 10, 2026. See Supplementary Information for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Licensing, 202–622–2480; Assistant Director for Sanctions Compliance, 202–622–2490; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Actions

On July 10, 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 authorities listed below.

Individuals

1. ANSARI, Ali (Arabic: علی انصاری) (a.k.a. ANSARI, Ali Ali Akbar), Dubai, United Arab Emirates; DOB 26 Dec 1968; POB Ghazvin, Iran; nationality Iran; alt. nationality Saint Kitts and Nevis; alt. nationality Cyprus; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport B65348454 (Iran); alt. Passport M54968815 (Iran) expires 27 Nov 2026; alt. Passport L00017629 (Cyprus); alt. Passport RE0036662 (Saint Kitts and Nevis); National ID No. 4320705718 (Iran) (individual) [SDGT] [IRGC] [IFSR] [IRAN-EO13876] (Linked To: KHAMENEI, Mojtaba; Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(a)(iii)(A) 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 acted or purported to act for or on behalf of, directly or indirectly, the ISLAMIC REVOLUTIONARY GUARD CORPS.

Designated pursuant to section 1(a)(ii)(C) of Executive Order 13876 of June 24, 2019, 84 FR 30576, "Imposing Sanctions With Respect to Iran," (E.O. 13876) for have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MOJTABA KHAMENEI.

2. KHANDAN, Mohsen (Arabic: محسن خندان), Shiraz, Iran; DOB 10 Aug 1985; nationality Iran; alt. nationality Dominica; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport R0107863 (Dominica); National ID No. 2529897204 (Iran) (individual) [IRAN-EO13902] (Linked To: MOHSEN KHANDAN AND PARTNERS GENERAL PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of Executive Order 13902 of September 28, 2010, "Imposing Sanctions With Respect to Additional Sectors of Iran," 85 FR 2003, 3 CFR, 2020 Comp., p. 299 (E.O. 13902), for having acted or purported to act for or on behalf of, directly or indirectly, MOHSEN KHANDAN AND PARTNERS GENERAL PARTNERSHIP COMPANY.

3. KHANDAN, Ali Asghar (Arabic: علی اصغر خندان), Shiraz, Iran; DOB 08 Aug 1958; POB Estahban, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 2529610525 (Iran) (individual) [IRAN-EO13902] (Linked To: MOHSEN KHANDAN AND PARTNERS GENERAL PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for having acted or purported to act for or on behalf of, directly or indirectly, MOHSEN KHANDAN AND PARTNERS GENERAL PARTNERSHIP COMPANY.

4. ABADI, Shokufeh Rostam (Arabic: شکوفه رستم آبادی) (a.k.a. ROSTAMABADI, Shokoofeh), Iran; DOB 22 May 1956; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Female; National ID No. 0491083157 (Iran) (individual) [IRAN-EO13902] (Linked To: MOHAMMAD DARBANI AND PARTNERS EXCHANGE GENERAL PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for having acted or purported to act for or on behalf of, directly or indirectly, MOHAMMAD DARBANI AND PARTNERS EXCHANGE GENERAL PARTNERSHIP COMPANY.

5. DARBANI, Mohammad (Arabic: محمد دربانی), Iran; DOB 15 Jul 1946; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0491004435 (Iran) (individual) [IRAN-EO13902] (Linked To: MOHAMMAD DARBANI AND PARTNERS EXCHANGE GENERAL PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for having acted or purported to act for or on behalf of, directly or indirectly, MOHAMMAD DARBANI AND PARTNERS EXCHANGE GENERAL PARTNERSHIP COMPANY.

6. LAVASANI, Ahmad Navai (Arabic: احمد نوائی وانی) (a.k.a. LAVASANI, Ahmad Navaei), Iran; DOB 27 Jul 1972; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0056443005 (Iran) (individual) [IRAN-EO13902] (Linked To: LAVASANI AND PARTNERS GENERAL PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for having acted or purported to act for or on behalf of, directly or indirectly, LAVASANI AND PARTNERS GENERAL PARTNERSHIP COMPANY.

7. LAVASANI, Amir Navai (Arabic: امیر نوائی وانی), Iran; DOB 06 Sep 1970; POB Tehran, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport K54424834 (Iran) expires 06 Sep 2026; National ID No. 0054082951 (Iran) (individual) [IRAN-EO13902] (Linked To: LAVASANI AND PARTNERS GENERAL PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for having acted or purported to act for or on behalf of, directly or indirectly, LAVASANI AND PARTNERS GENERAL PARTNERSHIP COMPANY.

8. SARSHARI, Zahra (Arabic: زهرا رشاری), Iran; DOB 22 Dec 1961; POB Shiraz, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Female; National ID No. 2297395132 (Iran) (individual) [IRAN-EO13902] (Linked To: MOHAMMAD DARBANI AND PARTNERS EXCHANGE GENERAL PARTNERSHIP COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for having acted or purported to act for or on behalf of, directly or indirectly, MOHAMMAD DARBANI AND PARTNERS EXCHANGE GENERAL PARTNERSHIP COMPANY.

Entities

1. SMART GLOBAL LIMITED (a.k.a. ZIBA LEISURE LIMITED), Charlestown, Saint Kitts and Nevis; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 20 Oct 2011; Organization Type: Activities of holding companies; Registration Number C39335 (Saint Kitts and Nevis) [SDGT] [IRAN-EO13876] (Linked To: ANSARI, Ali).

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, ALI ANSARI.

Designated pursuant to section 1(a)(ii)(D) of E.O. 13876, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALI ANSARI.

2. CDM TRADING LIMITED, Rm23, 7/F Lee on Industrial Building No. 70 Hung To Rd, Kowloon, Hong Kong, China; Organization Established Date 21 Jan 2022; Company Number 3123352 (Hong Kong); Business Registration Number 73747617 (Hong Kong) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

3. MOHSEN KHANDAN AND PARTNERS GENERAL PARTNERSHIP COMPANY (Arabic: شرکت ضامنی محسن خندان و شرکا) (a.k.a. KHANDAN EXCHANGE; a.k.a. MOHSEN KHANDAN AND PARTNERS COMPANY), Ground Floor, No. 0, Shahid Rajaei Boulevard (54 Shahid Rajaei), Baharan Alley 8, Moali Abad, Shiraz, Fars 7187611451, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 09 Jan 2017; National ID No. 14006482791 (Iran); Registration Number 45635 (Iran) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

4. NABA ALZAKI RAW MATERIALS TRADING LLC, Dubai, United Arab Emirates; Organization Established Date 20 Aug 2024; Commercial Registry Number 2369427 (United Arab Emirates); License 1390462 (United Arab Emirates) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

5. LAVASANI AND PARTNERS GENERAL PARTNERSHIP COMPANY (Arabic: شرکتی و شریکاء) (a.k.a. LAVASANI AND PARTNERS COMPANY (Arabic: شرکتی و شریکاء); a.k.a. LAVASANI AND PARTNERS EXCHANGE (Arabic: صرافی و شریکاء); a.k.a. SABZEH MEYDAN EXCHANGE), Ground Floor, Iranian Gold and Coin Shopping Center Building, Number 820, Sabzeh Meydan Square, Bazaar Auction Alley, Bazaar, Tehran, Tehran 1161766113, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 31 Aug 2005; National ID No. 10102943860 (Iran); Registration Number 253979 (Iran) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

6. MOHAMMAD DARBANI AND PARTNERS EXCHANGE GENERAL PARTNERSHIP COMPANY (Arabic: شرکتی و شریکاء صرافی محمد دربانی و شریکاء) (a.k.a. MOHAMMAD DARBANI AND PARTNERS EXCHANGE COMPANY (Arabic: شرکتی و شریکاء صرافی محمد دربانی و شریکاء)), Ground Floor, No. 2, Ziba Dead End, Shahid Baradaran Jozi Street, Ekhtiariyeh Neighborhood, Tehran, Tehran 1951876364, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 28 May 2016; National ID No. 14005872174 (Iran); Registration Number 492428 (Iran) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

(Authority: E.O. 13902; E.O. 13224, as amended; E.O. 13876.)

Lisa M. Palluconi,
Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2026-14477 Filed 7-16-26; 8:45 am]

BILLING CODE 4810-AL-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 updates to

the identifying information of one person currently included on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

DATES: This action was issued on July 14, 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 July 14, 2026, OFAC updated the SDN List entry for the following person, whose property and interest in property

subject to U.S. jurisdiction continue to be blocked. The listing below reflects the amended entry on the SDN List.

BILLING CODE 4810–AL–P

—From—

BANK MARKAZI JOMHOURI ISLAMI IRAN (a.k.a. BANK MARKAZI IRAN; a.k.a. CENTRAL BANK OF IRAN; a.k.a. CENTRAL BANK OF THE ISLAMIC REPUBLIC OF IRAN (Arabic: بانک مرکزی جمهوری اسلامی ایران)), PO Box 15875/7177, 144 Mirdamad Blvd, Tehran, Iran; 213 Ferdowsi Avenue, Tehran 11365, Iran; Mirdamad Blvd, 144 - P.O. Box 15875/7/77, Tehran, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Digital Currency Address - TRX TNiq9AXBp9EjUqhDhrwrfvAA8U3GUQZH81; alt. Digital Currency Address - TRX TTiDLWE6fZK8okMJv6ijg42yrH6W2pjSr9 [IRAN] [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE; Linked To: HIZBALLAH).

—To—

BANK MARKAZI JOMHOURI ISLAMI IRAN (a.k.a. BANK MARKAZI IRAN; a.k.a. CENTRAL BANK OF IRAN; a.k.a. CENTRAL BANK OF THE ISLAMIC REPUBLIC OF IRAN (Arabic: بانک مرکزی جمهوری اسلامی ایران)), PO Box 15875/7177, 144 Mirdamad Blvd, Tehran, Iran; 213 Ferdowsi Avenue, Tehran 11365, Iran; Mirdamad Blvd, 144 - P.O. Box 15875/7/77, Tehran, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Digital Currency Address - TRX TNiq9AXBp9EjUqhDhrwrfvAA8U3GUQZH81; alt. Digital Currency Address - TRX TTiDLWE6fZK8okMJv6ijg42yrH6W2pjSr9; alt. Digital Currency Address - TRX TAwhFv3JpK39Nc2m8W5LPCcoTisutiRfp; alt. Digital Currency Address - TRX TJdgB1k6ot3f2nLuZug6D8eD3HavTmzmSK; alt. Digital Currency Address - TRX TXGHxdYbGy574z5hBu4LNzq9NzjZQ9bhUf; alt. Digital Currency Address - TRX TFQbqaNbmQ2xsVor2NbufLkYZvxFC9wC7k [IRAN] [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE; Linked To: HIZBALLAH).

(Authorities: E.O. 13224, as amended by E.O. 13886)

Lisa M. Palluconi,

Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2026–14458 Filed 7–16–26; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Collection of Qualitative Feedback on Agency Service Delivery

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 September 15, 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. 1545–2256” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this collection should be directed to Marcus W. McCrary, (470) 769–2001.

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: Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1545–2256.

Abstract: This collection of information is necessary to enable the IRS to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The

information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with IRS programs.

Current Actions: There is no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and households, and business or other for-profit organizations.

Estimated Number of Responses: 175,000.

Estimated Time per Response: 15 minutes to 1.05 hours.

Estimated Total Annual Burden Hours: 10,000.

Estimated Total Burden Hours: 30,000.

Dated: July 14, 2026.

Marcus W. McCrary,

Tax Analyst.

[FR Doc. 2026–14392 Filed 7–16–26; 8:45 am]

BILLING CODE 4831–GV–P



FEDERAL REGISTER

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Part II

Department of Homeland Security

8 CFR Parts 214, 248, and 274a

Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media; Final Rule

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 214, 248, and 274a

[DHS Docket No. ICEB–2025–0001]

RIN 1653–AA95

Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media

AGENCY: U.S. Immigration and Customs Enforcement (ICE), U.S. Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is amending its regulations to change the admission period in the F, J, and I classifications from duration of status to an admission for a fixed time period, and additional changes to admission and extension requirements. This final rule will provide additional protections and oversight of these nonimmigrant categories and will allow DHS to better evaluate whether these nonimmigrants are maintaining status while temporarily in the United States. This final rule provides amendments to the proposed rule covering this topic that was published in the **Federal Register** on August 28, 2025.

DATES: This rule has been classified as a major rule subject to congressional review. The effective date is September 15, 2026. However, at the conclusion of the congressional review, if the effective date has been changed, DHS will publish a document in the **Federal Register** to establish the actual effective date or to terminate the rule.

FOR FURTHER INFORMATION CONTACT: Office of Principal Legal Advisor, U.S. Immigration and Customs Enforcement, Department of Homeland Security, 500 12th Street SW, Washington, DC 20536–5901. Telephone 202–732–6960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Acronyms and Abbreviations

ACGME Accreditation Council for Graduate Medical Education
ADIS Arrival and Departure Information System
ARO Alternative Responsible Officer
AUD Admit Until Date
CBP U.S. Customs and Border Protection
CFR Code of Federal Regulations
CPT Curricular Practical Training
DOJ U.S. Department of Justice
DHS U.S. Department of Homeland Security
D/S Duration of Status

DoS U.S. Department of State
DSO Designated School Official
EAD Employment Authorization Document
ECFMG Educational Commission for Foreign Medical Graduates
ED U.S. Department of Education
ELT English language training
EOS Extension of Stay
ESL English as a second language
FY Fiscal year
GAO U.S. Government Accountability Office
ICCPR International Covenant on Civil and Political Rights
ICE U.S. Immigration and Customs Enforcement
IIRIRA Illegal Immigration Reform and Immigrant Responsibility Act of 1996
INA Immigration and Nationality Act
INS U.S. Immigration and Naturalization Service
NPRM Notice of Proposed Rulemaking
NIH National Institutes of Health
OPT Optional Practical Training
PDSO Principal Designated School Officials
POE Port of Entry
PRC People's Republic of China
RFE Request for Evidence
RO Responsible Officer
SAR Special Administrative Region
SEVIS Student and Exchange Visitor Information System
SEVP Student and Exchange Visitor Program
SSR Special Student Relief
STEM Science, Technology, Engineering and Mathematics
UDHR Universal Declaration of Human Rights
USA PATRIOT Act Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001
USCIS U.S. Citizenship and Immigration Services

II. Executive Summary

A. Purpose of the Regulatory Action

Studying and participating in exchange visitor and academic programs in the United States offers aliens access to world-renowned, individualized instructional and educational programs. Similarly, the United States allows foreign news and media members access to the United States as part of their foreign employment. Millions of aliens have come to the United States on a temporary basis in the F (academic student),¹ J (exchange visitor),² and I (representatives of foreign information media)³ nonimmigrant classifications.⁴

¹ See Immigration and Nationality Act (INA) 101(a)(15)(F), 8 U.S.C. 1101(a)(15)(F).

² See INA 101(a)(15)(J), 8 U.S.C. 1101(a)(15)(J).

³ See INA 101(a)(15)(I), 8 U.S.C. 1101(a)(15)(I).

⁴ See Office of Homeland Security Statistics, *Yearbook of Immigration Statistics—Yearbook 2023, Table 25, Nonimmigrant Admissions by Class of Admission: Fiscal Years 2014 to 2023* (last updated July 31, 2025), <https://ohss.dhs.gov/topics/immigration/yearbook-immigration-statistics/yearbook-2023>.

Unlike aliens in most nonimmigrant classifications who are admitted until a specific departure date, F, J, and I (except for some I nonimmigrants from the People's Republic of China (PRC)) nonimmigrants are admitted into the United States for an unspecified period of time to engage in activities authorized under their respective nonimmigrant classifications. This unspecified period of time is referred to as “duration of status” (D/S). D/S for F academic students is generally the time during which a student is pursuing a full course of study at an educational institution approved by DHS, or engaging in authorized practical training following completion of studies, plus authorized time to depart the country.⁵ D/S for J exchange visitors is the time during which an exchange visitor is participating in an authorized program, plus authorized time to depart the country.⁶ D/S for I representatives of foreign information media is the duration of their foreign employment duties in the United States.⁷ For dependents of principal F, J, or I nonimmigrants, D/S generally corresponds with the principal's period of admission so long as the dependents are also complying with the requirements of their particular classifications.⁸

Since D/S was first introduced in 1978 for F nonimmigrants and in 1985 for J and I nonimmigrants,⁹ the number of F, J, and I nonimmigrants admitted each year into the United States has significantly increased.¹⁰ In fiscal year (FY)2024 alone, there were over 1.8

⁵ Statutory and regulatory requirements restrict the duration of study for an alien who is admitted in F–1 status to attend a public high school to an aggregate of 12 months of study at any public high school(s). See INA 214(m), 8 U.S.C. 1184(m); see also 8 CFR 214.2(f)(5)(i) (2025).

⁶ See 8 CFR 214.2(j)(1)(ii) (2025) (explaining the initial admission period) and 8 CFR 214.2(j)(1)(iv) (2025) (explaining that extensions of stay can be obtained with a new Form DS–2019). See also 22 CFR 62.43 (permitting responsible officers to extend J nonimmigrant's program beyond the original DS–2019 end date according to length permitted for the specific program category).

⁷ 8 CFR 214.2(i) (2025).

⁸ See 8 CFR 214.2(f)(3) (2025), (f)(5)(vi)(D) (2025) (discussing F–2 period of authorized admission); 214.2(j)(1)(ii) (2025), (j)(1)(iv) (2025) (discussing J–2 authorized period of admission); INA 101(a)(15)(I), 8 U.S.C. 1101(a)(15)(I); 22 CFR 41.52(c).

⁹ See *Admission of Nonimmigrant Students for Duration of Status*, 43 FR 54618 (Nov. 22, 1978) and *Nonimmigrant Classes; Admission Period and Extensions of Stay*, 50 FR 42006 (Oct. 17, 1985).

¹⁰ In 1985, when D/S was introduced for I and J nonimmigrants, there were 16,753 admissions in I status, 141,213 admissions in J status, and 251,234 admissions in F status. DOJ, Immigration and Naturalization Service, *1997 Statistical Yearbook of the Immigration and Naturalization Service* (Oct. 1999), https://ohss.dhs.gov/sites/default/files/2023-12/Yearbook_Immigration_Statistics_1997.pdf.

million admissions in F status, a dramatic rise from when the legacy U.S. Immigration and Naturalization Service (INS) first shifted to D/S admission in 1979 and more than an 11 percent increase since FY 2023.¹¹ For example, in the 1980–81 school year, there were approximately 260,000 admissions in F status.¹² Similar growth in the J nonimmigrant population has also occurred over the past decades. In FY 2024, there were over 500,000 admissions in J status, up over 300 percent from the 141,213 J admissions into the United States in 1985 and up over 7 percent since FY 2023.¹³ Finally, there were 37,330 admissions for I nonimmigrant foreign media representatives in the United States in FY 2024, over double the 16,753 admissions into the U.S. in 1985 and a nearly 15 percent increase from the prior fiscal year.¹⁴

The significant increase in the volume of F academic students, J exchange visitors, and I representatives of information media under D/S poses a challenge to DHS's ability to monitor and oversee these nonimmigrants while they are in the United States. During the length of their stay for D/S, a period of admission without a specified end date, these nonimmigrants are not required to have direct interaction with DHS, except for a few limited instances, such as when applying for employment authorization for optional practical training (OPT), or for reinstatement if they have failed to maintain status.

¹¹ In FY 2024, there were 1,816,480 admissions in F–1 status and 63,510 in F–2 status. See DHS Off. of Homeland Sec. Stat., *Legal Immig. and Adjustment of Status Report Fiscal Year 2024, Quarter 4*, tbl.4B, https://ohss.dhs.gov/sites/default/files/2025-06/2025_0624_ohss_legal-immigration-adjustment-of-status-fy-2024q4_0.xlsx. Compare this to FY 2023, when there were 1,625,740 admissions in F–1 status and 61,910 in F–2 status. See DHS Off. of Homeland Sec. Stat., *Legal Immig. and Adjustment of Status Report Fiscal Year 2023, Quarter 4*, tbl.4B, https://ohss.dhs.gov/sites/default/files/2024-06/2024_0507_ohss_legal-immigration-adjustment-of-status-fy-2023q4.xlsx.

¹² In the 1980–81 school year, 312,000 nonimmigrant students were admitted into the United States. Approximately 83 percent of the nonimmigrant students admitted into the United States during the 1980–81 school year were in F status. Therefore, approximately 258,960 nonimmigrant students in F status were admitted into the United States in the 1980–81 school year. See U.S. Gov't Accountability Office (GAO), *Controls Over Foreign Students in U.S. Postsecondary Institutions Are Still Ineffective; Proposed Legislation and Regulations May Correct Problems* (Mar. 10, 1983), <https://www.gao.gov/assets/hrd-83-27.pdf>.

¹³ See FY 2024, Quarter 4, tbl.4B, *supra* note 11, sum of J–1 514,170 and J–2 68,010. See also DHS FY 2023, Quarter 4, tbl.4B, *supra* note 11, sum of J–1 481,280 and J–2 62,000.

¹⁴ See FY 2024, Quarter 4, tbl.4B, *supra* note 11. See also DHS FY 2023, Quarter 4, tbl.4B, *supra* note 11, sum of I nonimmigrants 32,470.

Admission for D/S, in general, does not afford immigration officers enough predetermined opportunities to directly verify that aliens granted such nonimmigrant statuses are engaging only in those activities their respective classifications authorize while they are in the United States. In turn, this has undermined DHS's ability to effectively enforce compliance with the statutory inadmissibility grounds related to unlawful presence and has created incentives for fraud and abuse.

For F and J visa holders, the Immigration and Nationality Act (INA) specifically states that aliens must have a residence in a foreign country which they have no intention of abandoning and seek to enter the United States temporarily,¹⁵ yet, DHS has many examples of students and exchange visitors staying for decades in their student or exchange visitor status.¹⁶

The events of 9/11 highlighted the potential for abuse of the student visa. In the wake of 9/11, a Homeland Security Presidential Directive titled, *Combating Terrorism Through Immigration Policies* directed, among other things, that a program be developed to track the status of foreign students. It also mandated that the government develop guidelines that may include control mechanisms such as limited duration of student status.¹⁷ The 9/11 Commission reiterated the need to track foreign students and place tighter controls on student visas.¹⁸ From these mandates and the statutory authorities described below, the Student and Exchange Visitor Program (SEVP) was created, and the electronic Student and Exchange Visitor Information System (SEVIS) was implemented. SEVIS is a DHS computer system that stores and processes information about foreign students and exchange visitors in the U.S.

SEVIS ensures government agencies have essential data related to nonimmigrant students and exchange visitors to preserve national security. SEVIS also implements Section 641 of the Illegal Immigration Reform and

¹⁵ See INA sec. 101(a)(15)(F) and (J); 8 U.S.C. 1101(a)(15)(F) and (J).

¹⁶ DHS has identified over 2,100 aliens who first entered as F–1 students between 2000 and 2010 and remain in active F–1 status as of Apr. 6, 2025. See Student Exchange Visitor Program analysis of data in the Student Exchange Visitor Information System and valid as of Apr. 6, 2025.

¹⁷ See Homeland Sec. Presidential Directive 2, *Combating Terrorism Through Immig. Policies* (Oct. 29, 2001) (HSPD–2), <https://georgewbush-whitehouse.archives.gov/news/releases/2001/10/text/20011030-2.html>.

¹⁸ Kean, T.H. & Hamilton, L.H., *The 9/11 Commission report: final report of the National Commission on Terrorist Attacks upon the United States*, New York: Norton, at 81, 187 (2004).

Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208 (codified at 8 U.S.C. 1372), which requires DHS to collect current information from nonimmigrant students and exchange visitors continually during their stay in the United States. In addition, section 416 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Public Law 107–56 (amending IIRIRA sec. 641), mandated full implementation and expansion of SEVIS.

Given these mandates and concerns, DHS believes that the admission of F, J, and I nonimmigrants for D/S is not appropriate. The final rule replaces the D/S framework for F, J, and I nonimmigrants with a return to an admission period with a specific date upon which an authorized stay ends. Nonimmigrants who would like to stay in the United States beyond their fixed period of admission will need to apply directly to DHS for an extension of stay (EOS)¹⁹ or gain readmission by traveling abroad and re-entering the United States. DHS anticipates that many F, J, and I nonimmigrants will be able to complete their respective activities within their period of admission. However, those who are unable will generally be able to request an extension of their period of admission from an immigration officer. DHS believes that this process will help to mitigate risks posed by aliens who seek to exploit these programs and live in the United States on a non-temporary basis in contradiction with the underlying statutory language that applies to their nonimmigrant status.

Replacing admissions for D/S with admissions for a fixed time period of authorized stay is consistent with most other nonimmigrant categories.²⁰ It will

¹⁹ See generally 8 CFR 214.1(c) (setting forth the general EOS requirements applicable to most other nonimmigrants).

²⁰ For example, see 8 CFR 214.2(a)(1) (setting forth a period of admission for the A–3 nonimmigrant classification); (b)(1) (period of admission for aliens admitted under the B nonimmigrant classification); (c)(3) (period of admission for aliens in transit through the United States); (e)(19) (periods of admission for most E nonimmigrants); (g)(1) (period of admission for the G–5 nonimmigrant classification); (h)(5)(viii) (9)(iii) and (13) (various periods of admission and maximum periods of stay for the H–1B, H–2A, H–2B, and H–3 nonimmigrant classification); (k)(8) (period of admission for the K–3 and K–4 nonimmigrant classification); (l)(11)–(12) (periods of admission and maximum periods of stay for the L nonimmigrant classification); (m)(5), (10) (period of stay for the M nonimmigrant classification); (n)(3) (period of admission for certain parents and children eligible for admission as special immigrants under section 101(a)(27)(I); (o)(6)(iii)

provide additional protections and oversight of these nonimmigrant categories and will allow DHS to better evaluate whether these nonimmigrants are maintaining status while temporarily in the United States. DHS does not believe such a requirement will place an undue burden on F, J, and I nonimmigrants. Rather, providing F, J, and I nonimmigrants a fixed time period of authorized stay that will require them to apply to extend their stay, change their nonimmigrant status, or otherwise obtain authorization to remain in the United States (e.g., adjustment of status) by the end of this specific admission period is consistent with requirements applicable to most other nonimmigrant classifications and consistent with the practices for F–1 students prior to 1979.²¹

These changes will ensure that DHS has an effective mechanism to periodically and directly assess whether these nonimmigrants are complying with the conditions of their classifications and U.S. immigration laws, and to obtain timely and accurate information about the activities these aliens have engaged in and plan to engage in during their temporary stay in the United States. If immigration officers discover a nonimmigrant in one of these classifications has overstayed or otherwise violated his or her status, the alien will accrue unlawful presence for purposes of unlawful presence-related statutory grounds of inadmissibility under the INA. Unlawful presence in the United States may result in an alien becoming inadmissible upon departing the United States.²² As a result of this inadmissibility, the alien may become ineligible for a nonimmigrant or immigrant visa, admission to the United States, or benefits for which admissibility is required, such as adjustment of status to that of a lawful permanent resident.²³ This will encourage aliens to maintain lawful status and reduce instances in which F, J, and I nonimmigrants unlawfully remain in the United States after their program, practical training, or activities

or assignments consistent with the I classification end. DHS believes this greater oversight will deter F, J, or I nonimmigrants from engaging in fraud and abuse and will strengthen the integrity of these nonimmigrant classifications while enhancing national security.

DHS believes that the provisions of each new regulatory amendment function independently of other provisions. However, to protect DHS's goals for this rule, DHS added regulatory text stating that the provisions are severable so that, if necessary, the regulations may continue to function even if a provision is rendered inoperable.

B. Public Participation—Overview of Comments

On August 28, 2025, DHS published a notice of proposed rulemaking (NPRM), *Establishing a Fixed Time Period of Admission and an Extension of Stay (EOS) Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media* (90 FR 42070). The public was given 32 days to comment on the proposed rule and 60 days to comment on the information collections described in the *Paperwork Reduction Act* section of the NPRM. DHS received close to 22,000 public comments. To see comments go to <https://www.regulations.gov> and enter this rulemaking's eDocket number: DHS Docket No. ICEB–2025–0001 in the “Search” box.

C. Summary of Changes

Following careful consideration of public comments received, DHS has made several changes to the regulatory text proposed in the NPRM.²⁴ However, most of the changes proposed in the NPRM have been adopted. A summary of the changes as compared to the NPRM is outlined in section V.A. below. As discussed in detail elsewhere in this preamble, the changes this final rule makes to the Code of Federal Regulations (CFR) include the following:

- Amend 8 CFR 214.1, Requirements for admission, extension, and maintenance of status, by:
 - Striking all references to D/S for F, J, and I nonimmigrants;
 - Describing requirements for F and J nonimmigrants seeking admission, including after travel abroad and those

approved for OPT and academic training;

- Updating the cross reference and clarifying the standards for admission in the automatic extension visa validity provisions that cover F and J nonimmigrants applying at a Port of Entry (POE) after an absence not exceeding 30 days solely in a contiguous territory or adjacent islands;
- Outlining the process for EOS applications for F, J, and I nonimmigrants;

○ Providing a short-term reprieve from filing for EOS during the first 6 months after the rule takes effect if applying for employment authorization for either post-completion OPT or STEM OPT;

- Specifying the effect of departure while an F, J, or I nonimmigrant's application for an EOS in F, J, or I nonimmigrant status and/or employment authorization (and an associated employment authorization document (EAD)) is pending;

○ Providing procedures specific to the transition from D/S to admission for a fixed time period of authorized stay for F, J, and I nonimmigrants;

- Replacing references to specific form names and numbers with general language, to account for future changes to form names and numbers; and

○ Codifying that an F–1 student who has timely filed an EOS application, will be authorized to continue pursuing a full course of study after the expiration of the admission period until USCIS adjudicates the EOS application.

- Amend 8 CFR 214.2, Special requirements for admission, extension, and maintenance of status, by:

○ Setting the authorized admission and extension periods for F and J nonimmigrants up to the program length, not to exceed a 4-year period;

○ For F–1 students changing educational objectives or transferring to an SEVP-certified school, requiring that the student complete his or her first academic year of a program of study at the school that initially issued his or her Form I–20 or successor form, unless an exception is authorized by SEVP;

- Prohibiting F–1 students at the graduate education level or above from changing educational objectives at any point during a program of study;

○ Prohibiting F–1 students at the graduate education level or above from transferring at any point during their program of study, unless an exception is authorized by SEVP for extenuating circumstances;

- Outlining procedures and requirements for F–1 nonimmigrants who change educational objectives while in F–1 status;

and (10) (period of admission for the O nonimmigrant classification); (p)(8)(iii) and (12) (period of admission for the P nonimmigrant classification); (q)(2) (period of admission for the Q nonimmigrant classification); (r)(6) (period of admission for the R nonimmigrant classification); (s)(1)(ii) (period of admission for the NATO–7 nonimmigrant classification); (t)(5)(ii) (period of admission for the S nonimmigrant classification); and (w)(13) and (16) (period of admission for the CW–1 nonimmigrant classification).

²¹ See *Special Requirements for Admission, Extension, and Maintenance of Status*, 38 FR 35425 (Dec. 28, 1973).

²² See INA 212(a); 8 U.S.C. 1182(a).

²³ See INA 212(a), 8 U.S.C. 1182(a); INA 245(a); 8 U.S.C. 1255(a).

²⁴ See *Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media*, 90 FR 42070 (Aug. 28, 2025).

- Requiring any nonimmigrant who has completed a program at one educational level to only be allowed to begin another program at a higher educational level as an F–1 student and prohibiting a change to the same or a lower educational level while an F–1 student;

- Providing DHS the ability to delay implementation of the prohibition on changing schools, educational objectives, and levels if needed;

- Clarifying the circumstances under which a continuing F–1 student may be granted an EOS;

- Decreasing the period allowed for F–1 nonimmigrants to prepare to depart from the United States after completion of a course of study or an authorized period of post-completion practical training from 60 to 30 days;

- Requiring that if an F–1 student ends study or training early, the student and eligible dependents must depart the U.S. or take action to maintain lawful status within 30 days of the end date;

- Providing for collection of biometric information in conjunction with an EOS application for F, J, and I nonimmigrants as may be required by 8 CFR 103.16;

- Limiting language training students to an aggregate 24-month period of stay, including breaks and an annual vacation;

- Providing that a delay in completing one's program by the program end date specified on the Form I–20, which includes but is not limited to delays caused by academic probation or suspension or a student's repeated inability or unwillingness to complete his or her course of study, is generally an unacceptable reason for program extensions for F nonimmigrants;

- Allowing F nonimmigrants whose timely filed EOS applications remain pending after their admission period has expired to receive an auto-extension of their current authorization for on-campus and off-campus employment based on severe economic hardship resulting from emergent circumstances under existing 8 CFR 214.2(f)(5)(v). The length of the auto-extension of employment authorization will be up to 240 days or the end date of the **Federal Register** notice announcing the suspension of certain regulatory requirements, whichever is earlier;

- Replacing D/S for I nonimmigrants with admission for a fixed time period until they complete the activities or assignments consistent with the I classification, not to exceed 240 days (with the exception of some I nonimmigrants from the PRC), with an EOS available for I nonimmigrants who can meet specified EOS requirements;

- Codifying the definition of a foreign media organization for I nonimmigrant status, consistent with long-standing U.S. Citizenship and Immigration Services (USCIS) and U.S. Department of State (DoS) practice;

- Updating the evidence an alien must submit to demonstrate eligibility for the I nonimmigrant classification;

- Clarifying that J–1 nonimmigrants who are employment authorized with a specific employer incident to status continue to be authorized for such employment for up to 240 days under the existing regulatory provision at 8 CFR 274a.12(b)(20) if their status expires while their timely filed EOS application is pending, whereas J–2 dependents, who must apply for employment authorization as evidenced by an EAD, do not have the benefit of continued work authorization once the EAD expires;

- Providing a temporary reprieve for those J–1s whose D/S status expires shortly after the rule takes effect by allowing them to apply for EOS and continue to work for the duration of the time on their new Form DS–2019 regardless of how long the EOS application takes to adjudicate;

- Requiring that if the program end date is shortened, the J–1 exchange visitor and any J–2 accompanying dependents must leave the United States within 30 days from the new program end date or otherwise seek to maintain lawful status in that 30-day period;

- Providing the responsibilities of the responsible officer (RO) when submitting late requests for extension of current program end date for exchange visitors;

- Clarifying that I nonimmigrants are authorized to continue working in the United States for their foreign employer, under 8 CFR 274a.12(b)(20), for up to 240 days (with the exception of I nonimmigrants from the PRC who may continue working for up to 90 days) while their timely filed EOS application is pending;

- Striking all references to “duration of status” and/or “duration of employment” for the F, J, and I nonimmigrant classifications; and

- Including a severability clause. In the event that any provision of this rule is not implemented for whatever reason, the remaining provisions can be implemented in accordance with the stated purposes of this rule.

- Amending 8 CFR 214.2(f)(5)(ii)(E) to limit the ability to delay or suspend the implementation of 8 CFR 214.2(f)(5)(ii)(A) through (C) for a period of two years from the effective date of

the rule since this provision is not needed indefinitely.

- Amend 8 CFR 248.1, Eligibility, by:

- Establishing requirements to determine the period of stay for F or J nonimmigrants whose change of status application was approved before the final rule's effective date and who depart the United States, then seek admission after the final rule's effective date; and

- Codifying the long-standing policy under which DHS deems abandoned an application to change to another nonimmigrant status, including F or J status, if the alien who timely filed the application departs the United States while the application is pending.

- Amend 8 CFR 274a.12, Classes of aliens authorized to accept employment, by updating the employment authorization provisions to incorporate the revisions in 8 CFR 214.2.

D. Summary of the Costs and Benefits

Currently, aliens in the F (academic student), J (exchange visitor), and most I (representatives of foreign information media) nonimmigrant classifications are admitted to the United States under the D/S framework. However, this framework poses a challenge to DHS's ability to efficiently monitor and oversee these nonimmigrants to assess whether these nonimmigrants are complying with the terms and conditions of their status and whether they present national security concerns. To address these vulnerabilities, DHS is replacing D/S with an admission for a fixed time period for F, J, and I nonimmigrants. Admitting aliens in the F, J, and I classifications for a fixed period of time will require all F, J, and I nonimmigrants who wish to remain in the United States beyond their specific authorized admission period to apply for authorization to extend their stay with USCIS if in the United States, thus requiring periodic assessments by DHS in order for the alien to remain in the United States for a longer period. This change will impose incremental costs on F, J, and I nonimmigrants as well as schools and exchange visitor program sponsors but will in turn protect the integrity of the F, J, and I programs by having immigration officers evaluate and assess the appropriate length of stay for these nonimmigrants.

The period of analysis for the rule covered 10 years and assumed the rule would go into effect in 2026. Therefore, the analysis period goes from 2027 through 2036. This analysis estimates the annualized value of future costs using two discount rates: 3 percent and 7 percent. In Circular A–4, OMB recommends that a three percent

discount rate be used when a regulation affects private consumption, and a seven percent discount rate be used in evaluating a regulation that will mainly displace or alter the use of capital in the private sector. The discount rate accounts for how benefits or costs that occur sooner are more valuable. The rule will have an annualized cost ranging from \$443.1 million to \$448.6 million (with 3 and 7 percent discount rates, respectively). When considering U.S. parties only, annual costs range from \$119.9 million to \$125.1 million (with 3- and 7-percent discount rates, respectively).

III. Background and Purpose

A. Legal Authority

The authority of the Secretary of Homeland Security (the Secretary) to implement the regulatory amendments in this rule can be found in various provisions of the immigration laws. Section 102 of the Homeland Security Act of 2002 (HSA) (Pub. L. 107–296, 116 Stat. 2135), 6 U.S.C. 112, and section 103(a)(1) and (3) of the INA, 8 U.S.C. 1103 (a)(1), (3), charge the Secretary with the administration and enforcement of the immigration and naturalization laws of the United States. Section 214(a) of the INA, 8 U.S.C. 1184(a), gives the Secretary the authority to prescribe, by regulation, the time and conditions of admission of any alien as a nonimmigrant, including F, J, and I nonimmigrant aliens. *See also* 6 U.S.C. 271(a)(3), (b) (describing certain USCIS functions and authorities, including USCIS's authority to establish national immigration services policies and priorities and adjudicate benefits applications) and 6 U.S.C. 252(a)(4) (describing the authority of Immigration and Customs Enforcement (ICE) to collect information relating to foreign students and exchange program participants and to use such information to carry out its enforcement functions).

Section 248 of the INA, 8 U.S.C. 1258, permits DHS to allow certain nonimmigrants to change their status from one nonimmigrant status to another nonimmigrant status, with certain exceptions, as long as they continue to maintain their current nonimmigrant status and are not inadmissible under section 212(a)(9)(B)(i) of the INA, 8 U.S.C. 1182(a)(9)(B)(i). Similar to extensions of stay, change of status adjudications are discretionary determinations.²⁵ Also, section 274A of the INA, 8 U.S.C. 1324a, governs the employment of aliens who

are authorized to be employed in the United States by statute or in the discretion of the Secretary.

Finally, the INA establishes who may be admitted as F, J, or I nonimmigrants. Specifically, section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i), established the F nonimmigrant classification for, among others, bona fide students qualified to pursue a full course of study who wish to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an academic or language training school certified by the SEVP, as well as for the spouse and unmarried children under the age of 21 of such aliens. *See also* INA 214(m), 8 U.S.C. 1184(m) (limiting the admission of nonimmigrants for certain aliens who intend to study at public elementary and secondary schools).

Section 101(a)(15)(J) of the INA, 8 U.S.C. 1101(a)(15)(J), established the J nonimmigrant classification for aliens who wish to come to the United States temporarily and have no intention of abandoning their residence in a foreign country, to participate in exchange visitor programs designated by the DoS, as well as for the spouses and unmarried children under the age of 21 of such aliens in certain J–1 categories.

Section 101(a)(15)(I) of the INA, 8 U.S.C. 1101(a)(15)(I), established, upon a basis of reciprocity, the I nonimmigrant classification for bona fide representatives of foreign information media (such as press, radio, film, print) seeking to enter the United States to engage in such vocation, as well as for the spouses and children of such aliens.

Within DHS, SEVP is administered by ICE. SEVP is authorized to administer the program to collect information related to nonimmigrant students and exchange visitors under various statutory authorities. Section 641 of IIRIRA authorizes the creation of a program to collect current and ongoing information provided by schools and exchange visitor programs regarding F and J nonimmigrants during the course of their stays in the United States, using electronic reporting technology where practicable. Consistent with this statutory authority, DHS manages these programs pursuant to Homeland Security Presidential Directive-2 (HSPD–2), Combating Terrorism Through Immigration Policies (Oct. 29, 2001), as amended, (<https://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39618/pdf/CPRT-110HPRT39618.pdf>), and section 502 of the Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107–173, 116 Stat. 543, 563 (May 14,

2002) (EBSVERA). HSPD–2 requires the Secretary of Homeland Security to conduct periodic, ongoing reviews of institutions certified to accept F nonimmigrants, and to include checks for compliance with recordkeeping and reporting requirements. Section 502 of EBSVERA directs the Secretary to review the compliance with recordkeeping and reporting requirements under 8 U.S.C. 1101(a)(15)(F) and 1372 of all schools approved for attendance by F students within 2 years of enactment, and every 2 years thereafter.

B. Background

1. F Classification

Section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i), permits aliens who are bona fide students to temporarily be admitted to the United States solely for the purpose for pursuing a full course of study at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic language training program. Principal applicants are categorized as F–1 nonimmigrants and their spouses and children who may accompany or follow to join as F–2 dependents.²⁶

From 1973 to 1979, F students were admitted for one year and could be granted an EOS in increments of up to 12 months if they established that they were maintaining status.²⁷ However, on July 26, 1978, given the large number of nonimmigrant students in the United States at the time and the need to continually process their EOS applications, legacy INS proposed amending the regulations to permit F–1 students to be admitted for the duration of their status as students.²⁸ Legacy INS explained the changes would facilitate the admission of nonimmigrant students, provide dollar and manpower savings to the Government, and permit more efficient use of resources.²⁹ On November 22, 1978, a final rule was published to amend the regulations at 8 CFR 214 to allow the legacy INS to admit F–1 students for a D/S period.³⁰ That rule became effective on January 1, 1979.

²⁶ INA 101(a)(15)(F)(i)–(ii), 8 U.S.C. 1101(a)(15)(F)(i)–(ii); 8 CFR 214.2(f)(3). DHS notes the terms “F–1 nonimmigrant” and “F–1 student” are used throughout this final rule and the regulatory text. These terms are synonymous.

²⁷ *See* 38 FR 35425 (Dec. 28, 1973) (The period of admission of a nonimmigrant student shall not exceed one year.).

²⁸ *See Admission of Nonimmigrant Students for Duration of Status*, 43 FR 32306 (July 26, 1978).

²⁹ *Id.* at 32306–07.

³⁰ *See* 43 FR 54618 (Nov. 22, 1978) (The period of admission of a nonimmigrant student shall be for

²⁵ *See* INA 248(a), 8 U.S.C. 1258(a); 8 CFR 248.1(a).

Subsequently, between January 23, 1981, and October 29, 1991, the INS amended the regulations addressing admission periods for F–1 students four more times.³¹ On January 23, 1981, a rule changed admission for F–1 nonimmigrants to a fixed period of admission, *i.e.*, the time necessary to complete the course of study, with the opportunity for an EOS on a case-by-case basis.³² Legacy INS explained this was necessary because admitting nonimmigrant students for D/S resulted in questionable control over foreign students and contributed to problems in record keeping.³³

On April 5, 1983, D/S was reinstituted with, among other changes, the implementation of new notification procedures for transfers between schools, improved reporting requirements for Designated School Officials (DSOs),³⁴ a limit for enrollment in one educational level, and a requirement for F–1 students to apply for an EOS and, if applicable, a school transfer to pursue another educational program at the same level of educational attainment.³⁵

On April 22, 1987, a final rule outlined medical and academic reasons that would allow F–1 students to drop below a full-time course of study while remaining in D/S status and clarified when an EOS or reinstatement must be requested.³⁶

Finally, in 1991, the regulations were revised to implement Section 221(a) of the Immigration Act of 1990 (IMMACT 90), Public Law 101–649, 104 Stat. 4978, which established a three-year off-campus program for F–1 students,³⁷ and clarified the procedures for F–1 students seeking EOS and employment

the duration of status in the United States as a student if the information on his/her Form I–20 indicates that he/she will remain in the United States as a student for more than 1 year. If the information on Form I–20 indicates the student will remain in the United States for 1 year or less, he/she shall be admitted for the time necessary to complete his/her period of study).

³¹ See *Nonimmigrant Classes; Revised Requirements for Nonimmigrant “F–1” Students*, 46 FR 7267 (Jan. 23, 1981), *Nonimmigrant Classes; Change of Nonimmigrant Classification; Revisions in Regulations Pertaining to Nonimmigrant Students and the Schools Approved for Their Attendance*, 48 FR 14575 (Apr. 5, 1983); *Nonimmigrant Classes; F–1 Academic Students*, 52 FR 13223 (Apr. 22, 1987); *Nonimmigrant Classes; Students F and M Classifications*, 56 FR 55608 (Oct. 29, 1991).

³² See 46 FR 7267 (Jan. 23, 1981).

³³ *Id.*

³⁴ A DSO means a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students See 8 CFR 214.3(l).

³⁵ See 48 FR 14575 (Apr. 5, 1983).

³⁶ See 52 FR 13223 (Apr. 22, 1987).

³⁷ See 56 FR 55608 (Oct. 29, 1991).

authorization utilizing the Form I–20.³⁸ The rule also gave DSOs the authority to grant program extensions (essentially an EOS) for F–1 students with a compelling academic or medical reason that prevented them from completing their educational program by a program end date and then to notify INS of the extension.³⁹ Since then, and pursuant to the 1991 final rule, the DHS has relied on DSOs to report on student status, issue program extensions, and transfer students between programs and schools. Information from these nonimmigrant students is now tracked in SEVIS to ensure government agencies have essential data related to nonimmigrant students to preserve national security. This is consistent with the requirements in IIRIRA, the USA PATRIOT Act, Public Law 107–56, and the recommendations of the 9/11 Commission Report. Changes to D/S were proposed for F students in 2020, but the proposal was withdrawn in 2021.⁴⁰

2. J Classification

The J nonimmigrant classification was created in 1961 by the Mutual Educational and Cultural Exchange Act of 1961, also known as the Fulbright-Hays Act of 1961, Public Law 87–256, 75 Stat. 527 (22 U.S.C. 2451, *et seq.*), to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges. It authorizes aliens to participate in a variety of exchange visitor programs in the United States. The Exchange Visitor Program regulations cover the following program categories: professors and research scholars, short-term scholars, trainees and interns, college and university students, teachers, secondary school students, specialists, alien physicians, international visitors,

government visitors, camp counselors, au pairs, and summer work travel.⁴¹

Prior to 1985, J exchange visitors were granted an initial admission for the period of their program up to one year.⁴² In 1985, the regulations were amended to allow J exchange visitors to be admitted for the duration of their program plus 30 days.⁴³ This change from being admitted for a fixed period to D/S was implemented as part of a continuing effort to reduce reporting requirements for the public as well as the paperwork burden on the agency associated with processing extension requests.⁴⁴ Changes to D/S were proposed for J exchange visitors in 2020, but the proposal was withdrawn in 2021.⁴⁵

A prospective exchange visitor must be sponsored by a DoS-designated program sponsor to be admitted to the United States in the J nonimmigrant classification and participate in an exchange visitor program. The DoS designated sponsor will issue a prospective J exchange visitor a Form DS–2019, Certificate of Eligibility for Exchange Visitor (J–1) Status. The DS–2019 permits a prospective exchange visitor to apply for a J–1 nonimmigrant visa at a U.S. embassy or consulate abroad or seek admission as a J–1 nonimmigrant at a POE. A J–1 exchange visitor is admitted into the United States for D/S, which is the length of his or her exchange visitor program.⁴⁶

⁴¹ See INA 101(a)(15)(J), 8 U.S.C. 1101(a)(15)(J); 22 CFR 62.20–62.32.

⁴² See 8 CFR 214.2(j)(1)(ii) (1985).

⁴³ See 50 FR 42006 (Oct. 17, 1985).

⁴⁴ *Id.*

⁴⁵ See 85 FR 60526 (Sept. 25, 2020) and 86 FR 35410 (July 6, 2021).

⁴⁶ Form DS–2019, Certificate of Eligibility for Exchange Visitor (J–1) Status, is the document required to support an application for an exchange visitor visa (J–1). It is a 2-page document that can only be produced through SEVIS. SEVIS is the DHS database developed to collect information on F, M, and J nonimmigrants (see 8 U.S.C. 1372 and 6 U.S.C. 252(a)(4)). The potential exchange visitor's signature on page one of the form is required. Page 2 of the current Form DS–2019 consists of instructions and certification language relating to participation. No blank Forms DS–2019 exist. Each Form DS–2019 is printed with a unique identifier known as a “SEVIS ID number” in the top right-hand corner, which consists of an “alpha” character (N) and 10 numerical characters (*e.g.*, N0002123457). The DoS' Office of Private Sector Exchange Designation in the Bureau of Educational and Cultural Affairs (ECA/EC/D) designates U.S. organizations to conduct exchange visitor programs. These organizations are known as program sponsors. When designated, the organization is authorized access to SEVIS and is then able to produce Form DS–2019 from SEVIS. The program sponsor signs the completed Forms DS–2019 in blue ink and transmits them to the potential exchange visitor and his or her spouse and unmarried children under the age of 21. J visa applicants must present a signed Form DS–2019 at

Extensions of J exchange visitor programs are governed by DoS regulations.⁴⁷ If there is authority to extend a program, the exchange visitor program sponsor's RO,⁴⁸ similar to the DSO in the F-1 student context, is authorized to extend a J exchange visitor's program by issuing a duly executed Form DS-2019.⁴⁹ Requests for extensions beyond the maximum program duration provided in the regulations must be approved by DoS, which adjudicates these extensions. USCIS does not adjudicate these program extensions; however, USCIS does adjudicate requests to change into J status from another nonimmigrant status. As outlined above, consistent with the requirements in IIRIRA and the USA PATRIOT Act, Public Law 107-56, J exchange visitor programs are also monitored using SEVIS.

3. I Classification

Section 101(a)(15)(I) of the INA defines the I classification as, upon a basis of reciprocity, an alien who is a bona fide representative of foreign press, radio, film, or other foreign information media who seeks to enter the United States solely to engage in such vocation, and the spouse and children of such a representative, if accompanying or following to join him or her. Most nonimmigrant representatives of information media (with the exception of those presenting a passport issued by

the time of their visa interview. Once the visa is issued, however, the biographic information on the SEVIS record cannot be updated until the participant's program is validated ("Active" in SEVIS). The sponsor is required to update the SEVIS record upon the exchange visitor's entry, and no corrections to the record can be made until that time. In addition, in the event a visa is needed, sponsors may issue a Form DS-2019 for a dependent spouse or child; the system will not permit a new Form DS-2019 to be created as long as the primary's SEVIS record is validated in initial or active status. See 9 FAM 402.5-6(D)(1)(U), *The Basic Form*, <https://fam.state.gov/FAM/09FAM/09FAM040205.html> (last updated Aug. 15, 2024). While applicants must still present a paper Form DS-2019 to DoS in order to qualify for a visa, the SEVIS record is the definitive record of student or exchange visitor status and visa eligibility. See 9 FAM 402.5-4(B)(U), *Student and Exchange Visitor Information System (SEVIS) Record is Definitive Record*, <https://fam.state.gov/FAM/09FAM/09FAM040205.html> (last updated Apr. 22, 2024).

⁴⁷ See 22 CFR part 62. These programs vary in length. For example, professors and research scholars are generally authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, provided such time does not exceed five years. See 22 CFR 62.20(i)(1). Alien physicians are also generally limited to 7 years. See 22 CFR 62.27(e)(2).

⁴⁸ An RO is an employee or officer of a sponsor who has been nominated by the sponsor, and approved by DoS, to carry out the duties outlined in 22 CFR 62.11.

⁴⁹ See 22 CFR 62.43. An RO must be a citizen of the United States or a lawful permanent resident of the United States. See 22 CFR 62.2.

the PRC) are currently admitted for the duration of their employment. They are not permitted to change their information medium or employer until they obtain permission from USCIS.⁵⁰

From 1973 to 1985, aliens admitted to the United States in I nonimmigrant status were admitted for a period of 1 year with the possibility of extensions.⁵¹ In 1985, legacy INS amended the regulations to allow nonimmigrant representatives of information media to be admitted for the duration of their employment.⁵² This change from a set time period of admission to admission for duration of employment for I nonimmigrants was implemented as part of a continuing effort to reduce reporting requirements for the public, as well as the paperwork burden associated with processing extension requests on the agency.⁵³ Through its administration of the regulations authorizing I nonimmigrants admission for duration of employment, DHS currently admits all I nonimmigrants for D/S, with the exception of those presenting a passport issued by the PRC (other than a Hong Kong Special Administrative Region (SAR) passport or a Macau SAR passport).⁵⁴ Changes to D/S were proposed for I foreign media representatives in 2020, but the proposal was withdrawn in 2021.⁵⁵

C. Need for Rulemaking

1. Risks to the Integrity of the F, J, and I Nonimmigrant Classifications

DHS welcomes F academic students, J exchange visitors, and I representatives of foreign information media, but it also acknowledges that the sheer size of the population complicates oversight and vetting functions. Since 1980, the number of F nonimmigrant students admitted into the United States has more than sextupled.⁵⁶ Similarly, since

D/S was introduced for J and I nonimmigrants in 1985, the number of exchange visitors admitted into the United States has more than quadrupled while the number of representatives of foreign information media has more than doubled.⁵⁷

DHS uses SEVIS, a web-based system, to maintain information regarding: SEVP-certified schools; F-1 students studying in the United States (and their F-2 dependents); M-1 students enrolled in vocational programs in the United States (and their M-2 dependents); DoS-designated Exchange Visitor Program sponsors; and J-1 Exchange Visitor Program participants (and their J-2 dependents). SEVIS is necessary for national security and is consistent with the requirements in IIRIRA, the USA PATRIOT Act, and the 9/11 Commission Report.

Employees of educational institutions and program sponsors, specifically DSOs and ROs, play a large role in SEVIS. They are responsible for monitoring students and exchange visitors, accurately entering information about the students' and exchange visitors' activities into SEVIS, and properly determining whether the student or exchange visitor's SEVIS record should remain in active status or change to reflect a change in circumstances.⁵⁸ Under this framework, an academic student or exchange visitor generally maintains lawful status by complying with the conditions of the program, as certified by the DSO or RO. However, a program extension and an extension of an alien's nonimmigrant stay are different. DHS believes it is appropriate for the DSO to recommend an extension of an academic program and an RO to recommend an extension of an exchange visitor program; however, an EOS involves an adjudication of whether an alien is legally eligible to extend his or her stay in the United States in a given nonimmigrant status and has been complying with the terms and conditions of his or her admission.⁵⁹ DHS believes that the determinations of program extension and EOS should be

⁵⁰ See 8 CFR 214.2(i).

⁵¹ See 38 FR 35425 (Dec. 28, 1973). See also 50 FR 42006 (Oct. 17, 1985) (indicating that, prior to the publication of this rule, I nonimmigrants were admitted for one year).

⁵² See 8 CFR 214.2(i); 50 FR 42006 (Oct. 17, 1985).

⁵³ *Id.*

⁵⁴ See *Period of Admission and Extensions of Stay for Representatives of Foreign Information Media Seeking to Enter the United States*, 87 FR 61959 (Oct. 13, 2022) and *Period of Admission and Extensions of Stay for Representatives of Foreign Information Media Seeking to Enter the United States*, 85 FR 27645 (May 11, 2020).

⁵⁵ See 85 FR 60526 (Sept. 25, 2020) and 86 FR 35410 (July 6, 2021).

⁵⁶ For example, approximately 260,000 F-1 students were admitted into the United States during the 1980-81 school year. See GAO, *Controls Over Foreign Students in U.S. Postsecondary Institutions Are Still Ineffective*, *supra* note 12, pg. ii. In fiscal year (FY) 2024, 1,816,480 F-1 students were admitted into the United States. See DHS FY 2024, Quarter 4, tbl.4B, *supra* note 11.

⁵⁷ In 1985, 110,942 exchange visitors and 16,753 representatives of the foreign information media were admitted into the United States. See 1997 *Statistical Yearbook of the Immigration and Naturalization Service* (Oct. 1999), Tbl. 39, 118-19, *supra* note 10. In FY 2024, 514,170 exchange visitors and 37,330 representatives of the foreign information media were admitted into the United States. See DHS FY 2024, Quarter 4, tbl.4B, *supra* note 11.

⁵⁸ See 8 CFR 214.3(g)(1), (g)(2) (detailing a DSO's reporting requirements); 214.4(a)(2) (stating that failure to comply with reporting requirements may result in loss of SEVP certification).

⁵⁹ See 8 CFR 214.1(a)(3).

separated, with the DSO's and RO's recommendation being one factor an immigration officer reviews while adjudicating an application for EOS. Changing to a fixed period of admission will give immigration officers a mechanism to make this evaluation at reasonably frequent intervals.

Additionally, DHS expects this change will deter and prevent fraud, as a requirement to check in directly with an immigration officer is inherently likely to deter exploitation of perceived vulnerabilities in the F and J nonimmigrant classifications. The same benefits of direct evaluation, better recordkeeping, and fraud prevention will also apply to the I population.

2. Risks Within the F Classification

DHS is aware that the F–1 program is subject to fraud, exploitation, and abuse. Since 2008, multiple school owners and others have been criminally prosecuted for “pay-to-stay” fraud, in which school officials, in return for cash payments, falsely report that F–1 students who do not attend school are maintaining their student status.⁶⁰ In some cases, convicted school owners operated multiple schools and transferred students among them to conceal the fraud.⁶¹ DHS is also concerned that DSOs at these schools were complicit in these abuses; some DSOs intentionally recorded a student's status

inaccurately.⁶² Further, DSOs have issued program extensions to students who did not have compelling medical or academic reasons for failing to complete their program by its end date and DHS continues to observe F–1 students enrolling in schools for extended periods of time. For example, DHS previously identified in the NPRM a nonimmigrant who was an F–1 student at a dance school from 1991–2021. Although the reported normal length of the dance program is 5 years, the school issued 17 program extensions between 2003 (when the use of SEVIS was mandated) and 2020, claiming that the student needed more time despite nearly 30 years of enrollment. The student subsequently transferred to an English language training program at another school with a program start date in November 2022, despite more than 30 years in the United States as an F–1 student. She remained enrolled there until December 2025, when she transferred to another school to commence additional language training with a program start date of January 19, 2026, and a program end date of January 19, 2029. She has been an F–1 student for approximately 35 years. If she remains at the school through the current program end date, she will have spent nearly 38 years in the United States in F–1 status.⁶³ In another case, DHS also identified a nonimmigrant who has been in F–1 student status for more than 18 years since he enrolled in an English language training program that began on April 21, 2008. He has enrolled in four language training programs, four bachelor's programs, and is currently enrolled in a master's in

theology/theological studies program with a program end date in August 2027.⁶⁴ Another student who was enrolled at the same school from 2009 to 2020 and had been an F–1 student since 2005, was granted 14 program extensions. DHS also identified three F–1 students in doctoral programs that have taken over 20 years to complete their programs, and 5 F–1 students at community colleges have been enrolled in associate degree programs for periods in excess of 5 years—some for as long as a decade.⁶⁵ There are also examples where some DSOs permitted students who failed to maintain status to transfer to another school rather than apply for reinstatement.⁶⁶ Beyond cases publicly identified by DHS and the U.S. Department of Justice (DOJ), DHS is concerned about cases where DSOs were not aware of status violations by students.

Apart from concerns about DSOs and school owners involved in fraudulent schemes, DHS also has concerns about the actions of the aliens themselves. Some aliens have used the F classification to reside in the United States for decades by continuously enrolling in or transferring between schools, a practice facilitated by the D/S framework.⁶⁷ DHS identified over 2,100 aliens who first entered as F–1 students between 2000 and 2010 and remain in active F–1 status as of April 6, 2025.⁶⁸ To extend their stay, these aliens enrolled in consecutive educational programs, repeatedly transferred to new schools, or DSOs repeatedly extended their program end dates. This practice is not limited to any one particular type of school; students at community or junior colleges, universities, and language training schools have maintained F–1 status for lengthy periods. DHS is concerned that such instances of extended stays may violate the underlying statutory intent given that student status is meant to be temporary, with the alien having no intention of abandoning their residence in a foreign country, and for the primary purpose of studying, not as a way to

⁶⁰ U.S. Dep't of Justice, Press Release, *Operator of English language schools charged in massive student visa fraud scheme* (Apr. 9, 2008), <https://www.justice.gov/archive/usao/cac/Pressroom/pr2008/038.html>; U.S. Dep't of Justice, Press Release, *Owner/Operator and employee of Miami-based school sentenced for immigration-related fraud* (Aug. 30, 2010), <https://www.justice.gov/archive/usao/fls/PressReleases/2010/100830-02.html>; Immig. & Customs Enf't, Press Release, *Pastor sentenced to 1 year for visa fraud, ordered to forfeit building housing former religious school* (June 13, 2011), <https://www.ice.gov/news/releases/pastor-sentenced-1-year-visa-fraud-ordered-forfeit-building-housing-former-religious>; U.S. Dep't of Justice, Press Release, *School Official Admits Visa Fraud* (Mar. 12, 2012), https://www.justice.gov/archive/usao/pae/News/2012/Mar/tkhir_release.htm; Immig. & Customs Enf't, Press Release, *Owner of Georgia English language school sentenced for immigration fraud* (May 7, 2014), <https://www.ice.gov/news/releases/owner-georgia-english-language-school-sentenced-immigration-fraud>; Immig. & Customs Enf't, Press Release, *3 Senior Executives of For-profit Schools Plead Guilty to Student Visa, Financial Aid Fraud* (Apr. 30, 2015), <https://www.ice.gov/news/releases/3-senior-executives-profit-schools-plead-guilty-student-visa-financial-aid-fraud>; Immig. & Customs Enf't, Press Release, *Owner of Schools That Illegally Allowed Foreign Nationals to Remain in U.S. as “Students” Sentenced to 15 Months in Federal Prison* (Apr. 19, 2018), <https://www.ice.gov/news/releases/owner-schools-illegally-allowed-foreign-nationals-remain-us-students-sentenced-15>.

⁶¹ Immig. & Customs Enf't, Press Release, *3 Senior Executives of For-profit Schools Plead Guilty to Student Visa, Financial Aid Fraud*, *supra* note 60.

⁶² Goff Wilson, *Former DSO Official Found Guilty of Visa Fraud* (May 20, 2019), <https://www.goffwilson.com/Blawg-entries/2019/former-DSO-Official-Guilty-of-Visa-Fraud.aspx>; ImmigrationReform.com, *U.S. Removes 4,600 Fraudulent OPT Participants from the Program* (July 14, 2020), <https://www.immigrationreform.com/2020/7/2014/OPT-fraud-dhs-crackdown-immigrationreform-com>; U.S. Dep't of Justice, Press Release, *Operator of English Language Schools Charged in Massive Student Visa Fraud Scheme*, *supra* note 60; U.S. Dep't of Justice, Press Release, *Owner/Operator and Employee of Miami-based School Sentenced for Immigration-related Fraud*, *supra* note 60; Immig. & Customs Enf't, Press Release, *Pastor Sentenced to 1 Year for Visa Fraud, Ordered to Forfeit Building Housing Former Religious School*, *supra* note 60; U.S. Dep't of Justice, Press Release, *School Official Admits Visa Fraud*, *supra* note 60; Immig. & Customs Enf't, Press Release, *Owner of Georgia English Language School Sentenced for Immigration Fraud*, *supra* note 60; Immig. & Customs Enf't, Press Release, *3 Senior Executives of For-profit Schools Plead Guilty to Student Visa, Financial Aid Fraud*, *supra* note 60; Immig. & Customs Enf't, Press Release, *Owner of Schools That Illegally Allowed Foreign Nationals to Remain in U.S. as “Students” Sentenced to 15 Months in Federal Prison*, *supra* note 60.

⁶³ DHS analysis of data in SEVIS and valid as of June 2, 2026.

⁶⁴ *Id.*

⁶⁵ DHS analysis of data in SEVIS and valid as of May 7, 2025.

⁶⁶ Immig. & Customs Enf't, Press Release, *3 Senior Executives of For-profit Schools Plead Guilty to Student Visa, Financial Aid Fraud*, *supra* note 60.

⁶⁷ Monitoring F–1 students on post-completion OPT can be even more complicated because the students are no longer attending classes. See GAO, *GAO–14–356, Student and Exchange Visitor Program, DHS Needs to Assess Risks and Strengthen Oversight of Foreign Students with Employment Authorization* (Feb. 27, 2014), <https://www.gao.gov/assets/gao-14-356.pdf>.

⁶⁸ DHS analysis of data in SEVIS identifying the number of F–1 active students who began studying between 2000 and 2010, valid as of Apr. 6, 2025.

remain in the United States indefinitely.⁶⁹

The use of the F classification to remain in the United States for decades raises doubts that the alien's intention was to stay in the United States temporarily, as required by the INA.⁷⁰ It also raises concerns as to whether those aliens are bona fide nonimmigrant students who are maintaining valid lawful status by complying with the terms of their admission, which include solely pursuing a full course of study and progressing to completing a course of study. Likewise, it raises concerns as to whether these aliens truly have the financial resources to cover tuition and living expenses without engaging in unauthorized employment.

Even when employment is authorized under programs such as the Optional Practical Training (OPT), DHS has found fraud that enabled students to stay in the U.S. without actually having legitimate jobs. ICE Acting Director Todd Lyons told reporters at a press conference on May 12, 2026, that ICE had identified more than 10,000 cases of potential fraud associated with the OPT program. The cases were identified after site visits and other investigative techniques showed that some employers were just shell companies helping recent graduates stay in the U.S. without actual work at a legitimate U.S. company or working for supposedly U.S. based companies managed from abroad, which violates the law requiring U.S. training and direction.⁷¹

Further, while some school owners and school executives have faced legal consequences for their violation of the law, nonimmigrants admitted for D/S generally do not accrue unlawful presence for purposes of the 3- and 10-year bars described in INA 212(a)(9)(B) and (C), 8 U.S.C. 1182(a)(9)(B) and (C), unless an immigration officer finds they have violated their status in the context of adjudicating an immigration benefit request, or an immigration judge orders them excluded, deported, or removed.⁷²

Because F-1 students are admitted for D/S, they generally do not file applications or petitions, such as EOS applications, with USCIS, and therefore, immigration officers do not generally have an opportunity to determine whether the students are engaging in F-1 nonimmigrant activities in the United States and maintaining their F-1 nonimmigrant status.

The U.S. Government Accountability Office (GAO) has reported on DHS's concerns about DSOs and nonimmigrant students. In 2019, GAO and ICE published a report identifying fraud risks to SEVP related to managing school recertification and program training. The report included vulnerabilities associated with involving school owners and DSOs in overseeing the maintenance of status of F-1 students.⁷³ In the report, GAO identified fraud vulnerabilities on the part of both students and schools. Examples include students claiming to maintain status when they are not, such as failing to attend class or working without appropriate authorization, or school owners not requiring enrolled students to attend classes or creating fraudulent documentation for students who are ineligible for the academic program. GAO recommended that ICE develop a fraud risk profile and use data analytics to identify potential fraud indicators in schools petitioning for certification, develop and implement fraud training for DSOs, and strengthen background checks for DSOs.⁷⁴

DHS believes it can mitigate fraud risks in this rule in part through setting

the authorized admission and extension periods for F nonimmigrants as the length of the F nonimmigrant's specific program, not to exceed a 4-year period. The rule will establish a mechanism for immigration officers to assess these nonimmigrants at defined periods (such as when applying for an EOS in the United States beyond a 4-year admission period) and determine whether they are complying with the conditions of their classification. Immigration officers receive background checks, clearances, and training before DHS authorizes them to implement the nation's immigration laws, which includes as part of adjudicating the application whether nonimmigrants meet the requirements to extend their stay, whether a student has violated his or her nonimmigrant status without the DSO's awareness or whether DSOs are engaging in fraud by not requiring students to attend classes or by falsifying documents. Immigration officers are further trained to assess applications for fraud indicators and conduct reviews and vetting that may assist in the detection of fraud or abuse. This will provide further opportunities for DHS to identify and hold accountable aliens who violate their F-1 status, as well as their educational institutions. DHS currently employs out-of-cycle reviews and recertification of SEVP-certified schools outlined in 8 CFR 214.3(h) to ensure the school's compliance with regulatory recordkeeping and reporting requirements. DHS may also conduct on-site reviews of schools at any time, which may lead to withdrawal of SEVP certification upon findings of noncompliance or regulatory violations. Under the current D/S framework, DHS might not detect an individual F-1 status violation for an extended period if the student stays enrolled in a school, does not seek readmission to the United States, and does not apply for additional immigration benefits. If DHS makes periodic assessments to verify that F-1 students are maintaining their student status, DHS could better detect and mitigate against these violations as well as violations by their school.⁷⁵ The rule creates opportunities for this scrutiny if these nonimmigrants wish to remain beyond their fixed period of admission. This may also have the effect of deterring individuals who would otherwise seek to come to the United

⁶⁹ See INA section 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i).

⁷⁰ See INA section 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i).

⁷¹ Bazail-Eimil, E., Politico, *ICE: More than 10,000 Potential Fraud Cases Related to Student Job Program* (May 12, 2026) https://www.politico.com/news/2026/05/12/ice-optional-practical-training-fraud-00916797?fbclid=IwZXh0bgNhZWQCMTEAc3J0YwZhcHBfaWQKjYyODU2ODM3OQABHu-ImKwboqhNMO80GLrZjBo_qLLfwUY-Z6jPDnwwm6kP5wOjevFE6OQSF-t_aem_6dBAJf-5UnBoRuB5hQnZAQ

⁷² See USCIS, *Interoffice Memorandum: Consolidation of Guidance Concerning Unlawful Presence for Purposes of Sections 212(a)(9)(B)(i) and 212(a)(9)(C)(i)(I) of the Act* (May 6, 2009), https://www.uscis.gov/sites/default/files/document/memos/revison_redesign_AFM.PDF.

⁷³ In a 2019 report, GAO was asked to review potential vulnerabilities to fraud in the SEVP. GAO examined, among other things, the extent to which ICE (1) implemented controls to address fraud risks in the school certification and recertification processes and (2) implemented fraud risk controls related to DSO training. See GAO, *GAO-19-297, DHS Can Take Additional Steps to Manage Fraud Risks Related to School Recertification and Program Oversight* (Mar 2019), <https://www.gao.gov/assets/gao-19-297.pdf>; GAO, *GAO-11-411, Overstay Enforcement: Additional Mechanisms for Collecting, Assessing, and Sharing Data Could Strengthen DHS's Efforts but Would Have Costs* (Apr. 15, 2011), <https://www.gao.gov/assets/320/317762.pdf>; and GAO, *GAO-12-572, Student and Exchange Visitor Program: DHS Needs to Assess Risks and Strengthen Oversight Functions* (June 18, 2012), <https://www.gao.gov/assets/600/591668.pdf>.

⁷⁴ Since publishing its 2019 report, GAO has updated its website to include comments to the Recommendations for Executive Action included therein. ICE has taken steps to implement the report's recommendations, including making a public announcement regarding changing the timeline for the recertification notification process for schools. See GAO, *Student and Exchange Visitor Program: DHS Can Take Additional Steps to Manage Fraud Risks Related to School Recertification and Program Oversight, Recommendations* (Mar. 18, 2019), https://www.gao.gov/products/GAO-19-297?mobile_opt_out=1#summary_recommend (last visited Jun. 9, 2026).

⁷⁵ For example, SEVP may withdraw a school's certification or deny a school's recertification if a DSO willfully issues a false statement, including wrongful certification of a statement by signature, in connection with a student's school transfer or application for employment or practical training. See 8 CFR 214.4(a)(2)(v).

States and engage in some of the behaviors discussed above, believing they would be able to do so undetected for long periods of time. DHS believes this is a more appropriate way to maintain the integrity of the U.S. immigration system. Additionally, DHS believes the changes will allow immigration officers to directly verify, among other things, that students applying for an EOS: have the funds needed to live and study in the United States without engaging in unauthorized work; are maintaining a residence abroad to which they intend to return; have pursued and are pursuing a full course of study; and are completing their studies within the 4-year generally applicable timeframe relating to their post-secondary education programs in the United States or are able to provide a permissible explanation for taking a longer period of time to complete the program.

Finally, because the D/S framework reduces opportunities for direct vetting of foreign academic students by immigration officers, it creates opportunities for foreign adversaries to exploit the F-1 program and undermine U.S. national security. Under the D/S framework, DHS has identified national security threats within the F-1 program. For example, on March 24, 2023, a Russian man was charged with acting as an agent of a foreign power, visa fraud, bank fraud, wire fraud, and other charges stemming from his illegal activities in the United States functioning as an “illegal” agent for a Russian Intelligence Service. He obtained an F-1 visa in 2018 under an assumed Brazilian identity, which he used to enter the United States and enroll in a U.S. university from 2018 to 2020.⁷⁶ In recent years, multiple F-1 students have been arrested in connection with illegal activities pertaining to U.S. military bases.⁷⁷ On January 18, 2024 the Federal Bureau of Investigation (FBI) arrested a student from China for prohibited operation of an unmanned aircraft system, violation of national defense airspace, and photography of defense installations after an investigation revealed the

student utilized a commercial drone to take photographs of U.S. naval bases in the Norfolk, Virginia area. The U.S. District Court for the Eastern District of Virginia’s Newport News Division convicted him for use of an aircraft for the unlawful photographing of designated installation without authorization on October 2, 2024, and he was removed from the United States on May 7, 2025.⁷⁸ In June 2020, three Chinese nationals were sentenced to federal prison for illegal photography of a U.S. naval installation in Key West, Florida. Two of those arrested were F-1 students, and one was a J-1 exchange visitor.⁷⁹ In October 2024, five Chinese students were charged with conspiracy, making false statements and destroying records in connection with a federal investigation after they were observed with cameras at Camp Grayling in Michigan during a training exercise in August 2023 where thousands of military officials, including some from Taiwan, were participating.⁸⁰ Each of these examples was part of DHS’s analysis of SEVIS data on June 2, 2026.

In addition to creating risks to national security, some F-1 students pose risks to public safety and have been charged with criminal acts. DHS has identified multiple F-1 students arrested since 2024 for their roles in sophisticated financial scams targeting vulnerable and elderly victims in the United States. Some of these schemes resulted in hundreds of thousands of dollars in losses to victims. In some instances, multiple F-1 students were arrested for their involvement in the same schemes.⁸¹

⁷⁸ Immig. & Customs Enf’t, Press Release, *ICE removes Chinese national convicted of photographing military installations* (May 14, 2025), <https://www.ice.gov/news/releases/ice-removes-chinese-national-convicted-photographing-military-installations>.

⁷⁹ U.S. Dep’t of Justice, Press Release, *Three Chinese Nationals Sentenced to Prison for Illegal Photography of U.S. Naval Installation in Key West, Florida* (June 5, 2020), <https://www.justice.gov/usao-sdfl/pr/three-chinese-nationals-sentenced-prison-illegal-photography-us-naval-installation-key>.

⁸⁰ Blake, J., Inside Higher Ed, *Chinese U of Michigan Grads Charged in Countersurveillance Probe* (Oct. 4, 2024), <https://insidehighered.com/news/quick-takes/2024/10/04/five-chinese-u-m-students-charged-countersurveillance-probe>.

⁸¹ See Iowa Insurance Division, Press Release, *Chicago Man Arrested for Conspiracy Related to Gold Bar Scam* (Oct. 16, 2025), <https://iid.iowa.gov/press-release/2025-10-16/chicago-man-arrested-conspiracy-related-gold-bar-scam/>; Sebastian, C., El Paso County Sheriff, *Suspect Arrested in Multi-State Government Impersonation Scam* (Oct. 16, 2025), <https://epcsheriffsoffice.com/suspect-arrested-in-multi-state-government-impersonation-scam/>; Bensen, J., NBC 4 Washington, *DC Police Arrest Suspects in Elaborate Gold Bar Scam* (Aug. 6, 2025), <https://www.nbcwashington.com/news/local/dc-police-arrest-suspects-in-elaborate-gold>

An open education environment in the United States offers benefits, but it also places research universities and the nation at risk for economic, academic, or military espionage by foreign students. Foreign adversaries are using progressively sophisticated and resourceful methods to exploit the U.S. educational environment, including well-documented cases of espionage through the student program.⁸²

bar-scam/3971831/; U.S. Dep’t of Justice, Press Release, *Massachusetts Man Charged and Detained in Ongoing Elder Fraud Investigation* (Nov. 24, 2025), <https://www.justice.gov/usao-ri/pr/massachusetts-man-charged-and-detained-ongoing-elder-fraud-investigation>; and U.S. Dep’t of Justice, Press Release, *Three Nigerian Citizens Indicted for Wire Fraud and Money Laundering* (Jan. 25, 2024), <https://www.justice.gov/usao-edwi/pr/three-nigerian-citizens-indicted-wire-fraud-and-money-laundering>. This was part of DHS’s analysis of SEVIS data on June 2, 2026.

⁸² In January of 2023, Ji Chaoqun, a Chinese national who came to the United States to study electrical engineering at the Illinois Institute of Technology in 2013, was sentenced to eight years for spying for the Chinese government. See CNN Politics, *Chinese Engineer Sentenced to 8 years in U.S. Prison for Spying* (Jan. 25, 2023), <https://www.cnn.com/2023/01/25/politics/chinese-engineer-sentence-spying-intl-hnk/index.html>. In December 2019, Weiyun (Kelly) Huang, the owner of Findream and Sinocontech, pleaded guilty to conspiracy to commit visa fraud in the U.S. District Court for the Northern District of Illinois in Chicago. In return for payments, Findream listed aliens as OPT workers, providing them with what appeared to be legal status. The FBI charged one of those aliens with spying. See NBC Bay Area, *Kelly Huang Criminal Complaint* (Mar. 28, 2019), <https://media.nbcbayarea.com/2019/09/KellyHuangCriminalComplaint.pdf>. Huang was sentenced to 37 months in federal prison for conspiracy to commit visa fraud. U.S. Dep’t of Justice, Press Release, *Chinese Business Woman Sentenced to 37 Months in Federal Prison for Conspiracy to Commit Visa Fraud* (June 26, 2020), <https://www.justice.gov/usao-ndil/pr/chinese-businesswoman-sentenced-37-months-federal-prison-conspiracy-commit-visa-fraud>. This vulnerability presented in the nonimmigrant student classification has been highlighted by the FBI. In a 2018 hearing before the Senate Intelligence Committee, the FBI Director testified about the threat from China, noting “that the use of nontraditional collectors, especially in the academic setting, whether it’s professors, scientists, students, we see in almost every field office that the FBI has around the country. It’s not just in major cities. It’s in small ones as well. It’s across basically every discipline. I think the level of naiveté on the part of the academic sector about this creates its own issues. They’re exploiting the very open research and development environment that we have, which we all revere, but they’re taking advantage of it. So, one of the things we’re trying to do is view the China threat as not just a whole of government threat, but a whole of society threat on their end. I think it’s going to take a whole of society response by us. So, it’s not just the intelligence community, but it’s raising awareness within our academic sector, within our private sector, as part of the defense.” See Senate Select Committee on Intelligence Hearing, *Worldwide Threats* (Feb. 13, 2018), transcript available at <https://www.intelligence.senate.gov/2018/02/08/hearings-open-hearing-worldwide-threats-0/>; see also Senate Finance Committee, *Foreign Threats to Taxpayer—Funded Research: Oversight Opportunities and Policy Solutions: Hearing before* Continued

⁷⁶ See U.S. Dep’t of Justice, Press Release, *Russian National “Illegal” Charged with Acting as Agent of a Russian Intelligence Service in the United States* (March 24, 2023), <https://www.justice.gov/usao-dc/pr/russian-national-illegal-charged-acting-agent-russian-intelligence-service-united-states>. See also DHS analysis of data in SEVIS and valid as of June 2, 2026.

⁷⁷ See Lubold, G., Stobel, W.P., and Viswanatha, A., *The Wall Street Journal*, *Chinese Gate-Crashers at U.S. Bases Spark Espionage Concerns* (last updated Sept. 4, 2023), <https://www.wsj.com/politics/national-security/chinese-gate-crashers-at-u-s-bases-spark-espionage-concerns-cdef8187>.

Detecting and deterring emerging threats to U.S. national security posed by adversaries exploiting the F–1 program requires additional oversight. In 2022, in response to a Congressional inquiry, GAO investigated and made recommendations that ICE modify the SEVIS system to include factors that potentially indicate which foreign students or scholars may pose more risk of transferring technology at U.S. universities.⁸³

DHS believes that replacing admissions for D/S for F–1 students with admission for a fixed time period will help mitigate these national security risks by ensuring an immigration official directly and periodically vets applicants for extensions of stay and, in so doing, confirms they are engaged only in activities consistent with their student status. F–1 nonimmigrants applying for EOS will also be required to establish they are admissible, and failure to do so will result in denial of the EOS. Admissibility grounds are complex and are properly assessed by a trained DHS officer. Such an assessment is not currently made when F–1 nonimmigrants apply for an extension of their program with their institution.⁸⁴ Significantly, under the changes to the period of admission of F nonimmigrants and the applicable EOS process, DHS may collect biometrics and other information (such as evidence of financial resources to cover expenses and evidence of any criminal activity) from F nonimmigrant students more frequently, thereby enhancing the Government's oversight and monitoring of these aliens.

3. Risks Within the J Classification

DHS believes that the national security risks posed by D/S admissions for individuals admitted under the J classification are similar to those posed by the F classification.⁸⁵ According to a

December 2018 report by a panel of experts commissioned by the National Institutes of Health (NIH) to study foreign influence on federally-funded scientific research, “Small numbers of scientists have committed serious violations of NIH policies and systems by not disclosing foreign support (*i.e.*, grants), laboratories, or funded faculty positions in other countries.”⁸⁶ As with F nonimmigrants, setting the length of the J nonimmigrant's specific program to not exceed a 4-year period will establish a mechanism for immigration officers to assess these nonimmigrants at defined periods (such as when applying for an EOS in the United States beyond a 4-year admission period) and determine whether they are complying with the conditions of their classification. This will increase vetting of the J nonimmigrant population, which can help to prevent and deter nefarious actors.

There are multiple examples of ongoing national security threats posed by J nonimmigrants under the D/S framework, thereby supporting the need for increased oversight within the program. For example, in 2009, an Iranian national was issued a J–1 visa to be a visiting professor in computer science at a U.S. university from September 2009 to August 2010. On November 8, 2012, the U.S. Department of the Treasury's Office of Foreign Assets Control (“OFAC”) designated him as a person whose property and interests in property are blocked pursuant to Executive Order 13628 of October 9, 2012, “Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Threat Reduction and Syria Human Rights Act of 2012 and Additional Sanctions With Respect to Iran.”⁸⁷ He was reportedly attempting to acquire equipment related to the

States Government's efforts to curb China's extensive influence and espionage activities in academic and commercial settings. The Commission noted that these efforts took the form of visa restrictions for Chinese nationals, greater scrutiny of federal funding awarded to universities, legal action against those suspected of theft or espionage, and new legislation. See U.S. Commission on China, *U.S.-China Economic And Security Review Commission, 2019 Annual Report to Congress* (Nov. 2019), <https://www.uscc.gov/annual-report/2019-annual-report>.

⁸⁶ See U.S. National Institutes of Health Advisory Committee to the Director (ACD), *ACD Working Group for Foreign Influences on Research Integrity* (Dec. 2018) (discussing measures to address concerns about foreign influences related to graduate students and post-doctoral fellows, as well as foreign employees).

⁸⁷ Office of Foreign Assets Control, U.S. Dep't of Treasury, *Designation of Four (4) Individuals and Five (5) Entities Pursuant to Executive Order 13628 of October 9, 2012*, 77 FR 68820 (Nov. 16, 2012). This was part of DHS's analysis of SEVIS data on June 2, 2026.

monitoring of Short Message Service (SMS) traffic from abroad as of February 2009 and, as of early July 2012, was actively assisting the Government of Iran's internet censorship activities.⁸⁸ On November 5, 2025, three J–1 research scholars from China were charged with conspiracy to smuggle biological materials into the United States and for making false statements to U.S. Customs and Border Protection officers.⁸⁹ In June 2025, the U.S. Department of Justice announced that two Chinese national J–1 exchange visitors were charged with conspiracy and smuggling a dangerous biological pathogen into the U.S. for their work at a U.S. university laboratory.⁹⁰ On November 5, 2025, one of the J–1 exchange visitors pleaded guilty to charges of smuggling a biological pathogen into the U.S. and then lying to FBI agents about it.⁹¹

In another example, in September 2019, a stark illustration of state-sponsored efforts to illegally obtain United States technology emerged when the FBI charged Chinese government official Zhongsan Liu with conspiracy to fraudulently procure United States research scholar visas for Chinese officials whose actual purpose was to recruit United States scientists for high technology development programs within China.⁹² Liu was convicted of

⁸⁸ United Against Nuclear Iran, *Sanctioned Persons—Jalili, Rasool*, <https://www.unitedagainstnucleariran.com/sanctioned-person/jalili-rasool> (last visited Jun 2, 2026). See also Rezaei, R., *Iranwire, Who is Rasoul Jalili, the So-Called “Father of Filtering” of the Islamic Republic?* (Apr. 19, 2026), <https://iranwire.com/en/features/151390-who-is-rasoul-jalili-the-so-called-father-of-filtering-of-the-islamic-republic/>. This was part of DHS's analysis of SEVIS data on June 2, 2026.

⁸⁹ U.S. Dep't of Justice, Press Release, *Three Chinese National Scholars from University of Michigan Laboratory Charged for Conspiring to Smuggle Biological Materials into the U.S.* (Nov. 5, 2025), <https://www.justice.gov/opa/pr/three-chinese-national-scholars-university-michigan-laboratory-charged-conspiring-smuggle>. This was part of DHS's analysis of SEVIS data on June 2, 2026.

⁹⁰ U.S. Dep't of Justice, Press Release, *Chinese Nationals Charged with Conspiracy and Smuggling a Dangerous Biological Pathogen into the U.S. for their Work at a University of Michigan Laboratory* (June 3, 2025), <https://www.justice.gov/usao-edmi/pr/chinese-nationals-charged-conspiracy-and-smuggling-dangerous-biological-pathogen-us>. This was part of DHS's analysis of SEVIS data on June 2, 2026.

⁹¹ U.S. Dep't of Justice, Press Release, *Chinese National Pleads Guilty and is Sentenced for Smuggling a Dangerous Biological Pathogen into the U.S. While Working at a University of Michigan Laboratory* (Nov. 12, 2025), <https://www.justice.gov/usao-edmi/pr/chinese-national-pleads-guilty-and-sentenced-smuggling-dangerous-biological-pathogen>. This was part of DHS's analysis of SEVIS data on June 2, 2026.

⁹² U.S. Dep't of Justice, Press Release, *Chinese Government Employee Charged in Manhattan Federal Court with Participating in Conspiracy to*

the Senate Finance Committee (June 5, 2019) (Statement of Louis A. Rodi III), <https://www.finance.senate.gov/imo/media/doc/05JUN2019RodiSMNT.pdf>. DSOs are not trained immigration officers nor are they in a position to make such determinations.

⁸³ See GAO, *GAO 23–106114, China, Efforts Underway to Address Technology Transfer Risk at U.S. Universities, but ICE Could Improve Related Data* (Nov. 2022), <https://www.gao.gov/assets/gao-23-106114.pdf>.

⁸⁴ In addition, DSOs may be unaware of a student's failure to maintain status, including by engaging in criminal activity, nor do they have the authority or ability to acquire such information. Admitting F–1 nonimmigrants for a fixed period of admission would provide trained immigration officers with the opportunity to vet these individuals.

⁸⁵ In its 2019 Report to Congress, the United States-China Economic and Security Review Commission, the Commission described the United

participating in conspiracy to defraud the United States and fraudulently obtain U.S. visas.⁹³

Additionally, in December 2019, Zaosong Zheng, a 29-year-old graduate student in J-1 status participating in an exchange visitor program at Harvard University, was stopped at Boston Logan International Airport. Federal agents determined he was a “high risk for possibly exporting undeclared biological material” after finding 21 vials of brown liquid wrapped in a plastic bag inside a sock in his checked luggage; typed and handwritten notes indicated “that [the exchange visitor] . . . was knowingly gathering and collecting intellectual property. . . possibly on behalf of the Chinese government.”⁹⁴ Zheng was indicted on one count of smuggling goods from the United States and one count of making false, fictitious or fraudulent statements.

In January 2020, Yanqing Ye was charged with one count each of visa fraud, making false statements, acting as an agent of a foreign government and conspiracy after Ye falsely identified herself on her J-1 visa application as a “student” and lied about her ongoing military service at a top military academy directed by the Chinese Communist Party. It was further alleged that while studying at Boston University’s Department of Physics, Chemistry, and Biomedical Engineering, Ye continued to work as a People’s Liberation Army Lieutenant completing numerous assignments from People’s Liberation Army officers such as conducting research, assessing United States military websites and sending

United States documents and information to China.⁹⁵

In June 2020, a Chinese national who entered the United States on a J-1 visa to conduct research at the University of California, San Francisco was arrested at Los Angeles International Airport while attempting to return to China and charged with visa fraud. According to court documents, he allegedly is an officer with the PRC People’s Liberation Army and provided fraudulent information about his military service in his visa application. He allegedly was instructed by his military lab supervisor to bring information back to China about the lab at University of California, San Francisco.⁹⁶

In 2025, a J-1 Chinese research scholar at the University of Michigan was charged in a criminal complaint for conspiracy, smuggling goods into the United States, false statements, and visa fraud. The FBI arrested the exchange visitor for allegedly smuggling a noxious fungus which is responsible for billions of dollars in economic losses worldwide each year and causes health problems for both humans and livestock. The J-1 allegedly received Chinese government funding for her work on this pathogen and is a loyal member of the Chinese Communist Party.⁹⁷

As with F nonimmigrants, DHS believes that replacing admissions for D/S for J-1s with admission for a fixed time period will help mitigate the national security concerns described above. Exchange visitor program categories include college and university students, which share similarities with the F-1 nonimmigrant classification. Students enrolled in such programs are pursuing post-secondary studies alongside F-1 nonimmigrants. J-1 college and university students in a degree program may be authorized to participate in the exchange visitor program so long as they meet the requirements for duration of participation, including pursuing a full course of study, echoing the full course of study requirements for F-1 nonimmigrants. A J-1 exchange visitor’s program may also be extended by the ROs, subject to regulation and/or

approval by DoS, without an application to DHS. These similarities give rise to the same concerns about national security related to F-1s, as described above, and about fraud and abuse by J-1s and their ROs. By requiring the same fixed period of admission for F-1s and J-1s, J-1 college and university students in exchange visitor programs will be unable to circumvent the intent of this rule,⁹⁸ which is to protect the integrity of these programs and provide additional protections and mechanisms for oversight. Because J exchange visitors are also tracked in SEVIS, DHS believes it will be more effective for an immigration officer to periodically confirm that an alien has properly maintained status, rather than relying on the checks of an RO that the J-1 is pursuing the activities permitted by the exchange visitor program. As noted above, DHS believes it is more appropriate for immigration officers, with their background checks, clearances, and training from the U.S. government, to adjudicate maintenance of nonimmigrant status and whether an alien is eligible for an additional admission period. Switching from D/S to a fixed period of admission will permit immigration officers the opportunity to determine whether an alien is eligible for an additional period of time. If an officer finds a violation of status while adjudicating the alien’s request, the consequences could be immediate. Applicants for EOS must also establish that they are admissible, and failure to do so will result in denial of the EOS.⁹⁹ Admissibility grounds are complex and are properly assessed by a trained DHS officer. Such an assessment is not currently made when J exchange visitors apply for an extension of their program with their RO.¹⁰⁰ Thus, admitting J exchange visitors for a fixed period, instead of for D/S, will give DHS more frequent opportunities to directly vet these foreign visitors and ensure they are bona fide exchange visitors, and it will prevent and deter nefarious actors within the J exchange visitor population. Under the changes to the period of admission of J exchange visitors and the applicable EOS process, DHS may more frequently collect biometrics and other information from J exchange visitors, enhancing the

Fraudulently Obtain U.S. Visas (Sept. 16, 2019), <https://www.justice.gov/archives/opa/pr/chinese-government-employee-charged-manhattan-federal-court-participating-conspiracy>.

⁹³ See U.S. Dep’t of Justice, Press Release, *Chinese Government Employee Convicted of Participating in Conspiracy to Defraud the United States and Fraudulently Obtain U.S. Visas* (Mar. 23, 2022), <https://www.justice.gov/usao-sdny/pr/chinese-government-employee-convicted-participating-conspiracy-defraud-united-states>.

⁹⁴ See Boston Herald, *China May Be Behind Theft of Bio Samples by Harvard-Sponsored Chinese Student, Fed Says* (Dec. 30, 2019), <https://www.bostonherald.com/2019/12/30/peoples-republic-of-china-may-be-behind-theft-of-bio-samples-by-harvard-sponsored-chinese-student-feds-say/>; see also The Daily Beast, *China Might Be Behind Harvard Student’s Theft of Cancer Research, Feds Claim* (Dec. 31, 2019), <https://www.thedailybeast.com/china-might-be-behind-harvard-student-zaosong-zheng-s-theft-of-cancer-research-feds-claim/>; U.S. Dep’t of Justice, Press Release, *Harvard University Professor and Two Chinese Nationals Charged in Three Separate China Related Cases* (Jan. 28, 2020), <https://www.justice.gov/archives/opa/pr/harvard-university-professor-and-two-chinese-nationals-charged-three-separate-china-related>.

⁹⁵ U.S. Dep’t of Justice, Press Release, *Harvard University Professor and Two Chinese Nationals Charged in Three Separate China Related Cases*, *supra* note 94.

⁹⁶ See U.S. Dep’t of Justice, Press Release, *Officer of China’s People’s Liberation Army Arrested at Los Angeles International Airport* (June 11, 2020), <https://www.justice.gov/usao-ndca/pr/officer-china-s-people-s-liberation-army-arrested-los-angeles-international-airport>.

⁹⁷ See *Chinese Nationals Charged with Conspiracy and Smuggling a Dangerous Biological Pathogen into the U.S. for their Work at a University of Michigan Laboratory*, *supra* note 90.

⁹⁸ References to “this proposed rule” and “this proposed rulemaking” throughout this document refer to the rulemaking being proposed within this NPRM.

⁹⁹ See 8 CFR 214.1(a)(3).

¹⁰⁰ ROs may be unaware of a student’s failure to maintain status, including by engaging in criminal activity. Admitting J-1s for a fixed period of admission would provide trained DHS officers with the opportunity to vet these individuals.

Government's oversight and monitoring of these aliens.

4. Risks Within the I Classification

Admitting most I nonimmigrants for D/S affords them different treatment from most other nonimmigrants, who are admitted for a specified period of time. DHS believes admitting aliens temporarily to the United States for a fixed period will strengthen vetting and information collection and help immigration officers ensure that the I nonimmigrants are, and will be, engaged in activities that are permissible under INA 101(a)(15)(I). In addition, this rulemaking requires individuals who wish to remain in I nonimmigrant status beyond the end date of their authorized stay to apply for an EOS with USCIS, at which point immigration officers can review their activities in the United States. It also clarifies what DHS will require these individuals to present as evidence supporting their EOS request.¹⁰¹

IV. Response to Public Comments on the Proposed Rule

A. Support for the Proposed Rule

1. General Endorsement

Comments: Commenters expressed support for the proposed rule, stating that the rule would curtail fraud and abuse associated with these nonimmigrant classifications, enhance national security through periodic vetting, promote compliance and fair competition, and generally have a positive impact on the economy, schools, and students. Multiple commenters supported the rule by remarking that it strengthens competitiveness and the ability of the United States to attract the world's brightest students while ensuring that only law-abiding students remain in the system. Some commenters added that the rule balances the interests of foreign nonimmigrants with the need to protect national interests and safeguard opportunities for American students and workers. Several commenters expressed support for the fixed term and believed that the requirements to reapply for an extension would not be an issue for the foreign students. In support of the rule, several commenters also mentioned that the F, J, and I classifications should be aligned with other visa classifications for consistency. Some commenters stated

¹⁰¹ These proposed changes, including additional evidence relating to foreign media organizations and activities the alien intends to engage in while in I status, would also apply to a nonimmigrant in the United States who requests to change his or her nonimmigrant status to that of an I nonimmigrant.

that individuals in these visa classifications should focus on their course of study and not on employment. Additionally, while showing support, some commenters indicated that the rule does not go far enough and called for more restrictions. Additionally, some commenters expressed support for the proposed rule, while also acknowledging that many nonimmigrant students provide value to the United States. Some stated that the rule is well within the federal government's lawful authority and plenary power over immigration, follows the rulemaking procedures under the Administrative Procedure Act, and does not implicate constitutional rights, as visas confer a privilege and not an entitlement.

Response: DHS appreciates the support and in-depth understanding of these issues. DHS agrees with commenters' assessment about the impacts of this rule and agrees the rule is well within its lawful authority. As noted above, DHS believes the rule will give DHS the ability to monitor and oversee these nonimmigrants while they are in the United States, curtailing fraud and abuse associated with these nonimmigrant classifications.

2. Positive Impacts on Immigration System

a. Fraud and Abuse, Overstays, and National Security

Comments: Commenters expressed support for the proposed time limits and elimination of D/S, noting that such measures would help address instances of abuse and fraud where the foreign student has no intent to study and remains in the United States indefinitely. Commenters stated that the fixed admission period for F, J, and I nonimmigrants creates consistency across other nonimmigrant categories, as most nonimmigrant categories have fixed admission terms, and creates fairness and clarity to the system.

Specifically, commenters provided examples of fraud and abuse, such as in the indefinite language training programs, visa mills, criminal enterprises, "pay-to-stay" fraud—where school officials falsely report that F–1 students who do not attend school are maintaining their student status in return for cash payments, schools with classes that require minimum in-person presence, issues with "Day-1 CPT"—where Curricular Practical Training (CPT) allows certain foreign graduate students to start working in the United States immediately upon admission, and foreign nationals abusing and misusing resources provided by the university as well as by the local

community. For example, one commenter remarked that, as an American, the commenter lost his job due to coordinated visa fraud. Another commenter remarked that fraudulent IT consultancies train students and secure jobs for them using fake resumes. Another commenter remarked that online forums contain evidence of students with immigrant intent, crafting their interview answers to get approved. One commenter remarked that there is no attendance requirement or verification that F–1 students are attending class and that students can drop classes with no verification that they are slowing down the completion of their program to stay and work in the United States longer. Another commenter noted that fraud by certain schools and multiple large-scale "sham school operations" exacerbate inequities, and referenced Tri-Valley University, which was noncompliant and closed operations.¹⁰² The commenter also mentioned the University of Northern New Jersey, stating it involved an ICE undercover sting that revealed more than 1,000 foreign nationals enrolled through recruiters at a fake university to maintain status, and Farmington University (sic), stating it involved an ICE sting that exposed over 600 foreign students paying to remain in the United States with no real classes.¹⁰³ The commenter noted that these schemes not only defraud the education system but also exploit students financially and can result in unauthorized work arrangements akin to trafficking conditions.

Relatedly, a research organization pointed out that there are many documented cases of visa abuse or fraud across U.S. visa categories,¹⁰⁴ and that

¹⁰² The commenter did not provide citations or references to support this assertion, but see, e.g., U.S. Dep't of Justice, Press Release, *CEO and President of East Bay University Sentenced to 198 Months for Fraud Scheme* (Nov. 3, 2014), <https://www.justice.gov/usao-ndca/pr/ceo-and-president-east-bay-university-sentenced-198-months-fraud-scheme>.

¹⁰³ The commenter did not provide citations or references to support this assertion, but see, e.g., Manning, W., Nat'l L. Rev., *The "University of Northern New Jersey" Visa Fraud Sting Operation Shutdown After Arrest of 21* (Apr. 12, 2016), <https://natlawreview.com/article/university-northern-new-jersey-visa-fraud-sting-operation-shutdown-after-arrest-21> and Immig. & Customs Enft, Press Release, *Final Defendant Sentenced in ICE HSI University of Farmington Investigation*, (Jan. 29, 2020), <https://www.ice.gov/news/releases/final-defendant-sentenced-ice-hsi-university-farmington-investigation>.

¹⁰⁴ The commenter referenced Vaughan, J., *Statement for the U.S. House of Representatives Committee on the Judiciary, Restoring Integrity and Security to the Visa Process* (June 25, 2023); GAO, *U.S. Citizenship and Immigration Services: Additional Actions Needed to Manage Fraud Risks*

eliminating D/S will support the integrity of the immigration system by allowing DHS to more easily uncover fraud and abuse in the F, J, and I nonimmigrant visa programs. The research organization cited a USCIS report stating that in some of these cases, school owners operate multiple schools and transfer students between these schools to help conceal the fraud.¹⁰⁵

A few commenters also noted what they view as fraud and abuse of the J–1 program. A commenter remarked that healthcare systems are abusing these visas to train foreign doctors in very competitive fields. The commenter noted that there are hundreds of competent American physicians and medical students who are overlooked by healthcare systems to hire J–1 medical residents/fellows. Another commenter stated that J students are susceptible to abuse from employers more than other visas. The commenter asserted that the GAO and the DoS Inspector General had recommended that DoS should not be operating the J program and reported that the visa results in American workers being denied jobs. The commenter also highlighted articles regarding J–1 nonimmigrants, though no specific citations were provided: that J visa ‘Summer Work Travel Program’ refers to the summer of the guestworkers and that it can be used to avoid hiring Americans year-round (“Visa program encourages seasonal hiring of foreign students while U.S. youths go jobless” Denver Post); that the J–1 program has become a ‘money machine,’ with over \$100 million received every year in fees (“J–1 Visas: Cheap Labor as Cultural Exchange,” Center for Immigration Studies); that there are efforts to recruit foreign youth to the program and into U.S. jobs to help employers calculate how much money they can save by not hiring American youth (Panel Transcript: Summer Work Travel Program, Center for Immigration Studies); and that there is a strong lobby to expand the Summer Work Travel program but no lobby for American youth. Another commenter also wrote in support of the proposed rule, and with respect to J–1, the commenter stated that if a nonimmigrant Ph.D. student is making legitimate progress in their program of study, the new extension

process should not present an issue to the nonimmigrant student.

Commenters expressed support for a fixed period of admission, reasoning that it promotes accountability and compliance, and decreases overstay. A commenter stated that the current D/S policy allows over 1 million nonimmigrants to remain in the United States without defined end dates, increasing the risk of overstay and weakening oversight. The commenter further stated that the implementation of a fixed admission period would improve compliance tracking and help address the reported overstay rate, which is currently estimated to be around 2-to-3-percent.

Many commenters addressed the rates of overstay among students admitted for D/S, stating that a fixed admission period ensures tracking of nonimmigrant visa holders’ stays, thereby reducing the risk of overstay. One organization stated that terminating D/S would address visa overstay. The organization noted that in 1978, DOJ proposed a rule allowing nonimmigrants to be admitted “for the duration of their status as students.”¹⁰⁶ The organization reported that these changes were proposed despite a 1975 General Accounting Office document, which reported high numbers of foreign student overstay and found that among the 222,000 foreign students in the United States in December 1974, 42 percent were in illegal status resulting from overstaying their visas.¹⁰⁷ The organization also stated that individuals on student visas are more likely to be authorized to work today than in 1979, due to the creation and subsequent expansion of the OPT program and the addition of an extension for Science, Technology, Engineering and Mathematics (STEM) OPT. The organization concluded that the potential for employment increases enforcement challenges, given that work authorization increases the risks of overstay and other violations. In support of the rule, another commenter asserted that visa overstay for student or exchange visitors is among the highest of all nonimmigrant groups at 3.67 percent.

A few commenters discussed support for the rule with respect to protecting national security. Commenters remarked that adversary countries use foreign students to steal intellectual property, sabotage agriculture, and engage in

espionage. One commenter expressed that there are foreign students who use U.S. resources while engaging in activities that do not reflect positively on the United States, including sharing content that is critical of the country on social media. The commenter requested greater attention to how such resources are allocated, to ensure they are used constructively and in support of the broader goals of the nation. In support of the rule, a commenter noted that in extreme cases, there have been reports of foreign students intimidating others from their home countries who hold differing political views, creating a chilling effect within communities.

Commenters expressed concern that the current D/S framework weakens DHS’s ability to enforce immigration laws, further stating that the newly proposed rule will foster national security by implementing periodic reviews of nonimmigrant statuses, as a method for DHS to routinely assess and mitigate risks. Some commenters referenced the September 11, 2001, attacks, noting that some of the perpetrators had entered the United States on student visas. The commenters further stated that the proposed rule aligned with the 9/11 Commission’s recommendations of increasing information sharing between federal agencies by supporting visa compliance through better tracking systems of lawful status.

Similarly, commenters raised concerns about general national security risks posed by foreign students, particularly those from China and India, citing examples of espionage, intellectual property theft, hazardous material transportation, and technology transfer. Commenters pointed to espionage concerns, such as referencing the case of Ji Chaoqun, who was sentenced to eight years in prison for spying while in F–1 status. The commenters also raised concerns regarding countries that may exploit student and exchange programs to place individuals in sensitive academic fields, potentially for espionage or intellectual property theft. Another commenter pointed out that a 2023 National Intelligence Council report showed a 30 percent rise in espionage cases linked to foreign students since 2019. Commenters stated that this rule would facilitate periodic vetting, reduce administrative burdens on DSOs, and ensure that individuals in sensitive programs are closely monitored, reducing risks to national security.

Another commenter stated that there are documented cases of foreign students smuggling dangerous biological materials across the United States, and

(Sept. 19, 2022); and North, D., Center for Immigration Studies, *The Dregs of Higher Education Damage Our Immigration System* (Sept. 11, 2017).

¹⁰⁵ The commenter referenced North, D., Center for Immigration Studies, *Higher Education Fraud Comes in Two Different Packages, Part 1* (Jan. 8, 2018).

¹⁰⁶ 43 FR 32306 (July 26, 1978).

¹⁰⁷ The commenter referenced GAO, *Better Controls Needed to Prevent Foreign Students from Violating the Conditions of Their Entry and Stay While in the United States* (Feb. 4, 1975).

of foreign nationals stealing cutting-edge American research, directly threatening national security and intellectual property.¹⁰⁸ One comment raised concerns on the current immigration system being incompatible with the financial interests of universities and employers that maximize foreign enrollment and employment, even when the FBI is reporting that a new China-related counterintelligence case is opened approximately every 10 hours, and where global air travel is increasingly accessible, allowing foreign nationals to take advantage of United States' university systems and immigration policies.¹⁰⁹

Response: DHS appreciates the commenters' support on this rule and agrees that this rule will strengthen the integrity of the U.S. immigration system, specifically relating to F, J, and I nonimmigrants, and enhance national security. DHS acknowledges that the D/S framework is vulnerable to fraud, abuse (including overstays), and national security threats. While the commenter did not provide any specific evidence supporting their claims of theft of American research or threats to intellectual property or national security, DHS has provided examples of national security threats and intellectual property theft in transferring sensitive research back to China.¹¹⁰ In another recent example, in 2024, an F-1 student visa overstay and an alien released after

illegally crossing the border and being issued a Notice to Appear, posed as Amazon drivers and attempted to breach a Marine Corps Base in what experts believe may have been a dry run for a terrorist attack.¹¹¹ DHS agrees that this rule will reduce status violations (e.g., overstays), strengthen oversight, and yield additional benefits to enhance the U.S. immigration system. DHS believes that this rule establishes an effective mechanism to periodically and directly assess whether nonimmigrants in F, J, and I status are complying with the conditions of their nonimmigrant classifications and U.S. immigration laws, and to obtain timely and accurate information about the activities these aliens have engaged in and plan to engage in during their temporary stay in the United States. It will allow DHS to vet and screen aliens in these nonimmigrant classifications for fraud, abuse, and security threats, and identify aliens subject to inadmissibility and removability grounds. DHS believes that this rule will encourage aliens to maintain lawful status and reduce instances in which F, J, and I visa holders unlawfully remain in the United States after their program, practical training, or activities or assignments end. Furthermore, admitting individuals in the F, J, and I visa classifications for a fixed period of time will require those F, J, and I nonimmigrants who wish to remain in the United States beyond their specifically authorized admission period to apply for an EOS directly with USCIS. The other option of departing the country and then applying for admission with U.S. Customs and Border Protection (CBP) at a POE has always been available to all nonimmigrants whether on a fixed admission period or on D/S. Requiring nonimmigrants who wish to stay in the United States longer than their initial authorization without leaving the country to apply to USCIS for an EOS will provide DHS with an additional mechanism to exercise the oversight necessary to enforce our nation's immigration laws, protect the integrity of these nonimmigrant programs, and promptly detect national security concerns.

b. Impacts on Schools, Higher Education, and Exchange Programs

Comments: In support of the rule, commenters stated the rule will address inequities that American students and American workers face resulting from

abuses in these visa classifications and employer incentives to hire foreign students. Multiple commenters remarked that universities should give preference to American students and expressed concern that foreign students are taking spots from more qualified American students. A commenter remarked that extended stays by foreign students artificially increase demand at universities. Commenters stated that the rule will reduce tuition costs, open job markets for Americans, open degree and course options for American students, by reducing foreign student demand at universities and job-markets. Some commenters view that the rule will also further protect institutions' financial interests in intellectual property. In support of the rule, commenters stated that the proposed rule would simplify compliance and reporting requirements, including systems like SEVIS, reduce administrative burden, enhance efficiency, and promote consistent performance. A few commenters stated that the time limits were necessary and benefit the institution because it will ensure students perform consistently and are able to advance towards a higher level of capability, resulting in equitable treatment across institutions and participants. Commenters added that requiring extensions through DHS would help safeguard the reputation of U.S. educational institutions and exchange programs by ensuring participants remain engaged in legitimate activities.

Response: DHS appreciates the commenters' support on this rule and agrees that this rule will create these positive impacts on schools, higher-education and exchange programs. DHS acknowledges that the D/S framework is vulnerable to fraud, abuse (including overstays), and other issues. DHS believes that this rule establishes an effective mechanism to periodically and directly assess whether nonimmigrants in F, J, and I status are complying with the conditions of their nonimmigrant classifications and U.S. immigration laws, and to obtain timely and accurate information about the activities these aliens have engaged in and plan to engage in during their temporary stay in the United States.

DHS notes that this rule is not intended to address whether foreign students are taking opportunities away from American students/workers and such issue is beyond the scope of this rule. DHS acknowledges the valuable contribution of foreign students and exchange visitors but also underscores that admission to the United States is not a guarantee, and that all foreign nationals must be eligible and comply

¹⁰⁸ The commenter did not provide citations or references to support this assertion, but see, e.g., *Three Chinese National Scholars from University of Michigan Laboratory Charged for Conspiring to Smuggle Biological Materials into the U.S.*, supra note 89; ET Online, *The Economic Times Students or Spies? How China Infiltrated U.S. Universities* (May 29, 2025), <https://economictimes.indiatimes.com/news/international/world-news/students-or-spies-how-china-infiltrated-us-universities/articleshow/121492092.cms>; Winter, T., NBC News, *Chinese Couple Charged with Smuggling a Biological Pathogen into the U.S.* (Jun. 3, 2025), <https://www.nbcnews.com/politics/justice-department/chinese-couple-charged-smuggling-biological-pathogen-us-rcna208658>.

¹⁰⁹ The commenter did not provide citations or references to support this assertion, but see, e.g., *China's Attempt to Influence U.S. Institutions*, Remarks by FBI Director Christopher Wray, Hudson Institute Video Event, Washington, DC (July 7, 2020), <https://www.fbi.gov/news/speeches-and-testimony/the-threat-posed-by-the-chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-united-states> (Director Wray advised the FBI was opening a new China-related counterintelligence case about every 10 hours). See also e.g., *Countering Threats Posed by the Chinese Government Inside the U.S.*, Remarks by FBI Director Christopher Wray, Ronald Reagan Presidential Library and Museum, Simi Valley, CA (Jan. 31, 2022), (Director Wray advised that roughly every 12 hours the FBI opens new cases to counter the CCP's intelligence operations).

¹¹⁰ *Students or Spies? How China Infiltrated U.S. Universities*, supra note 108; Winter, T., *Chinese Couple Charged With Smuggling a Biological Pathogen Into the U.S.*, supra note 108.

¹¹¹ Ruiz, M., *Jordanian Quantico Breach Suspect Freed Under Biden Arrested Again by ICE: Report* (Mar. 4, 2025), <https://www.foxnews.com/us/jordanian-quantico-breach-suspect-freed-under-biden-arrested-again-ice-report>.

with the terms and conditions of their status.

c. Impacts on U.S. Economy, Citizens, and Communities

Comments: Commenters generally supported the rule by discussing the benefits to American students, students in general, workers, the economy, American taxpayers and American culture. Commenters also stated that the rule strengthens oversight and compliance, deters exploitation, reinforces the U.S. immigration and education systems, benefits both the U.S. institutions and U.S. workforce and levels the playing field for all. Commenters supported limiting media representatives from indefinitely residing and working in the United States. Multiple commenters stated the benefits to American students are with respect to employment, the job market, and educational opportunities.

Response: DHS believes that this rule will strengthen oversight and compliance, deter exploitation, and reinforce the credibility of the U.S. immigration and education systems, thereby resulting in a positive economic impact for all stakeholders, including foreign students and U.S. students and workers. DHS believes that this rule will discourage aliens who are not bona fide students, exchange visitors, and foreign information media representatives from indefinitely residing and working in the United States unlawfully in violation of their status. The rule makes it clear that timely filed EOS will not guarantee an extension for F, J, and I nonimmigrants, as such decisions are discretionary and subject to eligibility and compliance with all requirements in the rule.

DHS recognizes the contributions of foreign students and scholars and believes that this rule will benefit all involved stakeholders, including foreign students and American students and workers. Through this rule, bona fide students will be able to focus entirely on their studies and programs, consistent with their nonimmigrant classifications. It will reduce the incentive of visa violators from coming to the United States merely to work and reside unlawfully.

B. Opposition to the Proposed Rule

1. General Concerns and Opposition

Comments: Many commenters expressed concern with the changes proposed in the rule. Numerous commenters expressed concern that the proposed rule would negatively impact individuals, including nonimmigrants and their families, as well as various sectors, including higher education,

medical centers, research institutions, and the U.S. economy. Commenters expressed that this proposal imposes broad burdens on individuals and institutions to address the issues of a relatively small subset of foreign nationals who may overstay or fail to comply with requirements. Some commenters expressed general opposition to the rule without providing any rationale.

Many commenters expressed mixed views on the proposed rule. One commenter expressed concern about the potential for regulatory instability, stating that if DHS implements an overreaching rule, a future liberal administration will reverse it. The commenter suggested it is in DHS's best interest to adopt the least intrusive option to ensure the rule can endure across administrations. Another commenter stated that the rule fails to reduce overall visa issuance or entry volume, as it does not address the high volume of F-1 visa issuances abroad. Relatedly, one commenter suggested that foreign student numbers would not be meaningfully reduced unless DHS and DoS apply stricter standards at the consular level.

Expressing concern, a commenter discussed terminology used in the proposed rule and differences between the roles of Principal Designated School Officials (PDSOs), DSOs, ROs, and Alternative Responsible Officers (AROs), suggesting the proposed rule reflected a concerning lack of familiarity with these positions and their responsibilities. Other commenters expressed concern that some changes and terms proposed in the rule remain undefined, posing unanswered questions that would force DSOs and ROs to interpret and solve problems independently. Several commenters suggested clearly articulating best practices for DSOs in policy guidance to ensure student compliance.

Another commenter stated that retroactive accrual of unlawful presence could create a chilling effect and lead to large penalties for unintentional violations due to the change in immigration requirements.

Response: As explained in this rule, DHS believes that this rule is necessary to mitigate risks posed by aliens who seek to exploit the F, J, and I nonimmigrant programs and live in the United States on a non-temporary basis in contradiction with the underlying statutory language that applies to their nonimmigrant status. The rule is designed to provide additional protections and oversight of these nonimmigrant classifications and allow DHS to better evaluate whether these

nonimmigrants are maintaining status while temporarily in the United States. DHS has considered the interests and concerns of all relevant stakeholders in this rule and has assessed the potential impact on the economy and various stakeholders. See Final Regulatory Impact and Flexibility Act Analysis, secs. IV.Q and R, and discussions below regarding opposition to the rule based on impacts to specific stakeholders. In balancing the interests of all parties, DHS has determined that the goals of this rule outweigh these concerns.

DHS disagrees that the rule is overarching and notes that the intent of the rule is not to reduce overall entry of foreign nationals. All foreign students must maintain compliance with U.S. immigration laws and providing them with a fixed period of admission and EOS requirements will help to ensure such compliance, while also protecting against fraud, abuse, and national security threats. This rule affords immigration officers enough predetermined opportunities to directly verify that aliens are engaging only in those activities their respective classifications authorize while they are in the United States, and, in turn, more effectively enforce compliance with the immigration laws, enhancing national security, as well as monitor fraud and abuse.

DHS understands that immigration law is complex and that changes require additional training. DHS is committed to providing clear guidance and training to all stakeholders and will issue detailed implementation guidance and conduct outreach to ensure a smooth transition and minimize disruption for students, exchange visitors, institutions, and government personnel.

DHS does not agree that the proposed rule shows lack of familiarity with the relevant positions discussed in the rule. DHS notes that this rulemaking was the product of several agencies and subject matter experts within the relevant fields of education who carefully drafted, reviewed, and assessed the provisions of this rule. Furthermore, DHS notes that even if there were any misuse in terminology in a few sentences, such errors will not misinform or create confusion to the public and will be merely clerical and immaterial to the substantive issues addressed in this rule.

DHS understands all the changes that will have to be made to comply with this proposed rule. To the extent that commenters indicated which specific terms or proposed changes are at issue, DHS has provided corresponding responses throughout this rule, under the applicable sections. In addition,

DHS intends to provide training and guidance to DSOs and schools as the rule is being implemented. DSOs and schools will also be able to communicate with SEVP representatives. In addition, DHS will coordinate with DoS to provide similar training/guidance to ROs and AROs and program sponsors.

The primary aim of this final rule is to institute policies that will encourage aliens to maintain lawful status and reduce instances in which F, J, and I nonimmigrants unlawfully remain in the United States after their program ends. Depending on the extent of unlawful presence accrual, an alien may become inadmissible to the United States and ineligible for adjustment of status to lawful permanent resident. Unlawful presence is much more difficult to ascertain for current D/S holders and is usually determined only upon contact with immigration officers and a review of compliance through SEVIS and other immigration recordkeeping systems. Therefore, those maintaining their status whether under the D/S system or the date certain system, are not accruing unlawful presence.

2. Negative Impacts on Nonimmigrants and Support Systems

a. Allegations of Discrimination, Xenophobia, and Unfairness

Comments: Commenters remarked that the proposed rule is xenophobic, racist, or discriminatory, or that it furthers attitudes of xenophobia or racism towards nonimmigrants. In looking to the proposed rule, one commenter pointed to *Korematsu v. United States*, 323 U.S. 214 (1944), to “remind us that discriminatory practices have long-term consequences.” Another commenter stated that the approach under the proposed rule would be unfair and discriminatory to foreign students as DHS had not provided statistical evidence that foreign students have abused the system. Commenters asserted that the proposed rule would affect nonimmigrants disproportionately to DHS’s concerns. Commenters stated that nonimmigrants are already among the most monitored groups in the United States. One commenter pointed to analysis from the Cato Institute¹¹² which found that the annual probability of being attacked by a terrorist who came into the United States on a student visa was only 1 in 72.8 million. A

commenter stated that the rule disproportionately harms students from China and India, who already face decades-long green card backlogs.

Response: DHS disagrees with the commenters’ assertions that the rule is xenophobic, racist, discriminatory, or that it furthers such attitudes towards nonimmigrants, or that it disproportionately harm students from specific countries. DHS welcomes F academic students, J exchange visitors, and I representatives of information media, and acknowledges that many have made valuable contributions to the United States. However, DHS also acknowledges that the sheer size of the population complicates oversight and vetting functions. The significant increase in the volume of F academic students, J exchange visitors, and I representatives of information media poses a challenge to DHS’s ability to monitor and oversee these nonimmigrants while they are in the United States, increasing the vulnerabilities for fraud, abuse, and national security threats.

Notably, replacing admissions for D/S with admissions for a fixed period of authorized stay and implementing EOS requirements are consistent with the regulations of most other nonimmigrant classifications. This rule does not discriminate against F, J, and I nonimmigrants but rather aligns the requirements of their status to other nonimmigrant categories. As indicated in the preamble of the proposed rule, a goal of this rule is to institute policies that will encourage aliens to maintain lawful status and reduce instances in which F, J, and I nonimmigrants unlawfully remain in the United States after their program, practical training, or activities or assignments consistent with their classification ends. The rule creates an effective mechanism for DHS to periodically and directly assess whether these nonimmigrants are complying with the conditions of their classifications and U.S. immigration laws, as well as allow DHS to obtain timely and accurate information about the activities they have engaged in and plan to engage in during their temporary stay in the United States. Furthermore, aliens seeking F–1 visas must demonstrate intent to return to their home country. Therefore, there should be no impact on the permanent resident process.

DHS also notes that the rule has provided sufficient data and reasoning to support the need for this rule.¹¹³ In

the preamble to the proposed rule, DHS provided specific cases and examples of fraud, national security, and nonimmigrant students remaining in the United States for lengthy periods of time under the D/S framework, and DHS’s intent and rationale. For further explanation, commenters should refer to the preamble of the proposed rule.¹¹⁴

b. Disproportionate Impacts on Vulnerable Groups

Comments: Commenters also noted how different groups and immigrant communities may be affected. Some commenters added that the overly broad and strict nature of the rule would disproportionately harm legitimate foreign students nationwide, particularly affecting first-generation and low and middle-income individuals from developing nations. One commenter noted that the proposed rule would have disparate impacts on students from countries with fewer visa options, creating a system of inequity. Similarly, a commenter noted that the rule’s impacts would be felt inequitably, with applicants from areas facing slow processing times, conflict, or disaster, facing higher denial risks. Another commenter claimed that international students are uniquely at risk of abuse from their academic advisors in the form of harassment and disproportionate workloads because of their current limited ability to find new advisors or otherwise resolve the situation.

A commenter suggested that DHS should not attribute system failures to foreign students, noting their strong work ethic and study habits compared to native-born students. One commenter stated that the shift to fixed admission

First, DHS corrects footnote 56 in the NPRM, which cited to the 1997 U.S. Statistical Yearbook of the Immigration and Naturalization Service. That citation should have referenced Tbl. 39 on pages 118–19 rather than only referencing pg. 118. Second, in footnote 111 of the NPRM DHS stated it identified 2,134 aliens who first entered as F–1 students between 2000 and 2010 and remain in active F–1 status today by reviewing SEVIS data as of Apr. 4, 2025. DHS corrects this statement to indicate that DHS identified 2,137 active F–1 students who began studying between 2000 and 2010 by reviewing SEVIS data as of Apr. 6, 2025. Third, DHS notes the following statement in the NPRM is supported by SEVIS Data on Initial Transfers and Change of Education Counts (Mar. 31, 2025): “Since 2020, there have been over 13,000 F–1 students who transferred before the start of classes or within their first term, including over 4,400 students transferring from a higher education to English language training program of study within their first term or session of a program of study. The number of F–1 students who changed their educational levels within the first 60 days of their program is close to 8,400.” Finally, DHS notes DHS analyzed the SEVIS data which was valid as of May 7, 2025.

¹¹⁴ 90 FR 42070 (Aug. 28, 2025).

¹¹² The commenter referenced Cato Institute, *Foreign Students Are Not a Serious National Security Threat*, <https://www.cato.org/blog/foreign-students-are-not-serious-national-security-threat>.

¹¹³ The need for the rulemaking in the NPRM cited extensive data. DHS makes a few minor corrections to that information in this final rule.

periods for F, J, and I visa holders could also harm neurodiverse individuals who may require flexibility in their academic studies, “late bloomers or career switchers” who need to pivot to a new field or level of education, and journalists whose work may be impacted by their unpredictable work cycles. Separately, a commenter remarked that the lack of opportunities for international entrepreneurs to take part in the United States due to this rule would negatively impact domestic minority and low-income groups who rely on the tech industry for jobs and social mobility.

Response: DHS disagrees with the comments regarding the disproportionate impact on foreign and domestic students of certain backgrounds or conditions and notes that the assertions in the comments are not supported by any specific data or research that relate to the provisions of this rule. DHS does acknowledge the unique needs of neurodiverse individuals, students who may need to change academic paths, and journalists with unpredictable work cycles. In developing this rule, DHS has sought to balance program integrity and national security with the need to maintain access and flexibility for legitimate students and exchange visitors. The rule allows F, J, and I visa holders to apply for an EOS, including allowing students to request an EOS in cases of compelling academic reasons, documented illness or medical conditions, and circumstances beyond the applicant’s control, which may include conflict, disaster, or other significant hardships. If an applicant is eligible, they will be able to continue to stay in the United States. This rule will provide DHS with additional protections and mechanisms to exercise the oversight necessary to enforce our nation’s immigration laws. Separately, DHS notes that notwithstanding this rule, students continue to have the option of applying for employment authorization for on-campus and off-campus employment (including due to severe economic hardship) and practical training, should they meet the requirements. With respect to the changes this rule purports to make for entrepreneurs, DHS is not changing any of its policies on the ability of, for example, F–1 students being able to start their own businesses as part of the OPT program.¹¹⁵

With respect to the potential for harassment, DHS condemns all forms of

harassment and abuse. While DHS does not directly regulate academic advising relationships, DHS encourages students who experience harassment, abuse, or unfair treatment to report these issues to their institution’s administration or other appropriate campus resources. DHS will continue to work with educational institutions to promote awareness of student rights and available resources, including the fact that this rule does not prevent a student from changing advisors.

c. Uncertainty and Complexity for Nonimmigrants

Comments: Commenters expressed concern that the proposed rule would introduce uncertainty and complexity for prospective or existing nonimmigrants in the affected visa categories. Commenters explained that the proposed rule would unnecessarily burden and stress nonimmigrants, especially students, potentially undermining their educational, employment, or research experiences in the United States.

One commenter noted that, if finalized, the rule would serve as a barrier to many nonimmigrant students who are hoping to study in the United States. Another commenter noted that former F–1 students who are now employed could experience uncertainty, delays, or complications regarding renewals or employer-sponsored visa transitions. One commenter expressed concern with how additional layers of bureaucracy, such as the need to request extensions, the collection of biometric data, and fixed admission periods, would create additional barriers for individuals. Commentators noted that the added requirement to apply for an extension or a slow adjudication process at the end of a term may also increase the risk for students to accrue unlawful presence. For higher education, one commenter noted that “the proposed rule would fundamentally alter a well-established understanding between students and schools” and would break down confidence due to colleges and universities being unable to guarantee completion.

Commenters who identified as foreign students also shared personal experiences and concerns and voiced that the proposed rule feels punitive to students and poses pressure and barriers to students. Commenters also expressed concern that administrative and technical errors could cause students to fall out of status through no fault of their own, and minor errors could trigger multi-year bars to reentry. Commenters were also concerned about reduced flexibility in the proposed rule,

suggesting it could violate principles of academic freedom and potentially be considered discriminatory. Relatedly, some commenters noted that MBA and LLM programs often attract mid-career professionals who already face significant financial and logistical challenges while highlighting how the imposition of additional USCIS filings every 2–4 years adds unnecessary bureaucracy and costs.

Commenters indicated they are currently seeing countless students lose OPT eligibility due to filing mistakes. They expressed concern that under this rule, similar errors would proliferate due to the volume of filings surging. The commenters further added that when a filing is rejected after the status has lapsed, students often cannot cure the gap, need to stop studying or working, and in some cases, never regain the ability to return to school or work. Given the sheer scale of new I–539 submissions contemplated by this rule, the commenters expressed concern about a dramatic increase of students losing their status.

Response: DHS appreciates these concerns associated with all the changes that will have to be made to comply with this rule and understands the uncertainties that may generally follow when regulations change and adjustments need to be made.

To alleviate concerns regarding these changes, DHS intends to make training available to DSOs so that they and the foreign students they advise will be ready for the transition. DHS included familiarization and adaptation time burdens for DSOs in the Final Rule Regulatory Impact Analysis and increased the time estimates based on public comments on these burdens. As explained in the NPRM, the D/S framework generally lacks predetermined points in time for USCIS or CBP immigration officers to directly evaluate whether F and J nonimmigrants are maintaining their status and poses a challenge to DHS’s ability to effectively monitor and oversee these categories of nonimmigrants. Furthermore, SEVIS allows DHS to identify certain status violations that have been detected and reported by a DSO or that result from the failure of a DSO or student to take certain actions in connection with the SEVIS record. Under the D/S framework, fraud or status violations that are undetected or unreported by a DSO may result in a student inaccurately being reported as maintaining status in SEVIS for many years past the status violation or fraud being committed. Furthermore, under the D/S framework an alien who no longer meets the statutory definition of

¹¹⁵ See SEVP’s web page, *Training Opportunities in the United States*, <https://studyinthestates.dhs.gov/students/training-opportunities-in-the-united-states> (last visited Feb. 4, 2026).

an F–1 student may improperly remain in F–1 status because DSOs do not make determinations regarding statutory eligibility for the F–1 classification.

DHS respectfully disagrees with the assertions that the rule unnecessarily burdens nonimmigrants or penalizes them. F, J, and I nonimmigrants will now have the same requirements as the vast majority of other nonimmigrants. DHS disagrees with the contention that administrative errors will lead to multi-year bars on entry. As discussed elsewhere in this rule, USCIS can excuse minor lapses for legitimate reasons. Also, multi-year bars begin only after 180 days of unlawful presence in the United States. Waiting in the United States for USCIS to complete adjudication of a timely filed EOS application after expiration of a nonimmigrant's current I–94 admit until date (AUD) is allowed with no unlawful presence accruing.

DHS does not believe that this final rule will serve as a barrier preventing nonimmigrant students from wanting to study in the United States based on the quality and diversity of educational opportunities available in this country. DHS emphasizes that the rule does not interfere with the ability of universities and students to engage in lawful academic activities. The rule is focused on immigration compliance and does not impose restrictions on the content, scope, or nature of academic programs or research. DHS believes that the proposed rule is consistent with its statutory obligations. As explained in the rule, the changes promulgated in this rule are necessary to strengthen the U.S. immigration system and fix the vulnerabilities associated with the D/S framework. While DHS recognizes that this rule may result in adjustments for nonimmigrants and institutions, these measures are intended to provide sufficient flexibility for nonimmigrant students to complete their programs and pursue additional opportunities while maintaining compliance with immigration laws. Accordingly, DHS believes that the benefits of establishing clear time limits and enhancing compliance monitoring outweigh any potential challenges or burdens associated with the rule.

With respect to commenters regarding F–1 students facing complications regarding renewals or employer-sponsored visa transitions, DHS believes that the transition period regulations will alleviate some of the concerns by existing students who are currently in practical training programs. Furthermore, the implementation period of the rule will provide sufficient time and notice for other F–1 students to

make changes as necessary to comply with the new regulations in the final rule. DHS notes that employment is not the primary purpose of the F–1 student classification.

DHS expects that the rule will not have a significant impact on participation of other J exchange visitors or I representatives of information media, as the number of J and I EOS requests is small compared to the overall J and I visa populations. See Final Regulatory Impact and Regulatory Flexibility Act Analysis, secs. IV.Q and R. DHS notes that equivalent U.S.-based exchange visitor programs (outside of academia) may be more difficult to find in other countries, providing less of an incentive for nonimmigrants to choose an alternative over U.S. programs.

d. Training and Job Prospects for Students

Comments: Commenters also expanded on issues related to current training and job prospects for foreign students who would be impacted by the proposed rule. Commenters expressed concern that the proposed rule would make it more difficult for foreign students to apply for practical training opportunities. One commenter expressed concern with how the proposed rule would impact CPT and extensions and provided an example of one individual who had maintained lawful status through Day-1 CPT, but whose status would be jeopardized if the proposed rule went into effect. Commenters also noted that F visa holders may have more limited employment opportunities due to additional costs to employers resulting from this rule, coupled with the H–1B cap limits. Relatedly, another spoke about how the proposed rule would create confusion with the H–1B “cap-gap” framework that was recently extended by USCIS and would lead to an increase in edge-case failures (lapses between EAD, EOS adjudication, travel, and I–94 dates) and undermine the cap-gap protections DHS created.

Response: This rule does not make any substantive changes to OPT and CPT other than in the context of admission and extensions and does not make any changes to the H–1B cap gap rule. DHS notes that CPT, which is part of a student's academic program, must be completed within the authorized period of admission. Similarly, OPT may be completed within the authorized period unless the student opts for post-completion OPT, in which case an EOS or readmission at a POE will probably be necessary. If students need additional time to complete their program beyond the authorized period, they must apply

directly to USCIS for EOS or, if they choose to travel, they can (with an unexpired visa) apply for admission at a POE through CBP and receive a new I–94 with a new AUD. As explained in the preamble, this practice comports with the regulations of many other nonimmigrant classifications. For current students engaging in CPT or OPT, DHS notes that the transition period regulations will provide continuity and mitigate any disruption on their programs, as explained at length in the preamble of the proposed rule.¹¹⁶ With respect to F–1 nonimmigrant employment perspectives, DHS notes that the F–1 student classification is not for the primary purpose of employment.

e. Families and Dependents

Comments: Commenters also spoke of the destabilizing effects of the new changes on students and their families. Commenters mentioned the impacts this rule could have on immigrant families that could lead to forced separation of married or engaged couples, stating that alien members of such couples can currently remain in student status while awaiting USCIS action. A commenter stated foreign students are currently able to remain in status while married or engaged and waiting USCIS action and they were concerned the rule would lead to forced separation of married or engaged couples in these instances.

Response: DHS acknowledges the concerns regarding the potential impacts of the proposed rule on students and their families, including the risk of separation for married and engaged couples if one of those individuals is a U.S. citizen or lawful permanent resident, but the other is an F, J, or I nonimmigrant. DHS notes the primary purpose of the F nonimmigrant classification is to allow foreign nationals to pursue a full course of study at a U.S. academic institution, and it is not meant to be a bridge to permanent resident status. Similarly, the J and I nonimmigrant categories hold specific purposes and are not meant to be a bridge to permanent residency. While DHS acknowledges that F, J, and I nonimmigrants and their families may experience uncertainty during the EOS process, the rule is designed to ensure that these nonimmigrants and their dependents maintain lawful status and comply with U.S. immigration laws. This rule does not change any of the regulations, policies, or procedures for those who have applied for an adjustment of status

¹¹⁶ See 90 FR at 42084 (Aug. 28, 2025).

based on marriage to a U.S. citizen or lawful permanent resident.

Further, the rule does not change the long-standing rules that allow dependents to accompany or follow to join principal aliens in F, J, and I nonimmigrant classifications. In addition, aliens in F, J, or I status, who properly file an EOS application with USCIS, may remain in the United States while the EOS is pending, and their dependents will also need to file EOS to remain with the principal applicant. The rule maintains existing requirements for dependents and does not introduce new barriers to family unity.

In order to minimize disruptions caused by delays in processing by USCIS, the rule allows F-1 nonimmigrants who timely file an EOS to continue to pursue a full course of study for the entire time their EOS is pending with USCIS after their authorized period of admission expires. Authorization for certain types of authorized employment for F-1s is also extended for a period of 240 days after the expiration of stay in these circumstances. These provisions help to prevent interruptions in the activities of these nonimmigrants.

J-1 nonimmigrants may continue authorized training while an EOS application is pending with USCIS. Specifically, J-1s who have properly filed an EOS may engage in the activities consistent with pursuing the terms and conditions of the exchange program objectives, including authorized training, for the entire time the EOS is pending. Those who are employed incident to their status may continue to work, beginning on the day after the admission period expires and as long as they applied for the EOS prior to the expiration of the admission period, for a period of up to 240 days as provided in 8 CFR 274a.12(b)(20).

It is the responsibility of the alien to maintain status while in the United States. DHS does not believe it is unreasonable to require aliens temporarily in the United States to file for an extension with USCIS for the alien to remain beyond their authorized period of stay, so that the U.S. government can confirm compliance with U.S. immigration laws. Additionally, this requirement is consistent with the extension filing requirements for other nonimmigrant categories, including B-1/B-2s, H-1Bs, H-2s, L-1s, and TNs, to name but a few.

3. Negative Impacts on the Immigration System and Policy Objectives

a. Purpose and Need for Rulemaking

Comments: Numerous commenters argued that DHS had failed to provide sufficient evidence that the current D/S framework leads to widespread noncompliance, fraud, or abuse. They stated that DHS relied on anecdotal examples and isolated cases rather than comprehensive data demonstrating systemic problems to justify the call for significant policy change. Commenters expressed that the rule did not draw a rational connection between alleged systemic fraud and abuse within the student visa program and the proposed changes, and that the proposed rule is a solution to a problem that does not exist. Others questioned how limiting the period of admission and requiring additional Form I-539 burden on students would address fraud or abuse. A commenter remarked that the NPRM lacks evidence demonstrating that eliminating D/S would have prevented any of the cited security incidents. The commenters continued stating that DHS overstated the justification of misuse and that the current system provides adequate oversight without imposing new burdens.

Commenters specifically highlighted the lack of evidence for abuse in the affected nonimmigrant categories. Commenters said that the increased burden on F-1 students is a stark contrast to the small amount of abuse. Multiple commenters stated that DHS provided no evidence of visa overstays specific to J-1 physicians, who they described as carefully vetted, monitored, and supervised. Commenters acknowledged the seriousness of examples cited by DHS, such as those from the NIH study, but questioned how requiring J-1 exchange visitors to file extension paperwork with USCIS would mitigate these issues. Similarly, many commenters noted that DHS provided no evidence of abuse or fraud in the I visa category for foreign journalists, with some suggesting that DHS justified including the I visa category using parity arguments rather than finding evidence of fraud and abuse. Commenters expressed concern that changes to the I visa might be politically motivated, as DHS did not identify compliance problems with this visa category.

Response: DHS disagrees with the general premise of these comments. While DHS provided specific examples of fraud, national security concerns, and nonimmigrant students remaining in the United States for lengthy periods of time under the D/S framework, DHS's intent

and rationale for this rulemaking was explained in detail in the proposed rule's preamble. Such concerns, as highlighted in the NPRM, demonstrate the fraud, national security, and other issues associated with the D/S framework. In the preamble to the proposed rule, DHS pointed out that admission for D/S does not afford immigration officers enough predetermined opportunities to directly verify that aliens granted such nonimmigrant statuses are engaging only in those activities their respective classifications authorize while they are in the United States. This has undermined DHS's ability to effectively enforce compliance with statutory inadmissibility grounds related to unlawful presence and has created national security vulnerabilities and incentives for fraud and abuse. DHS believes that this rule will provide DHS with the mechanisms to address some of the concerns surrounding the integrity of F, J, and I programs.

With respect to J classifications, DHS indicated that the national security risks posed by D/S admissions for individuals admitted under the J classification are similar to those posed by the F classification.¹¹⁷ DHS provided examples of several cases involving J-1 students involved in fraud and espionage, demonstrating the fraud, national security, and other issues associated with the D/S framework. As noted by several commenters, DHS cited a report prepared by a panel of experts commissioned by the NIH to study foreign influence on federally-funded scientific research, which stated that “[s]mall numbers of scientists have committed serious violations of NIH policies and systems by not disclosing foreign support (*i.e.*, grants), laboratories, or funded faculty positions in other countries.”¹¹⁸

As with F nonimmigrants, setting the length of the J nonimmigrant's specific program to not exceed a 4-year period will establish a mechanism for immigration officers to assess these nonimmigrants at defined periods (such as when applying for an EOS in the United States beyond a 4-year admission period) and determine whether the J-1 nonimmigrants are complying with the conditions of their classification. This will increase vetting of the J nonimmigrant population, which will help to prevent and deter nefarious actors. DHS believes that this rule will enhance DHS's ability to detect fraud, abuse, and national security

¹¹⁷ See 90 FR at 42079 (Aug. 28, 2025).

¹¹⁸ *Id.*

issues as well as take preventive action to secure the nation.

With respect to I nonimmigrant visas, DHS recognizes the lack of public data cited in the proposed rule regarding fraud and overstays specific to I nonimmigrants. However, DHS disagrees with the general premise of these comments. The vulnerabilities generally associated with the D/S admission are not unique to F and J nonimmigrant classifications, and the lack of public data for the I nonimmigrant classification does not mean that the vulnerabilities are absent for that classification. As explained in the preamble of the NPRM and in this final rule, one of the goals of this rule is to strengthen vetting and information collection and help immigration officers ensure that the I nonimmigrants are, and will be, engaged in activities that are permissible under INA 101(a)(15)(I), and do not pose national security issues (in addition to the F and J nonimmigrant classifications). As previously mentioned, DHS believes that admitting aliens temporarily in the United States for a fixed period will encourage aliens to maintain lawful status and prevent or reduce instances in which nonimmigrants unlawfully remain in the United States after their activities or assignments end.

b. National Security Justification

Comments: Commenters challenged the national security justification, stating the proposed rule failed to establish widespread security concerns under the current system. These commenters noted that DHS cited only a few isolated cases of espionage, or fraud, that had already been detected, and prosecuted, under existing laws and monitoring systems. Commenters expressed concern that DHS conflated suspected immigration abuse or fraud with national security concerns and suggested that legitimate concerns around espionage should be addressed through law enforcement and national security mechanisms.

Similarly, one commenter noted that the solution for national security concerns set forth by the government is overbroad, and there are already mechanisms which can meet the goals desired, such as revoking an individual's status. While acknowledging DHS has legitimate national security concerns to enforce immigration law, protect the integrity of F-1 and J-1 visa programs, and detect national security issues, a commenter did not agree that the current proposed solutions would meet these aims. Instead, the commenter stated that the proposed rule does not "account for the

vital national security interest of retaining this talent pipeline of international STEM experts" which even Congress asked the National Academies of Science, Engineering, and Medicine to study as part of the National Defense Authorization Act (for 2023).

Commenters warned that the proposed rule might undermine national security by potentially reducing American innovation and competitive edge, thus increasing security risks through greater turnover under the proposed fixed period, or inviting retaliation against U.S. journalists working abroad. Likewise, a commenter posited that pushing international doctoral students and researchers to competitor countries would be a greater national security risk than the benefits that DHS put forth in the proposed rule. Another commenter called for a more targeted approach to national security concerns in which DHS would follow up with students or scholars who are terminated by a DSO for violating their status or work with the FBI to remove Chinese scholars who are part of the Military-Civil Fusion strategy.

Lastly, a commenter expressed concern that the proposed rule would inadvertently result in less oversight in ensuring that foreign students, once admitted, actually participate or progress in their program by turning F or J visas into "4 years to do whatever you want" visas rather than ongoing monitoring under the current rule, thereby defeating the purpose of the rule.

Response: DHS disagrees with the general premise of these comments regarding the lack of national security justifications. In the preamble to the proposed rule, DHS pointed out that admission for D/S, in general, does not afford immigration officers enough predetermined opportunities to directly verify that aliens granted such nonimmigrant statuses are engaging only in those activities their respective classifications authorize while they are in the United States. This has undermined DHS's ability to effectively enforce compliance with the statutory inadmissibility grounds related to unlawful presence and has created national security vulnerabilities and incentives for fraud and abuse.

The vulnerabilities presented in the nonimmigrant student classification have been continuously highlighted by the FBI over the years. In a 2018 hearing before the Senate Intelligence Committee, the FBI Director testified about the threat from China, noting that the use of "nontraditional collectors,

especially in the academic setting, whether it's professors, scientists, students, we see in almost every field office that the FBI has around the country." The Director further stated as follows: "It's not just in major cities. It's in small ones as well. It's across basically every discipline. I think the level of naiveté on the part of the academic sector about this creates its own issues. They're exploiting the very open research and development environment that we have, which we all revere, but they're taking advantage of it. So, one of the things we're trying to do is view the China threat as not just a whole of government threat, but a whole of society threat on their end. I think it's going to take a whole of society response by us. So, it's not just the intelligence community, but it's raising awareness within our academic sector, within our private sector, as part of the defense."¹¹⁹

Furthermore, in 2022, in response to a Congressional inquiry, GAO investigated and made recommendations that ICE modify the SEVIS system to include factors that potentially indicate which foreign students or scholars may pose more risk of transferring technology at U.S. universities due to the national security concerns.¹²⁰ Given the mounting reports and assessments flagging the issues of national security and vulnerabilities, it is hard to justify maintaining the D/S admission framework.

Separately, DHS is unable to determine whether the rule will result in a significant decline in foreign talent, nor anticipate a significant reduction in the economic benefits associated with foreign students within the U.S. economy at large. DHS asserts that U.S. educational institutions will continue to attract foreign students because U.S. institutions offer a high-quality education. Since any enrollment decline is uncertain, downstream economic activities such as employment and productivity are not feasible to quantify due to the various factors.

Additionally, DHS disagrees that the rule will hamper DHS goals and result in less oversight. Furthermore, the rule does not provide a four-year admission for all F and J nonimmigrants. Instead, the rule establishes an admission period *up to* the program length, *not to exceed* a 4-year period. If the program of study or exchange program is shorter than 4 years, the nonimmigrant will be

¹¹⁹ See Senate Select Committee on Intelligence Hearing, *Worldwide Threats* (Feb. 13, 2018), *supra* note 82. See also Statement of Louis A. Rodi III, *supra* note 82.

¹²⁰ See GAO 23-106114, *supra* note 83.

admitted for less than 4 years, *i.e.*, up to the program length. If the program is longer than 4 years, the rule requires nonimmigrants to apply for EOS, which is subject to USCIS adjudication. Those who wish to stay in the United States longer without leaving the country can apply to USCIS for EOS, which will provide DHS with additional mechanisms to exercise the oversight necessary to enforce our nation's immigration laws, protect the integrity of these nonimmigrant programs, and promptly detect national security concerns. This may include conducting background checks and collecting biometrics and other information from the nonimmigrants. As explained in the proposed rule, DHS believes that replacing admission for D/S for F-1 students with admission for a fixed time period will help mitigate fraud, overstay, and national security risks by ensuring an immigration official directly and periodically vets applicants for extensions of stay and, in so doing, confirms they are engaged only in activities consistent with their student status.

Notably, this rule does not change the SEVP certified schools' existing requirements that provide additional oversight of the foreign students. SEVP certified schools continue to have reporting requirements regarding the students' enrollment, attendance, transfer, completion of the program, etc., and must make such updates in SEVIS within 21 days of the change. *See* 8 CFR 214.3. If a student is admitted for 4 years to complete a program of study but fails to attend school, the SEVP certified school will be required to report this information in SEVIS. The student will be considered to have failed to maintain status and will be subject to grounds of removability.

However, DHS believes that the existing monitoring and vetting efforts are not exclusive mechanisms nor the only approach for strengthening the F, J, and I nonimmigrant classifications. In fact, the screening and vetting efforts undertaken by other agencies and departments, as well as agencies within DHS, should be a collaborative effort that further strengthens national security and the integrity of the U.S. immigration system. Moreover, for the reasons explained in the rule, DHS believes that a fixed admission period and EOS requirements will specifically enhance the integrity of the F, J, and I nonimmigrant classification.

c. DHS Overstay Data

Comments: Commenters also expressed concern with the data DHS provided and questioned whether it

accurately captured the issues that DHS wants to rectify with the proposed rule. Some commenters contended that the overstay data put forward by DHS was incomplete or inaccurate to support the changes in the rule. Multiple commenters said that given the low number of overstays, the proposed rule lacks evidentiary support or justification. Along those lines, commenters stated that the rule was a disproportionate overcorrection to a relatively small number of overstays, adding that this small number did not justify a wholesale change that would affect academic institutions, along with millions of compliant students. A commenter noted that foreign students, overall, are a highly compliant population, with DHS data showing the overstay rate for F, M, and J visa holders to be 3.67 percent for FY 2023.

Specifically, commenters noted that the 2,100 overstays referenced in the proposed rule are relatively small in comparison to the total population of foreign students in the United States, which they stated as over 3 million, citing various sources. Along those lines, another commenter noted that the issue of "the perpetual student" was smaller than what was stated by DHS, as only 2,100 individuals of the 1,582,808 active SEVIS records were listed as still being in an active F-1 status after entering as an F-1 student between 2000 and 2010.¹²¹ Another commenter stated the cited 2,100 cases of aliens remaining on F-1 visas for over 10 years is 0.1 percent of the 1.6 million F visa holders admitted in 2023, or 0.8 percent of the 260,000 admitted in 1980 but did not provide any sources or citations. Another commenter noted the statistics for the past decade reflect a 2–4 percent overstay rate, depending on the country and outside factors, and that 5 percent is not statistically material according to Generally Accepted Accounting Principles in the U.S. (GAAP).¹²² One commenter noted that current data shows F-1 visa holders have a low 1.5 percent overstay rate compared to a 6.6 percent overstay rate for B-1/B-2 visas. A commenter referenced Open Doors data, saying over 81 percent of foreign students in the U.S. come from the top 20 countries of origin for students, and most of these countries have very low overstay rates.¹²³ Some commenters referenced

CBP's Entry/Exit Overstay Report from fiscal year 2024, stating the 2.45 percent overstay rate for F, M, and J visa holders demonstrates the system's effectiveness and means 97.55 percent of international students maintain legal status and comply with visa requirements.¹²⁴

Many commenters pointed to various issues regarding DHS overstay data. A commenter pointed to a forensic analysis by the National Foundation for American Policy (NFAP) which had concluded that DHS methodology is flawed.¹²⁵ The commenter stated that the DHS 'overstay rate' is not a measure of illegal presence but an 'upper-bound estimate' that fails to account for timely departures that were not recorded and lawful changes of status. The commenter further stated that the NFAP analysis shows the 'suspected' overstay rate for students and exchange visitors dropping by as much as 42 percent over time as the government's own data is reconciled. The commenter concluded that a sweeping, punitive policy on such unreliable and inflated statistics is irresponsible.

Similarly, commenters added that DHS reports of overstay rates are inflated. Commenters also noted that overall overstay rates, in all student and exchange visitor visa categories, have fallen in recent years. Commenters stated DHS cites program integrity concerns but does not provide evidence that the existing D/S framework is broadly ineffective and without clear data showing systemic abuse, imposing such sweeping structural changes seems premature. Commenters remarked that DHS did not provide evidence that the overstay numbers reflected individuals who are unlawfully present in the United States. Commenters stated that DHS did not consider legitimate reasons why students might remain in F-1 status for extended periods, such as pursuing multiple academic degrees or certifications, participating in OPT, or a result of research-related delays. Other commenters noted that students whose academic career in the United States

2024, https://opendoorsdata.org/fact_sheets/fast-facts/. *See also* CBP, *Entry/Exit Overstay Report: Fiscal Year 2024 Report to Congress* (July 16, 2025), https://www.dhs.gov/sites/default/files/2025-08/25_0826_cbp_entry-exit-overstay-report-fiscal-year-2024.pdf.

¹²⁴ *Entry/Exit Overstay Report: Fiscal Year 2024*, *supra* note 123.

¹²⁵ The commenter referenced International Students Contribute Record-breaking Level. . . . NAFSA, reportedly accessed August 30, 2025, <https://www.nafsa.org/about/about-nafsa/international-students-contribute-record-breaking-level-spending-and-378000-jobs> and National Foundation for American Policy—NFAP, reportedly accessed August 30, 2025, <https://nfap.com/studies/an-analysis-of-the-dhs-overstay-reports/>.

¹²¹ The commenter referenced ICE's 2024 *SEVIS by the Numbers Report*, https://www.ice.gov/doclib/sevis/btn/25_0605_2024-sevis-btn.pdf.

¹²² The commenter referenced https://www.dhs.gov/sites/default/files/2024-10/24_1011_CBP-Entry-Exit-Overstay-Report-FY23-Data.pdf.

¹²³ The commenter referenced Institute of International Education, *Open Doors: Fast Facts*

had spanned from high school to a doctoral program would be included in the list of 2,100 and viewed as a potential abuse case, despite remaining compliant within the laws and intent of the policy. A commenter suggested that additional data analysis would be necessary to determine if nonimmigrants maintaining an F–1 visa status for an extended duration should be regarded as non-compliant or impermissible.

Commenters stated that DHS's Entry/Exit Overstay Reports contained significant methodological issues that inflated overstay numbers. Commenters further stated that these reports counted as individuals who had lawfully changed status, adjusted to permanent residency, or departed the United States but whose exits were not properly recorded as "overstays." Commenters cited DHS's FY 2023 Entry/Exit Overstay Report showing that the in-country overstay rate for F, M, and J visa holders was around 3 percent.¹²⁶ Meaning that over 97 percent of students and exchange visitors complied with immigration requirements. Similarly, a commenter cited a 2020 DHS report indicating that 1.21 percent of all F, M, and J nonimmigrants overstayed their visa duration; the commenter reasoned that the current system is therefore effective, and the proposed rule is unwarranted.¹²⁷ One commenter stated that F, J, and M visa holders represented only about 9.7 percent of all suspected in-country overstays for FY 2023, with over 90 percent of suspected overstays coming from other nonimmigrant categories, primarily short-term visitor visas.¹²⁸

Additionally, a commenter stated that DHS's data systems frequently lag in reconciling departures, resulting in overstay rates being overreported, until these systems update to show the accurate overstay rate. Commenters cited research, by demographer Robert Warren and the NFAP, stating that more than half of reported "overstays" had actually departed the country.¹²⁹

However, these departures were not recorded as such. Another commenter expressed concern with overstay data from DHS due to errors and gaps in the system. The commenter pointed out multiple instances where arrival or departure dates were not captured accurately by CBP in SEVIS, and the data did not have specific data categories for how many individuals departed the United States within a few days, a week, or a month.

A comment criticized that DHS did not provide data on J–1 Exchange Visitors and stated that the proposed rule should have excluded professor and research scholar categories, who are limited to program duration of five years maximum; short-term scholars limited to program duration of six months maximum; and specialists limited to program duration of one year maximum.

Response: DHS disagrees with the general premise of these comments. The purpose and need for the rule does not merely hinge on the number of overstays alone. DHS provided overstay statistics, coupled with cases of fraud, national security concerns, and nonimmigrant students remaining in the United States for lengthy periods of time, which viewed holistically, underscore the need for this rule. Such concerns, as highlighted in the NPRM, demonstrate the fraud, national security, and other issues associated with the D/S framework. The rule provides compelling cases of fraud, abuse, and national security concerns, and nonimmigrant students remaining in the United States for lengthy periods of time under the D/S framework, which pose serious threats to the interests of the United States.

In the preamble to the proposed rule, DHS pointed out that admission for D/S does not afford immigration officers enough predetermined opportunities to directly verify that aliens granted such nonimmigrant statuses are engaging only in those activities their respective classifications authorize while they are in the United States. This has undermined DHS's ability to effectively enforce compliance with statutory inadmissibility grounds related to unlawful presence and has created national security vulnerabilities and incentives for fraud and abuse.

DHS believes that this rule will provide the mechanisms to address some of the concerns surrounding the integrity of F, J, and I programs. The

rule is necessary to enhance oversight and accountability in the administration of F, J, and I nonimmigrant statuses. While cases of extended F–1 duration may seemingly appear to be insignificant or for legitimate purposes, the potential for misuse or fraud in such cases underscores the importance of implementing measures to ensure compliance with immigration laws. DHS recognizes that extended F–1 durations may occur for valid academic or professional reasons and does not intend to penalize students for lawful activities that comply with the terms of their status. The rule is designed to address vulnerabilities in the current system and ultimately to strengthen the integrity of the F, J, and I nonimmigrant programs while recognizing that students may be engaged in legitimate academic and professional pursuits. DHS has carefully considered the potential impacts of the rule and believes that its benefits, including improved oversight and the ability to detect and prevent fraud, justify its implementation. *See* secs. VI.A, B, and C for a full discussion of the rule's overall economic impact analysis.

With respect to inaccurate or incomplete data, DHS notes that while there may be human error involved in data entry into SEVIS and elsewhere by immigration officers, DHS does not believe that isolated instances greatly impact the reliability of DHS records nor the purpose of this rule.

Likewise, DHS disagrees that the overstay rate is not significant for J–1 nonimmigrants. According to SEVP's 2024 SEVIS by the Numbers Report, approximately 301,000 J–1 nonimmigrants entered the United States in 2024.¹³⁰ Therefore, the estimated overstay number from the 2024 J–1 nonimmigrant cohort would be approximately 10,000.¹³¹

As far as DHS overstay data using a flawed methodology, DHS has released overstay reports each fiscal year since 2015. For the purpose of the report, DHS counts a nonimmigrant as an overstay if, as of the data pull date, (1) a record exists of a departure that occurred after the end of the authorized period of

¹²⁶ Commenters referenced CBP, *Entry/Exit Overstay Report Fiscal Year 2024 Report to Congress* (July 16, 2025), https://www.dhs.gov/sites/default/files/2025-08/25_0826_cbp_entry-exit-overstay-report-fiscal-year-2024.pdf.

¹²⁷ The commenter referenced https://www.dhs.gov/sites/default/files/publications/20_0513_fy19-entry-and-exit-overstay-report.pdf.

¹²⁸ The commenter referenced https://www.dhs.gov/sites/default/files/2024-10/24_1011_CBP-Entry-Exit-Overstay-Report-FY23-Data.pdf.

¹²⁹ The commenters referenced Anserdson, S. *Forbes, USCIS Uses Questionable 'Overstay' Report To Justify Policies*, June 6, 2018, <https://www.forbes.com/sites/stuartanderson/2018/06/06/uscis-uses-questionable-overstay-report-to-justify-policies/#43b77c466e74>; Warren, R., *Journal on Migration and Human Security, DHS Overestimates Visa Overstays for 2016*; and *Overstay Population Growth Near Zero During the Year*, Nov. 4, 2017, <https://journals.sagepub.com/doi/pdf/10.1177/233150241700500403>.

¹³⁰ ICE, *2024 SEVIS By the Numbers Report*, https://www.ice.gov/doclib/sevis/btn/25_0605_2024-sevis-btn.pdf.

¹³¹ The commenters referenced an overstay rate of 2.45 percent, which is the suspected in-country overstay rate. *See Entry/Exit Overstay Report: Fiscal Year 2024*, *supra* note 123. The total overstay rate for students and exchange visitors (including F, M, and J visas) in 2024 was 3.23 percent. *Id.* Assuming J visa holders overstay at rates comparable to other Student and Exchange Visitors, then the total number of overstays from the 2024 J–1 nonimmigrant cohort would be $301,000 \times 0.0323 = 9,722$.

admission (*i.e.*, an “out of country overstay”), or (2) no record of a departure, extension, change of status, or adjustment of status before the end of the authorized period of admission (*i.e.*, a “suspected in-country overstay”). The overstay rate is the share of admissions covered by the report that meet these criteria.

DHS produces these figures using CBP’s Arrival and Departure Information System (ADIS), which consolidates carrier arrival and departure manifests, certain partner country land exit data, and immigration benefit and status information from U.S. Citizenship and Immigration Services (USCIS), including extensions, changes of status, and adjustments. DHS narrows the list of suspected overstays by cross-checking against these data sources.

The decline over time in counts of suspected in-country overstays, as noted by NFAP, reflects the expected and documented process of updating records as DHS receives additional departure and benefit information. This decline is an intended result of the system design, not a flaw in the methodology. The existence of these later adjustments is a known and transparent feature of the methodology and does not mean the initial statistics are unreliable or “inflated.”

Like all administrative datasets, the ADIS system is subject to a small number of data errors, incomplete reporting, imperfect record matching, and related data quality problems, but the Department has worked steadily to identify and eliminate these errors over more than a decade. While any given individual ADIS record may be subject to remaining data quality problems, reported aggregate overstay rates are generally reliable and suitable for making comparisons across countries and classes of admission and over time.

DHS also notes tracking overstay data under the D/S framework is difficult and prone to undercounting. Tracking overstay data will be easier to track and assess with admission for a fixed period. Furthermore, overstays coupled with the vulnerabilities of the D/S framework, including heightened risks to national security, pose serious concerns. As explained in the preamble, this rule provides a mechanism for DHS to periodically and directly assess whether these nonimmigrants are complying with the conditions of their classifications and U.S. immigration laws. Admission for a fixed period of time will reduce overstays, as violators will begin to accrue unlawful presence following the expiration of their authorized period of admission and may become inadmissible based on that

accrual of unlawful presence under INA section 212(a)(9)(B) and (C), 8 U.S.C. 1182(a)(9)(B) and (C), upon departing the United States.

4. Negative Impacts to the U.S. Government

a. Sufficiency of Current System and Administrative Burdens

Comments: Commenters stated the SEVIS reporting and tracking system, site visits, and current adjudications are sufficient and that the proposed rule would not provide any greater oversight. Specifically, commenters pointed out that the current SEVIS system already provides DHS with significant oversight and that imposing rigid federal restrictions on academic choices is an overreach that will cause more harm than good. Some commenters stated that the rule creates legal confusion and enforcement problems and that eliminating the D/S notation and introducing fixed end dates conflict with how SEVIS and university compliance offices currently function. Another commenter pointed out that the D/S policy has supported generations of foreign students and scholars while preserving program integrity, facilitating educational mobility, and maintaining national security through SEVIS oversight, and asserted that the proposed change would harm students, strain university resources, and weaken the global standing of U.S. higher education—with little evidence of the need for such reform.

Several commenters expressed concern that the proposed rule would only duplicate efforts currently undertaken by SEVIS and the State Department, and USCIS would be overwhelmed due to the substantial administrative burden from these new changes. Another commented that the current SEVIS process is timelier and more accurate as the current processing time for USCIS is around 3.5 months, but SEVIS requires reporting within 21 calendar days for a DSO or an ARO and 10 calendar days for a student or scholar. One commenter stated that it would be hard for USCIS adjudicators to replicate the understanding of individual systems at colleges and campuses that has already formed between DSOs, AROs, and SEVP field representatives under the current process. Some commenters wrote that the authority to determine a student’s academic path should remain with the academic institutions and that DSOs are trained professionals who are best positioned to verify a student’s academic standing and intentions.

Additionally, commenters stated that the proposed rule’s blanket approach wastes enforcement resources on low-risk populations rather than actual threats. Due to this population already being vetted under SEVIS, one commenter wrote that the changes under the proposed rule would divert DHS resources away from investigating high-priority threats, such as state-sponsored espionage, cyber warfare, and terrorism.

Response: DHS acknowledges that existing mechanisms, such as SEVIS, provide oversight of foreign students, foreign exchange visitors, and educational institutions in general. However, DHS believes that the existing monitoring and vetting efforts are not exclusive mechanisms nor the only approach for strengthening the F, J, and I nonimmigrant classifications. Moreover, DHS disagrees that leveraging data in SEVIS alone to identify possible student or exchange visitor status violations is sufficient to address the vulnerabilities of the D/S framework.

In part, SEVIS relies on information that is inputted by educational institutions and program sponsors. While DHS appreciates that DSOs and ROs generally interact frequently with nonimmigrant students and exchange visitors, DHS believes it is appropriate for DSOs to comply with SEVIS reporting requirements for their school or program sponsors and F and J nonimmigrant population, but for DHS to make immigration status determinations, such as extending an immigration status and assessing whether an alien remains eligible for the nonimmigrant classification. DSOs and ROs cannot perform the duties of immigration officers. For example, DSOs may be unaware of a student’s failure to maintain status, including by engaging in criminal activity. They may recommend program extensions, but only immigration officers can adjudicate EOS applications and make legal determinations about status and admissibility. DSOs and ROs should no longer serve as direct proxies for immigration officers, though they will continue to perform important duties to assist DHS and nonimmigrant students and exchange visitors.

Under the D/S framework, there are no background checks required while the alien is in the United States unless the F, J, or I nonimmigrant applies for a change of status to a different nonimmigrant status, or another benefit with USCIS. This has created situations where F, J, and I nonimmigrants can be present for long periods in the United States without undergoing U.S. government review in the form of an

EOS application, including accompanying background checks, or subsequent visa application or inspection at a POE. Admission for a fixed period of time will reduce overstays, as violators will begin to accrue unlawful presence following the expiration of their authorized period of admission and may become inadmissible based on that accrual of unlawful presence under INA section 212(a)(9)(B) and (C), 8 U.S.C. 1182(a)(9)(B) and (C), upon departing the United States. While some commenters call for a more targeted approach to vetting, DHS asserts that the fixed admission period and the EOS application requirements are not punitive or specific to the F, J, and I nonimmigrants. Notably, the new rule closely aligns the regulations and procedures for other nonimmigrant classifications.

b. National Security Programs and Self-Reporting

Comments: Commenters provided specific instances where already established programs could be used to achieve the goals set forth under the proposed rule. Commenters also noted that there are programs already in place to deal with national security threats. One commenter noted that the DoS already investigates funding sources, extended family, travel plans, previous travel to the United States, social media activity, employment and education, and planned work or education in the United States. The commenter stated that relying on individuals to self-report violations of status or crimes would not strengthen national security, and the questions posted in Part 4 of the I–539 extension of status application are similar to the abbreviation version found in the DS–160. A commenter noted that Project Campus Sentinel, led by Homeland Security Investigations (HSI), currently remains active under the Counter Threat Lead Development Unit (CTLDD) and already monitors students and campus compliance. Another commenter noted that there is already oversight by the DoS and DHS for I visa applicants as they must undergo vetting by U.S. consular officers before admission. Another commenter recommended DHS divert FBI agents and DEA agents who are currently being used for immigration enforcement back to national security threats.

Response: DHS acknowledges that there are other existing mechanisms that enhance oversight of students, educational institutions, and foreign nationals in general. However, DHS disagrees with commenters that the

existing mechanisms are sufficient. DHS believes that the existing monitoring and vetting efforts are not exclusive mechanisms nor the only approach for strengthening the F, J, and I nonimmigrant classifications. In fact, the screening, vetting, and investigating efforts undertaken by other agencies and departments, as well as agencies within DHS, should be a collaborative effort that further strengthens national security and the integrity of the U.S. immigration system.

Furthermore, DHS asserts that the comment on self-reporting is misguided. The rule does not largely rely on self-reporting by foreign nationals. The rule provides that as part of the EOS application process for F, J, and I nonimmigrants, USCIS may require the collection of biometrics (such as fingerprints, photographs, and signatures) as may be required by 8 CFR 103.16, and applicants may be required to appear for an interview. *See* 8 CFR 103.2(b)(9). The purpose of collecting biometrics is to confirm the individual's identity, conduct background and security checks, and screen for any national security or fraud concerns. The EOS application requirement is a way to enhance government oversight and monitoring, and to ensure that individuals do not pose a threat to national security, as biometrics and background checks will be conducted more frequently.

5. Impacts to Higher Education

a. Enrollment

Comments: Commenters expressed concern, without providing data, about the proposed rule's potential to decrease foreign student enrollment in U.S. institutions, with some estimating a decrease of 10–15 percent and 20–30 percent. Commenters stated that this could exacerbate already declining enrollment levels. Others remarked that the rule's unnecessary, duplicative and wasteful process would impact numbers of students willing to study at U.S. universities, which would directly harm the operations of foreign student and scholar services since 70 percent of salaries, systems and programming costs are student fee based. A commenter stated, without support, that U.S. institutions have lost nearly one-third of their foreign students in Fall 2025. Commenters stated this decrease is attributed to political instability, perceived hostility from administration policies, increased visa vetting, and limited visa appointment availability. One commenter included an analysis of preliminary data from *Inside Higher*

Ed,¹³² which showed a decline in foreign student enrollment in Fall 2025 for both public and small private colleges in the United States. One commenter described an approaching “demographic cliff” starting in 2025 due to declining U.S. birth rates after 2007, suggesting that foreign students serve as a critical buffer against enrollment instability at many institutions.

Many commenters point out how this rule could deter prospective students by making the United States educational institutions less attractive compared to countries like Germany, China, Singapore, Canada or Australia, which offer more flexible visa systems. Along the same lines, a commenter compared the cost of studying in the U.S. to other countries and discussed the following, without providing any citation for this data: Canada—Master's tuition is CAD 15,000–30,000 per year (~\$11,000–\$22,000 USD) and graduates can apply for permanent residence within 1–2 years, with straightforward work permits; Germany—Public universities charge €0–€3,000 per year (~\$0–\$3,300 USD) and graduates can obtain permanent residency in 2–3 years, with immediate full-time work authorization; Australia—Master's tuition ranges from AUD 30,000–45,000 per year (~\$18,000–\$27,000 USD) and graduates can work on a Temporary Graduate visa (subclass 485), and after 2–4 years of skilled employment, may become eligible for permanent residency. The commenter noted that in contrast, in the U.S. even after 2–3 years of study and work on OPT and STEM OPT, international graduates only had the option of H–1B visas, which are subject to the lottery system, with no guarantee to permanent residency. The commenter added that the additional burdens and uncertainty due to the rule would reduce the attractiveness of the U.S. education.

Relatedly, a commenter noted that this trend will have a multiplier effect as each negatively affected student influences dozens of prospective applicants. A commenter wrote that data from the Organization for Economic Cooperation and Development (OECD) Migration outlook (commenter did not provide a source) shows that countries offering pathway predictability capture 73 percent more STEM doctoral graduates than those with rigid renewal requirements, while another commenter stated that the UK's restoration of two-year post-study work

¹³² The commenter referenced Mowreader, A., *Inside Higher Ed*, *International Enrollment Down at Regional Publics, Small Private Colleges* (Sept. 23, 2025), <https://www.insidehighered.com/news/global/international-students/2025/09/23/international-enrollment-down-small-regional#>.

visas in 2021 resulted in a 24 percent increase in foreign student application within one year.

Several commenters noted that community colleges will also be impacted as they can be pipelines to universities, and the proposed rule may hinder the transfer process and thereby discourage applicants from enrolling in community colleges. Several commenters said the proposed rule would make it more difficult for community colleges to enroll students and would increase their workload. Commenters stated that foreign students do not displace domestic students, with some citing research from the NFAP which found that for every additional international undergraduate student enrolled, on average two more in-state first-year students enrolled at public universities.¹³³

Response: DHS acknowledges that enrollment of foreign students in U.S. educational institutions may decline because of this rule but is unable to quantify the extent of this decline because there is no precedent from which accurate conclusions can be drawn as to the rule's impact. However, DHS does not intend for the rule to result in a significant decline in foreign student enrollment. As noted, the level of foreign student enrollment does fluctuate, and it is speculative to assess any declination is a direct and sole result of the rule.¹³⁴ Any decline would likely include some prospective or current foreign students who do not intend to comply or have not been complying with the conditions of their nonimmigrant classification.

DHS recognizes foreign students play a role in stabilizing enrollment and supporting the financial health of many institutions, including community colleges that serve as pipelines to universities. DHS has considered commenters' citations regarding economic impacts regionally and at the state level and all the potential impacts when drafting this rule. DHS has ultimately concluded the benefits to the rule outweigh any potential decreases to enrollment and subsequent economic impacts.

b. Impact on Academic Programs and Research and STEM

Comments: Many commenters raised concerns regarding the impact on educational and research programs due to the rule's provisions on fixed admission period and EOS requirements. Specifically, multiple commenters raised concerns that programs lasting longer than the four years, including many doctorate degrees, are in jeopardy due to the 4-year fixed admission period provided in the rule. Commenters stated this rule is fundamentally misaligned with the actual academic landscape of U.S. higher education. A commenter noted the Integrated Postsecondary Education Data System measures successful completion of a bachelor's degree within 6 years, while Federal Financial Aid eligibility identifies satisfactory academic progress standards at 150 percent of the published program length. According to commenters, for undergraduate students, data shows that 56 percent take more than 4 years to complete the degree program, and double majors require 5 to 6 years due to overlapping and intensive core curricula. Commenters particularly stated that many STEM doctoral programs require more than five years of training to ensure mastery within the field and that four years is not sufficient. One commenter noted that based on NSF data, engineering Ph.D. completion is on average 6.7 years and science Ph.D.s average 6.1 years, and with the proposed limit at 4 years, researchers who are behind breakthrough technologies, such as quantum computing, AI, biotechnology, and advanced materials, will go elsewhere. Another commenter noted that according to the American Institute of Physics, the average time to complete a Ph.D. in physics is six years and that approximately 16 percent of students take eight years or more to complete their degrees.

Commenters pointed out that the rule would have a negative impact on U.S. universities, research, economy, and global competitiveness, as foreign students contribute billions to the U.S. economy through tuition, housing, and innovation (e.g., in STEM fields). Another commenter stated the rule would impose hundreds of millions of dollars in annual compliance costs, much of which would fall on U.S. universities and research institutions, which could otherwise fund classrooms, laboratories, or enforcement priorities. Given the timelines for requesting EOS and the potential for projects to be interrupted, commenters noted that the

proposed rule could slow down or disrupt research outcomes at U.S. universities and weaken U.S. leadership in the field of science. Some commenters noted that the introduction of uncertainty in the system for foreign born students would also harm research continuity and innovation in the long run.

Lastly, a commenter noted that the United States hosts many of the world's international doctoral students across Organization for Economic Co-operation and Development (OECD) countries, and making studying in the United States less predictable would undermine the United States national security and economic competitiveness.

Response: DHS recognizes that the rule will require implementing changes by the stakeholders, especially students, researchers, and educational institutions. However, DHS believes that such burdens are outweighed by the benefits of this rule, which creates a mechanism for DHS to increase vetting, reduce overstays, and determine whether nonimmigrants are complying with the conditions of their nonimmigrant classification. The requirements imposed by this final rule provides the U.S. government more opportunities to review a nonimmigrant's records, admissibility, and any possible indicators of fraud, abuse, or national security concerns. This rule seeks to address vulnerabilities posed by the D/S framework by providing DHS predetermined points in time for immigration officers to directly evaluate whether F, J, and I nonimmigrants are maintaining their status, as DHS does for other nonimmigrant classifications.

DHS recognizes students may take longer than four years to complete their undergraduate and graduate programs of study. DHS also recognizes commenters' statements about other federal standards related to postsecondary education completion which are greater than four years, such as the Integrated Postsecondary Education Data System and the Federal Financial Aid eligibility. However, this rulemaking does not require completion of a program within four years. Rather, the four-year period is intended as a law enforcement and screening tool to assess whether a student is maintaining normal academic progress and eligibility for F-1 status. Students who demonstrate continued academic progress and meet F-1 eligibility criteria may apply for an EOS to complete their programs, consistent with the realities of U.S. higher education. The student may also travel and reenter with a period of admission to complete the

¹³³ The commenters referenced Zavodny, M., Nat'l Found for Am. Pol'y, *The Importance of Immigrants and International Students to Higher Education in America*, (May 2025), <https://nfap.com/wp-content/uploads/2025/05/Importance-of-Immigrants-and-International-Students-to-Higher-Education.NFAP-Policy-Brief.2025.pdf>.

¹³⁴ See FY 2024, Quarter 4, tbl.4B, *supra* note 11, sum of F-1 1,816,480 and F-2 63,510. See also DHS FY 2023, Quarter 4, tbl.4B, *supra* note 11, sum of F-1 1,625,740 and F-2 61,910.

remaining program of study. This approach is designed to enhance screening and vetting, not to impose a rigid completion deadline.

DHS acknowledges the concern about potential negative impacts of the rule on academic research. However, DHS believes that legitimate foreign national researchers will continue to seek educational and research opportunities in the United States based on the excellence of United States institutions and programs. Nothing in this rule would prevent students from continuing their studies and research as long as individual students are complying with the terms of their nonimmigrant classification. Long-standing policy, which is not changing, allows F–1 and J–1 students to continue their studies for as long as their EOS application is pending. This rule does add a provision for on-campus employment, CPT, and off-campus work due to severe economic hardship which allows those who are employed to continue to work for the same employer up to 240 days after the expiration of their stay if they timely filed an EOS and it is still pending with USCIS. This final rule does not change the current regulations at 8 CFR 274a.12(b)(6)(iv) for nonimmigrant students transitioning from OPT to STEM OPT who have timely filed for an extension of their EAD, and it is pending with USCIS. They may continue to work for the same employer for up to 180 days after the expiration of their OPT EAD. This extension of the EAD may or may not coincide with a need to file for an EOS. If it does, they will be considered to be maintaining their status as long as they timely filed for the EOS and the 180 days will begin to toll only upon the expiration of their EAD.

DHS is not changing the fundamental requirements to qualify for these nonimmigrant statuses; it is only changing the length of time that an individual may lawfully remain in the United States in F or J status without filing an EOS. Further, as is the case for the fixed period of admission policy more generally, a fixed date of admission simply places these nonimmigrants in the same position as most other nonimmigrants who are temporarily in the United States. They will still be able to continue to pursue their full course of study or exchange program. However, if they need additional time in F or J status, the burden will now be on them to request authorization directly from DHS and establish eligibility to extend their period of stay in such status, whereas previously they obtained an extension of lawful status in conjunction with a

program extension through a DSO or RO. As such, DHS believes this rule will not cause undue burden to students or schools.

Comments: Many commenters discussed the rule's financial impact on various industries across the board. In the field of education, commenters remarked on the significant contributions of foreign students to the United States, particularly in addressing critical workforce shortages and as student leaders, teaching and research assistants, mentors, and tutors. Relatedly, a commenter, citing specific examples of international educational exchange, stated that this academic exchange contributes hundreds of millions of dollars annually to educational institutions and broader economies in both countries.

In the STEM fields, commenters remarked on the critical role of foreign students in STEM fields, stating that they comprise a significant percentage of graduate students in disciplines such as electrical engineering, computer science, and mathematics. Commenters indicated that the data from the Association of American Universities showed that 73 percent of international STEM graduates continue to live and work in the United States years after graduation, providing scientific, technological, and economic benefits. Relatedly, commenters added that foreign-born individuals comprise 43 percent of doctorate-level scientists and engineers in the United States, and one in three members of the nation's leading science, engineering, and medical academies are naturalized U.S. citizens. A commenter stated that foreign students account for 38 percent of graduate enrollments in statistics, computer science and health informatics programs. Commenters suggested that recruiting foreign students majoring in STEM should serve as the primary channel for talent acquisition, as the United States faces a significant shortage of tech professionals unlikely to be filled by American students in the near term.

Commenters expressed concern that the proposed rule would negatively impact the U.S. STEM workforce and leadership at a time when STEM jobs are projected to grow approximately 10 percent between 2023 and 2033—nearly three times faster than non-STEM jobs—creating a need for 870,000 STEM positions over the next decade. Relatedly, commenters pointed to existing labor shortages, including an annual deficit of 2,500 workers with advanced engineering degrees in the semiconductor industry, and a projected 14 percent increase in the need for

manufacturing engineers, a 31 percent growth in the need for healthcare data analyst roles, and a 50 percent growth in renewable energy roles over the next decade. Commenters warned that the proposed rule could undermine U.S. leadership in research, healthcare, including elder care, artificial intelligence (AI), and energy by driving top students and scholars to competitor nations. Additionally, commenters stated that the policy may weaken the cybersecurity industry which would also leave the United States vulnerable.

Commenters stated that the proposed rule would threaten other critical industries such as financial services, engineering, cloud computing, biotechnology, healthcare analytics, autonomous vehicles, accounting, and quantum computing. Many commenters stated similar concerns with the role of foreign students, worker deficit, and need for multidisciplinary education facing the industries for telecommunications; biotechnology and healthcare informatics; pharmaceutical development; fintech including blockchain, AI and digital payments; medical technology; insurance and risk management; legal services and professional consulting; aerospace and defense systems; industrial engineering; automotive technology; computer science; environmental remediation and sustainable development; semiconductors; talent acquisition; and marketing and supply chain management. A commenter suggested the implementation of strategic industries exemption for supply chain critical sectors identified by the Committee on Foreign Investment in the United States or alternatively create a “National Economic Security” designation allowing for extended D/S for individuals working in sectors deemed essential for domestic manufacturing. A commenter also addressed the role of foreign students in behavioral health and social work fields, stating that international doctoral psychology trainees provide supervised care to underserved communities, and international perspectives broaden expertise in social work research. Another commenter added that social work graduates often remain to serve high-need communities through OPT or advanced research positions, helping to meet the projected 6 percent growth in social work jobs from 2024–34, which is expected to create over 74,000 new positions.

Separately, a commenter specifically expressed concern that foreign students represent a significant portion of clients for New York immigration law firms, sponsorship and intermediary agencies,

and housing rental platforms. Similarly, another commenter expressed concern on the impact of the rule in Western New York, including Buffalo, and stated that F-1 students contribute \$249.1 million and support 2,114 jobs.¹³⁵

Response: DHS acknowledges commenters' assertions that foreign students and professionals can provide benefits to research, technology developments, and the economy. DHS also acknowledges that foreign students make up a high percentage of students in STEM and technology programs. However, DHS believes some commenters are conflating the admission period with the total amount of time a foreign student may be permitted to remain in the United States to complete a program. Students who require additional time beyond their initial period of admission to complete their program may be eligible to extend their status by filing an EOS application with USCIS or, if they choose to travel, they can (with an unexpired visa) apply for admission at a POE through CBP and receive a new I-94 with a new AUD. Given the options for extending status, DHS does not believe it is necessary to create exemptions based on certain industries. DHS expects that foreign students will continue to pursue educational opportunities in the STEM fields.

c. Financial Impact and Administrative Burden

Comments: Commenters expressed concern regarding the rule's financial impact and administrative burden on higher education institutions, university operations, diminished collaborative academic environments, and the potential to force schools to break promises made during student recruitment. Multiple commenters pointed out that universities rely on predictable visa policies for financial, staffing, and resource planning and that sudden, rigid changes in the proposed rule requiring fixed admission periods create unsustainable administrative burdens, legal risks, and complicate compliance reporting under SEVIS that could threaten the stability of the entire sector.

With respect to costs, commenters stated that the 67-hour estimate by DHS analysis underestimated the true impact, as the proposed rule would fundamentally alter the scope of DSO and RO work, requiring them to

overhaul routine processes, educate students on new requirements, and coordinate with campus stakeholders. A few commenters pointed out that DSOs would have to undergo additional training and adaptation to familiarize themselves with the new regulations, and that this compliance cost is estimated to reach \$93.3 million across the sector in year one.¹³⁶ Relatedly, a commenter who identified as an education administrator at a public university estimated needing over 1,000 hours and \$250,000 for training, software updates, and new staffing. Another commenter remarked that institutions would need to prepare for a "massive scaling of resources," including enhanced legal and mental health support for students navigating the new system, because of the proposed rule. A commenter specifically remarked that the rule would require Oklahoma State University to hire four additional full-time immigration compliance staff and implement new tracking systems costing approximately \$500,000 initially, based on their preliminary analysis.

Multiple commenters stated that the proposed rule will overload DSOs, delay processing, and increase accidental out-of-status violations, and noted that the American Council on Education has warned against the proposed rule (no source provided). Several commenters noted that the increased workload on the educational institutions would lead to staff burnout and higher turnover rates with DSO staff, increasing the risk of institutional non-compliance due to less experienced staff. Another commenter noted that the rule's administrative burden would be exacerbated by students filing at similar times based on academic calendars and I-20 end dates. Relatedly, a commenter stated that the proposed rule assumes that DSOs and AROs will provide students and exchange visitors with Form I-539 application support, but that many schools do not allow their officials to undertake this work, as it could constitute unauthorized practice of law. The commenter voiced concern about the uncertainty on whether the school should be hiring legal assistants to file EOS forms on behalf of students or if the students and exchange visitors would need to assume such costs.

A commenter noted that DHS estimates 67 hours of training per DSO, which costs \$3,342 per DSO, plus \$233 per EOS request. The same commenter

stated that even modest enrollment declines could cause major losses because foreign students contributed \$40.1 billion to the U.S. economy in 2022–23, supporting 368,333 U.S. jobs, according to the Institute of International Education (IIE) (no source provided).

Response: DHS acknowledges that there will be learning curve for both administrators and participants to get accustomed to the new rule. That is why there is a 60-day implementation period and a 4-year transition period. Those in D/S status when the rule takes effect will have up to 4 years to finish their programs without changing to a date certain while living in the United States. Only participants arriving after the effective date of the rule will be subject to all the provisions of the rule. Administrators will receive plenty of training during the 60-day implementation period to understand how to deal with and help incoming participants subject to the new rule. SEVIS will be updated to make the implementation of the rule easier. Therefore, DHS does not believe that the commenters' fears will come to fruition.

In response to comments providing alternative estimates for the DSO/RO labor burden, DHS has revised the rule familiarization and adaptation burden estimate from 67 hours to the median value the public comments provided of 135 hours. This increase is reflected in the updated cost numbers, and includes any additional training or materials created due to this rule. DHS anticipates that most schools authorized to sponsor F students and J exchange visitors will be able to accommodate the additional DSO/RO labor burden with existing staff, as much of the burden for filing EOS requests will fall to the nonimmigrants subject to this rule. The burden to the school has still been accounted for in the regulatory impact analysis as a quantified cost. DHS, however, recognizes that some schools may elect to hire more DSOs and ROs to meet the requirements of this rulemaking. DHS expects hiring costs to vary depending on the number of F students and J exchange visitors at each institution, the size of the institution, and the number of existing staff. That said, DHS anticipates that costs of hiring and paying additional staff will represent a small portion of annual revenue for the great majority of institutional sponsors. *See Regulatory Impact Analysis (RIA)*, available in the docket for this rulemaking.

Additionally, other costs associated with this rule, such as system upgrades for batch processing, are acknowledged but remain unquantified in the

¹³⁵ The commenter referenced NAFSA: National Association of International Educators, *NAFSA International Student Economic Value Tool*, <https://www.nafsa.org/policy-and-advocacy/policy-resources/nafsa-international-student-economic-value-tool-v2>.

¹³⁶ Some commenters referenced DHS or NAFSA. *See NAFSA, Duration of Status Explainer*, <https://www.nafsa.org/Duration-status-explainer> (last visited Feb. 6, 2026). *See also* 85 FR at 60569, 60575, and 60577.

Regulatory Impact Analysis. These costs will be variable to each entity responsible for F and J visas, as it is unclear how many groups use proprietary software that would incur larger expenses versus off-the-shelf software that may come with a low-cost upgrade to continue functionality. Therefore, due to the high variance and lack of specific data to provide a meaningful estimate, DHS has chosen to not quantify these software costs. These costs are still discussed in a qualitative fashion.

In response to comments expressing concern about the need for institutions to prepare for a “massive scaling of resources,” including enhanced legal and mental health support for students navigating the new system, DHS does not believe such massive scaling will be necessary. DHS recognizes some institutions may choose to provide additional services, such as legal and mental health support, but these additional services are not a requirement of this rule. DHS will provide resources and training to assist relevant stakeholders in complying with the rule. Because support and resources for students and exchange visitors vary widely by school and program sponsor, DHS cannot qualitatively estimate the impact.

DHS disagrees with the assertion that the rule will lead to accidental out-of-status violations. Resources and guidance will be available to assist DSOs, ROs, students, and exchange visitors in familiarizing themselves and complying with the rule’s requirements. Students or exchange visitors who accidentally violate their status after the rule takes effect will still have the ability to apply for reinstatement of their nonimmigrant status. Whether or not nonimmigrants feel they will need the help of a legal professional to fill out the forms will be a personal decision. The forms are written in clear language adhering to the guidelines of the Plain Language Act with instructions designed to be easy to understand.

Comments: Commenters voiced concerns regarding the financial impact on institutions resulting from the drop in nonimmigrant student and scholar enrollment. Many commenters wrote that foreign students’ full-price tuition helps maintain affordable college access for domestic students by subsidizing them.

Specifically, a lawyers association noted that private universities received \$4.3 billion in revenue from international master’s students in 2015, and public universities received \$3 billion, much of which can be attributed to the fact that foreign students pay full

or out-of-state tuition, which is usually two to three times more than in-state tuition.¹³⁷ A commenter stated that large public universities depend on the higher tuition paid by foreign students to offset declining state funding. Similarly, other commenters expressed concern that the financial risk of foreign student losses would disproportionately affect private, smaller, faith-based, or regional colleges that rely on a high proportion of foreign students and their tuition revenue. A commenter from a faith-based institution elaborated that foreign students are vital to their “Christ based” mission and that often, foreign students come from religiously restricted regions. Another commenter stated that non-elite universities do not have waiting lists of domestic students to make up for this lost tuition revenue.

One commenter cited an estimate from Moody’s¹³⁸ which found that a 20 percent drop in international enrollment would negatively affect operating margins at 130 institutions by half a percentage point, with 18 institutions losing between 2 to 8 percent. This commenter explained that such loss could trigger significant financial stress for colleges with already thin margins. Additionally, several commenters added that lost tuition income would result in cuts to institutional offerings and services for all students, passing costs on to domestic students by raising tuition rates or reducing financial aid offers, or impacting other aspects of a school’s operations, potentially compromising its continuity. Some commenters also expressed concern about the loss of tuition revenue for funding cutting-edge research initiatives and faculty or staff positions.

In explaining the financial loss, one commenter pointed to an analysis¹³⁹ that explained that the national negative economic impact would be on average \$130 per resident, but Washington, DC and states such as Massachusetts, New York, Rhode Island, and Connecticut would be even higher, with Washington, DC estimated at \$855 per resident.

¹³⁷ The commenter referenced *The Importance of Immigrants and International Students to Higher Education in America*, *supra* note 133.

¹³⁸ The commenter referenced Uglesbee, B., Higher Ed Dive, *Moody’s: Trump’s tough international student policies could hit some colleges hard* (July 11, 2025), <https://www.highereddive.com/news/trump-international-student-policiescolleges-finance-moodys/7527>.

¹³⁹ The commenter referenced Sharma, S., *The Times of India*, *Which US states face the biggest losses from fewer international students, according to Brookings* (Sept. 20, 2025), <https://timesofindia.indiatimes.com/education/news/which-us-states-face-thebiggest-losses-from-fewer-international-students-according-tobrookings/articleshow/124018687.cm>.

Response: DHS acknowledges commenters’ assertions that foreign students and professionals can provide economic benefits. DHS asserts that such economic contributions will continue to accrue after the final rule becomes effective because foreign students will continue to choose to study in the United States. While DHS acknowledges that the rule may decrease nonimmigrant student enrollments, particularly among foreign nationals seeking to violate statutory and regulatory intent, DHS believes that, nonimmigrant students will still come to the United States because the United States remains the world leader in scientific research, innovation, and technology, providing students with access to cutting-edge facilities and projects. DHS does not believe that this final rule will have an impact on faith-based institutions nor students coming from religiously restricted regions. While the rule creates some restrictions on transfers and program changes, the rule creates exceptions for extenuating circumstances based on SEVP authorization. See new 8 CFR 214.2(f)(5)(ii)(A).

It is speculative and difficult to predict the extent to which nonimmigrant students may be deterred from coming to the United States based on this rule when a variety of factors play a role in a student determining when and where to enroll.¹⁴⁰ See a detailed discussion on uncertainty related to enrollment impacts in Appendix A of the RIA. The United States invests heavily in research and development, has world-renowned universities and research institutions, and is home to many leading technology companies. The United States consistently produces significant advancements in fields such as medicine, engineering, space exploration, information technology, and artificial intelligence that are attractive for all students.¹⁴¹

Finally, in response to commenters who said that declining international enrollment in U.S. institutions will increase tuition costs for domestic students, for the reasons stated above, DHS maintains that it is speculative and difficult to predict how this final rule will affect enrollment numbers for nonimmigrant students and the financial operations of U.S.

¹⁴⁰ See Final Regulatory Impact and Flexibility Act Analysis, Appendix A.

¹⁴¹ See The National Science Board, *Biennial Science and Engineering Indicators (Indicators)* (March 2024), <https://nces.nsf.gov/pubs/nsb20243/preface>.

institutions.¹⁴² How a U.S. institution assesses tuition and obtains income from students both domestic and foreign, along with other sources of income such as endowments or donations, is a business decision that each institution has the autonomy to make.¹⁴³ Endowments can be substantial and may amount to millions, billions, or even tens of billions of dollars per year.¹⁴⁴ These funding sources are independent of the revenue derived from nonimmigrant students.

DHS is unable to accurately forecast which actions institutions may take to address the possibility that nonimmigrant enrollment may decline and impact their financial health. U.S. institutions autonomously make business decisions every year about enrollment such as the class size and composition.¹⁴⁵ These business decisions can impact the number of foreign students enrolled at a particular U.S. institution and those business decisions may be made in response to decreasing or increasing enrollment of both foreign and U.S. students.

d. Quality of Education and Cross-Cultural Benefits

Comments: Commenters stated that the proposed rule would make it harder for companies to recruit talent who are especially familiar with growth markets in places such as Asia, Latin America, and Europe. One commenter noted a Duke University study¹⁴⁶ which found that U.S. students “reported greater self-confidence, leadership skills, quantitative abilities, and cross-cultural understanding” when they interacted with foreign students on a regular basis. Many commenters stated that foreign student presence fosters mutual respect, collaboration, cultural goodwill, and

soft diplomacy. Another commenter stated that dual language exchange programs benefit the economy by preparing students for multilingual environments.

Commenters emphasized that foreign students support and increase class options for domestic students, sustaining enrollments in disciplines with insufficient domestic interest, particularly STEM fields, and thereby creating and maintaining academic opportunities for all students, including opportunities in critical disciplines.

Many commenters stated that foreign students serve as unofficial ambassadors, creating an organic cultural exchange that benefits both American and foreign students and strengthening international relationships. Multiple commenters stated that foreign students often become political or business leaders in their home countries, with 34 percent of current foreign ministers, trade officials, or senior diplomats in G20 countries having studied in the United States on F or J visas. As of 2022, 41 world leaders had been educated in the United States. A commenter explained that when foreign students become future global leaders, the relationships they developed during their education in the United States could contribute to their investment in and alignment with American interests. Another commenter noted that the presence of foreign students advances the goals envisioned by the Fulbright-Hays Act of 1961, strengthening diplomacy by fostering mutual understanding and building people-to-people connections around the world. A commenter stated that the proposed rule would undermine the mission and philosophy of the DoS’s BridgeUSA Program,¹⁴⁷ the purpose of which is “to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges,” which in turn would lead to fewer individuals choosing to study in the United States and contribute to the U.S. economy,

therefore, it should be exempt from this rule.

Response: DHS acknowledges the benefits of fostering relationships with foreign students and exchange visitors. DHS does not intend for this rulemaking to result in significant declines to international enrollment and, thus, DHS does not expect this rule to harm U.S. partnerships across the globe; significantly affect the ability of U.S. companies to recruit talent familiar with global growth markets; or change class options, particularly in STEM. DHS asserts that U.S. educational institutions will continue to attract talented foreign students, researchers, and scholars in STEM and other high-demand fields because such institutions offer a high-quality education. U.S. institutions remain reputable to foreign students who value a degree from a U.S. institution and there are many factors that have made the United States attractive to nonimmigrant students and exchange visitors beyond being admitted for D/S. DHS remains committed to supporting broader goals of educational and cultural exchange envisioned by the Fulbright-Hays Act.

6. Negative Impacts on the U.S. Economy, Citizens, Industries, Workforce, or Communities

a. U.S. Competitiveness and National Policy Goals

Comments: Commenters expressed concern that restrictions on foreign students and exchange visitors would compromise the United States’ prominence and competitiveness in scientific and technical fields, potentially shifting international research hubs and jobs abroad. A commenter stated U.S. research leadership and clinical infrastructure would be weakened by the erosion of talent and momentum and this could undercut national and economic security while also causing loss of U.S.-trained international expertise to global competitors.¹⁴⁸ Other commenters expressed that these restrictions would contradict national policy goals set forth under the CHIPS and Science Act.¹⁴⁹ A commenter wrote that uncertainty and stringent scrutiny could discourage foreign students from pursuing high-

¹⁴² See Final Regulatory Impact and Flexibility Act Analysis, Appendix A.

¹⁴³ Bound, J. et al., *The Globalization of Postsecondary Education: The Role of International Students in the US Higher Education System*, 35 J. Econ. Perspectives 163, 178 (2021), <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.35.1.163>.

¹⁴⁴ See U.S. News & World Report, *20 Colleges with the Biggest Endowments* (Mar. 12, 2025), <https://www.usnews.com/education/best-colleges/the-short-list-college/articles/universities-with-the-biggest-endowments>. See also American Council on Education, *Understanding College and University Endowments* (2024), <https://www.acenet.edu/Documents/Understanding-College-and-University-Endowments.pdf>.

¹⁴⁵ See Bellows, K.H., *The Chronicle of Higher Education, The University that Chose to Shrink* (May 18, 2026), <https://www.chronicle.com/article/the-university-that-chose-to-shrink>.

¹⁴⁶ The commenter referenced Boundless, *International Students Studying in the United States: Trends and Impacts 2025*, <https://www.boundless.com/research-reports/international-students-studying-in-the-united-states-trends-and-impacts>.

¹⁴⁷ Congress passed the Mutual Educational and Cultural Exchange Act of 1961, also known as the Fulbright-Hays Act, to increase mutual understanding between Americans and people of other countries. In the years since the legislation was passed the program became known as the Exchange Visitor Program and in 2020 it was renamed as the BridgeUSA Program. It is run by DoS in collaboration with the private sector sponsors and features 13 distinct programs from au pairs and camp counselors to physician and professor exchanges. See U.S. Dep’t of State, *BridgeUSA*, <https://j1visa.state.gov/> (last visited Feb. 4, 2026).

¹⁴⁸ The commenter referenced SSTi, *Global competition intensifies for US research talent amid funding uncertainty* (Mar. 27, 2025), <https://ssti.org/blog/global-competition-intensifies-us-research-talent-amid-funding-uncertainty#:~:text=As%20U.S.%20research%20institutions%20face%20funding%20uncertainty%2C%20countries,an%20immigration%20framework%20in%20the%20next%20EU%20budget>.

¹⁴⁹ See CHIPS and Science Act of 2022, Public Law 117–167, 136 Stat. 1372 (2022).

risk, high-reward long-term basic research or sensitive yet critical areas and instead opt for “safer” short-term studies. Furthermore, another noted that foreign students in these types of fields help support the defense industry, research labs, and the technology sector in the United States, and if these skilled students leave, the United States’ competitive edge over technology may erode. Another commenter wrote that they recognize broader concerns with immigration and noted that while status through marriage or asylum may not necessarily align with U.S. economic or technological goals, F–1 students add value to America’s future.

Some commenters stated the strength of U.S. agriculture depends on a steady pipeline of skilled international students and professionals, who conduct agricultural research and develop innovative technologies for farming. The commenters stated that farmers could face delayed veterinary and technical support for livestock and crop health, resulting in increased costs for farming and weakening America’s food security, especially in rural areas. Communities dependent on food production would be exposed to greater risks from disease outbreaks, supply chain disruptions, and labor shortages.

Response: DHS acknowledges favorable visa policies as a contributing factor in where foreign students choose to enroll but also understands that there are a wide range of benefits from pursuing an academic program in the United States. DHS acknowledges that these competitive policies may affect a potential foreign student or exchange visitor’s decision to select a U.S. institution; however, DHS does not anticipate the rule to impact the quality of educational experience offered in the United States and that the United States will remain a desirable destination for many foreign students and exchange visitors. DHS has decided to discuss this impact qualitatively due to the speculative nature of the magnitude of the decrease in enrollment.

DHS also notes the specific concerns raised by commenters regarding the potential for shifting international research hubs and jobs abroad, and the possible impact on key sectors such as the defense industry, research, clinical and research infrastructure, and the technology sector. DHS is aware of the national policy goals set forth under the CHIPS and Science Act and appreciates the importance of aligning immigration policy with broader national objectives. DHS further acknowledges concerns that increased uncertainty or scrutiny could discourage foreign students from engaging in high-risk, long-term, or

sensitive research. However, DHS is taking this action to enhance immigration system integrity, prevent violations to mitigate future national security risks, and detect existing violations which also risk national security.

Furthermore, DHS recognizes any delays or disruptions in the arrival of foreign students may impact livestock and crop health, food supply chains, and the well-being of agricultural communities. DHS is committed to ensuring that immigration processes are efficient, transparent, and responsive to the needs of key industries, including agriculture.

b. Global Competitiveness and Innovation

Comments: Many commenters stated the importance of foreign students and workers to the U.S. economy, research, and innovation, expressing concern that the proposed policy would undermine global competitiveness. Commenters noted that the strength of the United States is rooted in openness and confidence, and excessive restrictions could harm this value, along with harm to trade, technology, and job creation, citing data that foreign student alumni have founded major startups and contributed significantly to patents and Fortune 500 companies. Commenters stated that the rule could shift the United States from being a talent destination to merely a training ground and the proposal may force businesses into excessive compliance or even push them out of markets. Commenters said that the D/S system has helped integrate global talent into the U.S. innovation ecosystem.

Commenters highlighted that foreign students often fill critical roles in major companies and startups, driving innovation, with many international students staying 5, 10, or even 20 years after graduation. Commenters said that the proposed changes would disproportionately impact smaller businesses and startups, favoring larger firms with more resources. Commenters also expressed concern over the impact on nonprofits. A commenter reported nonprofit organizations generally cannot match private sector salaries and instead rely on mission-driven work and access to diverse, global talent. The commenter expressed concern that if international students and researchers perceive the U.S. as unstable or high-risk, they may choose other countries with more predictable study and employment pathways, and this would harm not only higher education institutions but also the nonprofit sector that depends on these individuals’ skills. Commenters

were also concerned about reduced efficiency of R&D companies as a result of the proposal. A commenter noted that fulfilling the goal of the CHIPS Act requires talent to staff new factories and design centers. Commenters expressed concern that the proposed rule would make it more difficult for foreign students to apply for OPT, which they stated contributes to U.S. companies and the economy through post-graduation employment, taxes paid, and consumption. Commenters expressed concern about disruptions to the workforce and talent pipeline due to status uncertainties, particularly in the overlap between OPT and H–1B cycles and noted that losing foreign student employees would reduce service reliability.

Some commenters stated that the rule could undermine the quality and continuity of federally supported research datasets, as it would make it harder to distinguish genuine dropouts from visa-related exits. Commenters further stated the rule could lead to a “brain drain,” with international talent choosing other countries with more streamlined and supportive systems. A commenter cited data showing that since 2000, the United States has lost 20 percent of its share of foreign students to countries like Australia, Canada, and the United Kingdom, and stated this will only worsen if international enrollment drops further.¹⁵⁰ Commenters remarked the proposed rule could erode U.S. soft power and diplomatic efforts, potentially creating a feedback loop by which future leaders in other nations would not advocate for studying or working in the United States and shaking the confidence of allies and global investors. Comparisons with competitor countries suggested the proposed rule would make the U.S. system more rigid, risky, and bureaucratic, especially as China surpasses the United States in research positions and doctoral degrees. For example, a commenter stated that the United States is currently producing far fewer STEM graduates than its competitors, namely China and India, and provided the following data: China produces approx. 3 million STEM undergraduates annually—nearly 7 times the U.S. total; India produces approx. 2.3 million STEM undergraduates per year—more than 5 times the U.S. total; the United States,

¹⁵⁰ The commenter provided the following reference: “HoloniQ. (2023, April 12). US international education in 2030: 6 charts, top 20 source countries and preliminary forecast [Research note]. HoloniQ. <https://www.holoniq.com/notes/us-international-education-in-2030-6-charts-top-20-source-countries-and-preliminary-forecast>.”

by comparison, produces approx. 430,000 STEM undergraduates annually, with approx. 330,000 of those being U.S. citizens. Additionally, the commenter added that at the graduate level, the United States awards approx. 140,000 master's and approx. 32,000 Ph.D.s. in STEM per year, in comparison to approx. 500,000 master's and approx. 77,000 Ph.D.s. in China; and approx. 200,000 master's and approx. 17,000 Ph.D.s. in India.¹⁵¹ Commenters stated that pushing technical talent away from the United States harms our innovation base, defense industrial capacity, and long-term national security.

Commenters also noted the importance of international talent for national security and defense research, with a significant proportion of Defense Advanced Research Projects Agency (DARPA) researchers holding nonimmigrant visas. They cautioned that restricting this talent could force defense contractors to seek alternatives abroad and that knowledge gained in the United States could be used in countries such as China, Russia, or Iran. One commenter estimated an increased risk of taxpayer funded research failing due to lack of talent.

Some commenters argued that concerns about displacement or wage suppression could be better addressed through fair-wage enforcement, oversight of work authorization programs, and investments in domestic training rather than restricting international talent. Commenters referenced research and policy analysis from organizations such as the New American Economy and Georgetown's CSET, noting that other countries are actively competing for foreign students by expanding English-language coursework, increasing subsidies, and offering more flexible pathways for study and work. A commenter also cited research showing that high-skilled immigration generates positive externalities, including peer effects, entrepreneurship, and the formation of innovation clusters that benefit the broader U.S. economy.

A few commenters also noted the impact on specific sectors, such as summer camps, which rely on international counselors, and expressed concern that the proposed rule would create financial consequences for these organizations. Another commenter indicated that while J-1 and I nonimmigrants typically engage in short-term, narrowly defined programs, F-1 students rely on longer-term

academic programs with predictable timelines to plan coursework, research, and employment opportunities. The commenter stated that applying the same restrictive rule across all these categories of nonimmigrants fails to account for these differences and undermines the flexibility that makes U.S. higher education globally attractive.

Response: DHS acknowledges the contributions that foreign students and workers can make to the United States' scientific, technological, and economic leadership, and the concerns that changes to the period of admission and related requirements could affect the ability of the United States to attract foreign students and exchange visitors. DHS also acknowledges the role foreign students and exchange visitors can play in innovation, entrepreneurship, and the broader research ecosystem and further acknowledges their contributions to nonprofits.

The rule is designed to provide clear, predictable periods of stay as is required for most other nonimmigrant visas, and a transparent process for extensions, enabling students, exchange visitors, institutions, and other affected parties to plan accordingly. DHS is balancing the important role foreign students and exchange visitors play in the U.S. research enterprise with the need for program integrity, prevention of fraud and abuse, and enhanced national security. DHS also notes that there are other avenues available for employers to hire foreign workers, including employment-based visa categories, which remain unchanged by this rule. DHS notes that foreign student visas are not primarily for the purpose of employment, but rather for intellectual pursuits, and if desired, to receive some practical experience to take back to their home countries.

DHS also recognizes commenters' concerns that increased administrative requirements could disrupt the labor pipeline and innovation ecosystem, especially as other countries actively compete for foreign students and researchers. DHS acknowledges research showing that high-skilled immigration can generate positive externalities—such as entrepreneurship, peer effects, and innovation clusters—that benefit the broader U.S. economy and society; however, employers should utilize the appropriate employment-based and investment-based visas to fulfill their employment needs. DHS disagrees with the comments that F nonimmigrants, unlike J and I nonimmigrants, have longer, more structured programs. Exchange visitors (J nonimmigrants) come here for various programs that can

be as short as one month and as long as seven years and are highly structured by the sponsors. The majority of I visa holders, as stated elsewhere in this rule, stay for less than 240 days. However, there are some I visa holders that come for long-term assignments and will need to request EOS or travel abroad to extend their stay. DHS remains committed to minimizing unnecessary administrative burdens while also upholding national security and the integrity of the United States visa system.

c. Contributions of Foreign Students and Workers

Comments: Commenters explained foreign students contribute significantly to the U.S. economy, including through tuition, fees, living expenses, and spending in sectors such as housing, food, transportation, healthcare, and retail, supporting local jobs and bringing billions of dollars annually to the economy. A commenter wrote that foreign students create jobs by creating companies and invest in American communities. Commenters said over 1 million foreign students contribute more than \$40 billion to the U.S. economy annually and support hundreds of thousands of jobs. Commenters also said higher education is the seventh-largest service export for the United States and that foreign students and their families drive demand in travel, accommodation, and related industries while also contributing to volunteer work, support of local charities, and membership in religious congregations. Commenters were concerned about even modest decreases in enrollment have ripple effects.

Several commenters highlighted that foreign students often remain in the United States after graduation, becoming taxpayers, homeowners, employers, and a key part of the STEM workforce and U.S. Ph.D. holders. They described the positive impact of high-skill immigration on productivity and economic growth, with studies estimating substantial increases in GDP from the influx of highly skilled graduates. Commenters stated foreign students contribute significantly to U.S. research output, STEM innovation, and entrepreneurship even after graduation.

Another commenter stated that the proposed rule would deter global talent, disrupt federally funded research, and harm universities already facing enrollment decline. Commenters expressed concern that the proposed rule could lead to declines in foreign student enrollment, resulting in significant economic losses, job reductions, and higher compliance and

¹⁵¹ The commenter did not provide citations or references to the data.

administrative costs for businesses and institutions. Other commenters reported much higher projected annual losses. Commenters warned that these costs could ultimately be passed on to consumers and taxpayers. Citing various analyses, commenters projected billions in lost revenue annually and tens of thousands of lost jobs if enrollment drops. They also noted that previous restrictive immigration policies have already driven students to competitor countries such as Canada.

Response: DHS acknowledges the contributions of foreign students and scholars to the U.S. economy, research, and technology sectors. DHS agrees that foreign students can bring valuable global talent and recognizes their role in supporting local economies, creating jobs, and driving innovation across a range of industries.

DHS does not intend for the rule to lead to a significant decline in foreign student enrollment because the high-quality education, research opportunities, and innovation ecosystem offered at U.S. institutions will continue to attract foreign students and researchers. Therefore, DHS does not expect a significant reduction in research capabilities, technological advancement, or the economic benefits associated with foreign students.

DHS acknowledges that there may be costs for stakeholders related to compliance, recruiting, and training as they familiarize themselves with the new rule. However, DHS believes that the benefits of this rule outweigh these costs. This rule will strengthen the integrity of the U.S. immigration system, improve consistency across nonimmigrant categories, and enable stronger oversight by government officers reviewing EOS requests and compliance with visa terms. It will also enhance the government's ability to enforce statutory inadmissibility grounds related to unlawful presence and deter fraud and abuse with these nonimmigrant programs. Accordingly, DHS believes these changes will provide additional protection and mechanisms for effective oversight, enforcement of immigration laws, detection of national security concerns, and the continued integrity of these nonimmigrant categories.

d. State and Institutional Economic Impact

Comments: Several commenters provided extensive data on the economic contributions of foreign students to specific states and regions across the country. These contributions ranged from tens of millions to billions of dollars, with corresponding job

creation in the thousands. For example, several commenters stated that foreign students contributed \$2.4 billion and supported over 23,000 jobs in Illinois, \$1.5 billion with approximately 12,000 jobs in Michigan, and \$2.5 billion with 22,112 jobs in Texas during the 2023–24 academic year (no source provided). Many commenters offered similar economic impact data for numerous other states and territories.

Commenters also remarked on the economic contributions of foreign students to specific educational institutions. Commenters provided examples such as the University of St. Thomas (\$25.3 million and 244 jobs), Bradley University (\$15.3 million and 151 jobs), Emory University (\$187.2 million and 2,136 jobs), Rochester Institute of Technology (\$124 million and 1,279 jobs), Cornell University (\$393.2 million and over 3,500 jobs), and several others. One commenter referenced a Federal Reserve Bank of Philadelphia report indicating that colleges and universities function as “anchor institutions” that create American jobs and support sustainable regional economies, with a national multiplier effect of 1.82 jobs for every direct position.¹⁵²

Some commenters acknowledged that DHS has considered the impact of the proposed rule on small school entities, but specifically expressed concerns that DHS did not consider the significant harm on small businesses resulting from reduction in foreign student enrollment due to the proposed rule. A commenter noted that small businesses cannot afford disruptions caused by sudden visa expirations or bureaucratic delays in status extension processing.

Response: DHS acknowledges commenters' data and examples illustrating the economic contributions of foreign students to states, regions, and local communities. DHS acknowledges that foreign students and professionals can provide important economic benefits across the country. DHS understands that any potential reduction in enrollment could reduce the economic benefits that foreign students and exchange visitors offer. However, DHS does not believe that admitting certain nonimmigrant students and exchange visitors for a fixed admission period and requiring them to take action to extend their stay in the United States will deter significant numbers of bona fide students and exchange visitors. DHS

expects foreign students and exchange visitors to consider the cost of extending their status in the context of the overall cost of their program, which may include expenses such as tuition, room and board, textbooks, and discretionary expenses. Because the cost of status extension is relatively small to the overall cost of attendance, DHS does not intend for this rule to have a significant impact on enrollment. DHS has decided to discuss this impact qualitatively due to the speculative nature of the magnitude of the decrease in enrollment and any associated reduction in revenue. This discussion can be found in the final regulatory impact analysis, completed as part of this rulemaking.

e. Impact of Consular Policy Changes

Comments: Commenters expressed concern that the proposed rule could lead to a decrease in investment in the United States by other countries, increased misunderstanding, and less support for American interests and values among people in other countries. Other commenters expressed concern that the proposal represents a unilateral breach of many bilateral exchange agreements and would invite retaliatory treatment.

Another commenter expressed concern about the proposed elimination of D/S provisions, particularly when combined with recent consular policy changes. The commenter identified three changes within DoS that would create significant barriers for foreign students and scholars: requiring visa applicants to interview in their country of nationality or residence, narrowing interview-waiver eligibility, and reducing visa validity periods. The commenter warned of potentially driving prospective applicants to choose other countries for their education and research opportunities, and suggested either reconsidering the D/S proposal, or coordinating with DoS to restore more flexible visa policies.

Response: DHS acknowledges commenters' concerns that the rule could affect international perceptions of the United States, decrease investment, and reduce support for American interests and values abroad. DHS also notes the concern about the potential impact on bilateral exchange agreements and the risk of retaliatory treatment by other countries. While DHS does not believe the rule constitutes a breach of such agreements, DHS remains committed to honoring U.S. international commitments and values ongoing international educational exchange.

With respect to recent changes in DoS consular policies, DHS notes that such

¹⁵² The commenter referenced <https://www.philadelphiafed.org/-/media/frbp/assets/community-development/reports/anchor-economy-report-92022.pdf>.

matters are within the discretion of DoS. DHS coordinates with DoS, as appropriate, on issues affecting foreign students and scholars.

DHS believes it is important to adequately screen and vet nonimmigrants for any national security concerns and to verify at more frequent intervals that nonimmigrants comply with their visa requirements and intended purpose of their stay. Admitting F-1 nonimmigrants for a fixed period under this rule will provide trained immigration officers with the opportunity to adequately vet foreign nationals to prevent and deter nefarious actors and visa violators from entering or remaining in the United States.

DHS acknowledges that prospective applicants may choose other countries for their education and research opportunities and that enrollment of foreign students in U.S. educational institutions may decline because of this rule. However, DHS does not intend for the rule to result in a significant decline of enrollment and is unable to quantify the extent of this decline due to lack of precedent from which accurate conclusions can be drawn as to the rule's impact. DHS believes that U.S. educational institutions will continue to attract talented foreign students because such institutions offer a high-quality education.

C. Foreign Comment Submissions

Comment: Commenters expressed differing views on the participation of foreign nationals in the comment submission process; however, most of these comments recommended preventing foreign nationals from submitting comments. Many commenters highlighted concerns about organized efforts on Chinese social media platforms encouraging submissions to *regulations.gov*. Conversely, another commenter wrote that foreign students studying in the United States would be directly affected by the proposed rule and could provide valuable perspectives for DHS to consider.

Response: DHS appreciates the differing views expressed by commenters regarding foreign nationals' participation in the comment submission process. DHS acknowledges concerns about organized efforts on foreign social media platforms, and it also recognizes that foreign nationals, including foreign students, provide valuable perspectives. DHS notes that the rule does not address or restrict who may submit comments. In fact, foreign entities, NGOs, and nonimmigrants have indeed submitted comments to this rule. DHS welcomes feedback from all

stakeholders and remains committed to reviewing all submissions to ensure the final rule reflects a considered approach.

D. Alternative Approaches, Requests, and Recommendations

1. Recommendations To Withdraw, Reduce the Scope, or Postpone the Proposed Rule

Comments: Commenters urged DHS to withdraw the proposed rule entirely and maintain the current D/S framework or take a different approach. Commenters suggested maintaining D/S for institutions with a history of SEVIS compliance, applying the proposed changes to only a subset of visa categories.

Response: DHS understands the concerns presented by the commenters but is not withdrawing the rule. DHS believes that changing the admission period of aliens in F, J, and I nonimmigrant status to a fixed time period will not harm students or others but will instead provide additional and necessary protections and mechanisms that DHS needs to exercise appropriate oversight and safeguard the integrity of these nonimmigrant programs. In addition, DHS determined that a "do nothing/no action" alternative would not adequately provide immigration officers and agents with an opportunity to evaluate an alien's maintenance of status at pre-determined points, nor would it enable immigration officers or agents an opportunity to assess whether an alien is accruing unlawful presence. It would not address the fraud and abuse currently present in these categories. DHS disagrees with the notion of having different standards for institutions based on their history of SEVIS compliance. DHS believes such an approach would undermine the ability of institutions and aliens to understand their requirements and responsibilities and would create an arbitrary system.

2. Alternative Approaches To Address DHS Concerns

Comments: Many commenters advocated for enhanced oversight mechanisms that would avoid burdening students and USCIS with increased EOS filings. Commenter suggestions included strengthening DSO and ARO liaison practices, improving data reconciliation, and conducting targeted investigations rather than implementing a fixed admission period. They described the existing vetting processes and the role of institutional staff and argued that DHS failed to identify concrete problems with D/S

oversight not already addressed by SEVIS. Commenters referenced a 2022 GAO report¹⁵³ recommending SEVIS enhancements and suggested DHS should have explored improving SEVIS before abandoning D/S. Other commenters stated that ending D/S is the wrong tool for eliminating abuse of CPT and OPT. The majority of those commenters stated that targeting schools that profit by prioritizing CPT over education would be a more effective approach than those offered.

Others stated that the government should instead enhance auditing, strengthen school certification audits and fraud detection, expand data analytics in SEVIS to identify risk and anomalies, increase penalties for those who abuse the system, enhance DoS vetting, improve data sharing, apply data-driven triggers, and expand use of biometric exit tracking at ports of entry.

Response: DHS considered a variety of alternatives to the proposed rule, as explained in the published NPRM, but concluded that eliminating the D/S framework and switching to fixed time periods for F, J, and I nonimmigrants was ultimately the most effective method of addressing intertwined national security, fraud, and overstay concerns. DHS believes that the provisions in the rule will provide the government with additional protections and mechanisms to exercise the oversight necessary to vigorously enforce the nation's immigration laws, protect the integrity of these categories, and promptly detect national security concerns.

DHS agrees with commenters that there will be an increase in volume of EOS applications received by USCIS following the effective date of the final rule as those nonimmigrants who are required to file EOS begin to do so. However, DHS notes that the peak volume of EOS applications will not materialize until 4 years after the effective date of this rule. This will allow time for DHS to shift resources as needed and as appropriate to ensure that the larger increased volumes are integrated into existing workflows. USCIS will continue to monitor its resource allocations and make adjustments as appropriate.

Several commenters have noted and DHS has acknowledged backlogs in the processing of EOS applications. While the rule may cause an increase in USCIS processing times, DHS believes that the benefits of increased contact with these nonimmigrants outweigh processing time considerations. Such is the burden

¹⁵³ Commenters referenced GAO 23–106114, *supra* note 83.

of robust enforcement of the law. Requiring F, J, and I nonimmigrants to request an EOS will improve consistency of terms of admissions between nonimmigrant categories, enable stronger oversight by government officers who will review the nonimmigrant's request and assess whether the nonimmigrant had been complying with the terms and conditions of his or her status, enhance the government's ability to effectively enforce the statutory inadmissibility grounds related to unlawful presence, and deter aliens and entities from engaging in fraud and abuse within these nonimmigrant programs.

SEVIS currently serves as a system to house school, program sponsor, student, exchange visitor, employment, and academic program information. DHS has found that the current framework for program extensions presents vulnerabilities and risks to national security, with inconsistencies in collected information. DHS is well aware of the 2022 GAO report and has made changes based on the recommendations in the GAO report; however, DHS has found that these changes have not been enough to prevent the fraud, abuse, and national security issues outlined in the NPRM. The fixed time period of admission and subsequent EOS process, formally adjudicated by USCIS, will ensure students continue to engage in and complete their programs for legitimate reasons. DHS views the new framework as supplementary to existing SEVIS reporting and will continue to utilize SEVP Field Representatives and investigative authorities to address fraud and national security threats.

Comments: Commenters suggested enhanced training for DSOs and AROs as an alternative solution, proposing certification programs with regular continuing education updates, national compliance standards, best practices sharing platforms, and mentorship programs. Another commenter proposed an institutional accountability and partnership model featuring enhanced DSO/ARO certification with mandatory training requirements, tiered DSO authority levels, and performance accountability measures as an alternative to the rule. Some commenters recommended refining existing SEVP training to focus on practical subject matter and fraud prevention, with specialized tracks for different educational contexts.

Response: While DHS appreciates that DSOs and AROs generally interact frequently with nonimmigrant students and exchange visitors, DHS believes it is appropriate for DHS, not DSOs and

ARO, to determine periodically whether an alien meets the statutory requirements for their nonimmigrant status—i.e., an alien who continues to have a residence in a foreign country he or she has no intention of abandoning, is a bona fide student qualified to pursue a full course of study, training, or program, and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study, training, or program. By implementing a fixed period of admission and requiring EOS thereafter, DHS will be in a position to assess whether a nonimmigrant continues to meet the requirements for F–1 or J–1 nonimmigrant status. Extending an alien's nonimmigrant status involves an adjudication of whether an alien is legally eligible to extend his or her stay in the United States in a given immigration status and has been complying with the terms and conditions of his or her admission. As discussed in the NPRM, DHS officers are uniquely positioned to determine whether an alien is complying with the conditions of their classification¹⁵⁴ and that these functions should not be delegated to DSOs and AROs.

Comments: Commenters also proposed institutional accountability measures, including financial penalties for institutions enabling program abuse and certification suspension for repeated violations. Furthermore, some commenters suggested implementing a tiered fee structure or waivers to prevent disproportionate harm to smaller schools.

Response: DHS appreciates the suggestion to consider accountability measures and improvements to SEVP's school certification requirements. However, DHS disagrees that the fraud and abuse discussed in the rule relates solely to fraudulent institutions and does not relate to fraud or violations by students. DHS believes that amending school certification requirements would not be sufficient to address the challenges the D/S framework poses to DHS's ability to effectively oversee F–1 students and to hold students accountable for fraud or status violations that may go undetected or unreported by a DSO. DHS believes that by fixing a date certain period of admission for F–1 students, DHS will be in a position to provide greater oversight and accountability for students who have engaged in pay-to-stay and other fraud. This will ensure that nonimmigrant students receive timely and appropriate consequences for engaging in fraud as do other

nonimmigrant classifications when fraud or status violations are uncovered by DHS. A system of waivers or a tiered fee structure would add complication to the rule, making enforcement more difficult and creating more chances for fraud and abuse. A system that is equal across the population will ensure consistent enforcement in line with the rule's goals.

Comments: Commenters suggested streamlined extension procedures with presumptive approval categories for students in good standing, featuring reduced processing times, lower fees, and an automated online application system. The commenters proposed special provisions for academic progression extensions and emergency or compassionate extensions for medical circumstances, program closures, or natural disasters. A commenter reasoned that risk-based checks using data-driven vetting would reduce administrative burden for over 90 percent of individuals. If the rule's fixed terms remain, the same commenter proposed a “simple, fast renewal process,” suggesting a fully digitized system with guaranteed turnaround (e.g., 60 days) and minimal in-person interviews to streamline compliance.

Response: DHS appreciates the suggestions proposed by the commenters. However, DHS believes that the changes implemented through this final rule will accommodate the legitimate academic activities of bona fide students, such as a desire to pursue a different field of study or more specialized studies in their current field. These changes will also provide SEVP with flexibility to grant exceptions for extenuating circumstances. For example, an exception may be appropriate when a school closes or when a school has a prolonged inability to hold in-person classes due to a natural disaster or other causes. DHS will only extend the stay beyond the program end date of an otherwise eligible F–1 student requesting additional time to complete their program if the additional time needed is due to a compelling academic reason, documented medical illness or medical condition, or circumstance that was beyond the nonimmigrant student's control as discussed in the new sec. 214.2(f)(7)(i)(C)(2). An alien seeking an EOS generally must have continually maintained status. If an F–1 student dropped below a full course of study, that drop must have been properly authorized by the DSO. F–1 students seeking an EOS must primarily be seeking to temporarily stay in the United States solely to pursue a full course of study, INA section

¹⁵⁴ See 90 FR at 42078 (Aug. 28, 2025).

101(a)(15)(F)(i), 8 U.S.C.

1101(a)(15)(F)(i), and not for other reasons separate from, or in addition to, pursuing a full course of study. If an F-1 student were to violate the terms of his or her F-1 status, the F-1 student will need to apply to USCIS for reinstatement, consistent with current 8 CFR 214.2(f)(16). In response to the commenter's suggestions regarding the use of data-driven vetting, DHS agrees that data-driven vetting is a necessary part of effectively vetting a nonimmigrant. However, DHS believes that data-driven vetting is only part of the whole process, which, necessarily, must include immigration officers as they are uniquely equipped to vet nonimmigrants seeking to enter the United States.

3. Alternative Approaches Related to the Fixed Admission Period

Comments: Commenters suggested that D/S should be tied to certain programs or that the length of admission should depend on the duration of different programs. Specifically, a commenter suggested implementing program duration standards with flexibility, by establishing baseline program periods for different degree types while also allowing extensions based on documented academic progress, legitimate academic reasons, and financial standing. The commenter reasoned this approach would require SEVP approval for extensions beyond 150 percent of normal program duration through a streamlined online application process with a 30-day processing standard. Another commenter suggested tying D/S to program length, with a 60-day grace period to prevent disruptions. Another commenter urged DHS to amend 8 CFR 214.2(f)(5)(i) to say, “[d]octoral admission period shall be up to seven years, with renewal based on academic progress,” and “EOS eliminated for students maintaining valid enrollment” under 8 CFR 214.2(f)(5)(iii).

Multiple commenters wrote that the proposed rule takes a system that works with how universities are currently governed and cuts across it; noting that the proposed rule does not consider governance and scientific realities which necessitate multi-year protocols. Some commenters continued to state that a fixed duration status creates a bureaucratic chokepoint that limits research and teaching.

Response: DHS appreciates the commenters' recommendations but will not be implementing a percentage-based approach in requiring applications for extensions of stay at this time. DHS believes that a fixed period of

authorized stay based on program length, with a maximum of four years and a 30-day grace period, provides a uniform standard to ensure compliance with the immigration laws and provide the national security protections this rule is implementing with greater oversight of student compliance, regardless of program type. Students will still be able to apply for an EOS based on a program length of longer than their initial admission or compelling academic reasons, documented illness or medical condition, or circumstances outside the alien's control.¹⁵⁵ And, as long as they timely file their EOS application, their stay is automatically extended.

Comments: Commenters proposed different time frames for fixed period admissions based on different degrees and different fields, including extending the default admission period to 5 years for undergraduate, 3 years for master's programs, and 5 to 8 years doctoral students, and longer periods for STEM in comparison to non-STEM fields. Commenters suggested doctoral programs, particularly those at R1 research universities, and professional programs like medicine, dentistry, and architecture should be exempt from fixed duration periods.

If the proposed rule is finalized, commenters suggested expanding domestic visa renewal programs to mitigate consular processing bottlenecks, granting foreign students D/S that includes additional semesters beyond standard program length, and increasing D/S to 10 or 12 years to accommodate multiple degrees and OPT.

Response: DHS declines to adopt commenters proposed alternative periods of admission. DHS wishes to establish predetermined points in time, not to exceed 4 years, for immigration officers to directly evaluate whether F-1 students are maintaining their nonimmigrant status and remain eligible for that status. For those who require additional time to complete their programs, they may apply to extend their stay. DHS acknowledges the commenters' concerns that applying for EOS to participate in post-completion OPT will represent an increased burden for some students but has concluded the change is appropriate to advance the goals of this rulemaking.

DHS disagrees with the premise of recommendations regarding exemptions and believes that the commenters misunderstand how this would work for these nonimmigrants. An exemption is not necessary for Ph.D. students who

need additional time to complete their research and dissertation, because DSOs will still be able to extend the program end date in situations such as this. This is also true for other students who must extend their programs due to situations beyond their control. They will, however, have to file an EOS with USCIS or, if they choose to travel, they can (with an unexpired visa) apply for admission at a POE through CBP and receive a new I-94 with a new AUD.

Comments: Multiple commenters provided alternative suggestions or recommendations to a fixed admission period that would eliminate or impose additional restrictions and oversight on admission of foreign students, while citing national security and economic concerns. A commenter suggested implementing a 10 percent limit on foreign student enrollment. Another recommended that foreign students should constitute less than 1 percent of the total student population in the United States. One commenter remarked that immigration entry rates must be reduced, reasoning that U.S. citizens already face hurdles with respect to higher education and obtaining a job. A few commenters suggested eliminating foreign student visas and admissions altogether due to the abuse of the foreign student program, foreign students taking the place of American students, and foreign students coming to the U.S. to spy, steal intellectual property or cause harm.

Relatedly, a different individual proposed establishing an annual limit that would reduce by half the number of individuals permitted to enter the United States from “unfriendly countries.” One commenter stated that students from hostile countries should not be allowed in the United States, while another commenter remarked that all foreign students should be restricted and tracked while in the United States. One commenter suggested limiting admission of nonimmigrants from countries on the State Sponsors of Terrorism list to a maximum of 2 years. A commenter recommended that certain foreign nationals, those involved in theft of technology and sabotage, should be intensely scrutinized and possibly not allowed to enter the United States.

Some commenters sought to have visas severely curtailed or limited, reasoning that qualified Americans are displaced in education programs and the workplace. Along these lines, one commenter recommended more restrictions on foreign access to universities, jobs, and housing markets. A commenter recommended limiting foreign student visas in number and duration, reasoning that foreign

¹⁵⁵ See new 8 CFR 214.2(f)(7)(i)(C)(2).

individuals do not have a “right” to access and use American universities. Relatedly, one commenter recommended a limit on allowing legal foreign-born immigrants into undergraduate and graduate programs nationally because this limit would allow acceptance of more U.S. citizens into programs instead. One commenter urged DHS to strengthen protections for American workers by implementing more rigorous credential verification processes, requiring genuine labor market testing to demonstrate actual need, and establishing wage floors that prevent the undercutting of American workers.

Commenters stated that foreign students or visitors should return to their country after their studies and apply for any extensions of stay outside of the United States, instead of serving as a pathway to work visas, residency or citizenship. Another commenter remarked that extensions must be thoroughly reviewed and visa end terms strictly enforced by USCIS and DHS, otherwise visa holders will stay forever. One individual suggested a fixed time period with no extensions or waivers for nonimmigrant students, exchange visitors, and foreign media members. Commenters who supported the rule offered various implementation recommendations, including limiting periods of stay to 360 days with the possibility of renewal, withdrawing visas if students fail to complete their first academic year, requiring students to return to their home countries to apply for extensions, and increasing resources for enforcement. A commenter remarked that visas need to be tightly controlled, and there need to be consequences for abusing them. Separately, one commenter suggested sending professors to other countries per semester/year instead of allowing students to study in the United States.

Response: This rule DHS is focusing specifically on the fixed admission periods rather than imposing caps or banning admissions. As explained in the rule, DHS believes that the changes in this rule will strengthen the integrity of the U.S. immigration system, specifically relating to F, J, and I nonimmigrants, and curtail fraud, abuse (including overstays), and national security issues. DHS declines to eliminate the admission of F, J, and I nonimmigrants across the board, declines to eliminate extensions, and declines to require the nonimmigrants to return to their home country to apply for an EOS. DHS acknowledges the contributions of foreign students and scholars in the United States and believes that this rule strikes a balance

for all stakeholders. DHS further underscores that the fixed admission period and extension provisions in this rule will enhance the vetting and oversight of these nonimmigrant classifications. DHS will continue to evaluate the resources it requires to enforce these classifications and will adjust resources as needed for this enforcement.

Furthermore, DHS notes this Administration is separately implementing additional measures to impose travel restrictions and limitations for nationals from certain countries posing national security threats at a broader level, beyond the F, J, and I nonimmigrant classifications. For example, pursuant to the Presidential Proclamation 10949, Restricting the Entry of Foreign Nationals To Protect the United States From Foreign Terrorists and Other National Security and Public Safety Threats, 90 FR 24497 (June 10, 2025), nationals from 19 high-risk countries listed in Proclamation 10949 are already subject to enhanced vetting and heightened travel restrictions, including limiting and suspending entry to the United States. Pursuant to Proclamation 10949, DHS has further issued a Policy Memorandum which places a hold on all pending benefit requests for aliens from High-Risk Countries listed in Proclamation 10949.¹⁵⁶ Given that there are broader efforts being undertaken to limit and restrict the entry of aliens from high-risk countries, DHS is not including any specific provisions regarding F, J, and I nonimmigrant classifications from countries on the State Sponsors of Terrorism list at this time in this rule.

With respect to extension requirements, DHS considered many options when promulgating this rule, including some of those suggested by these commenters. Requiring yearly extensions was in place decades ago and proved unworkable from an operational standpoint; therefore, this policy was not proposed in the NPRM. Creating a different time frame, specifically two years, for certain categories of people was also rejected. DHS considered this option but concluded 4 years was more appropriate given the greater administrative burdens which would be imposed on USCIS and CBP.¹⁵⁷ DHS

¹⁵⁶ See USCIS, *USCIS Policy Memorandum: Hold and Review of all Pending Asylum Applications and all USCIS Benefit Applications Filed by Aliens from High-Risk Countries*, PM-602-0192 (Dec. 2, 2025), <https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf>.

¹⁵⁷ 90 FR at 42083 (Aug. 28, 2025).

finds that limiting the period of stay to anything below the program end date or 4 years, whichever is shorter, would be too burdensome to nonimmigrants and the government, because the suggested 1 year and 2 year limits would increase the number of EOS requests by a significant number and would be unmanageable just as it was in the 1970s and 80's.¹⁵⁸ Additionally, if nonimmigrants return home upon the end of their stay and still have a valid F, J or I visa, they may reenter the country and receive a new I-94. The purpose of the EOS request is to allow them to remain in the country while extending their nonimmigrant status, ensuring continuity in program or employment. Students who fail to maintain their student status will no longer be in compliance with their nonimmigrant status and begin accruing unlawful status. This would make them subject to removal proceedings if they do not leave the country upon falling out of status. While DHS considered all proposals and recommendations, DHS determined that the provisions of this rule were sufficient to address the concerns raised in this rule.

DHS notes that the scope of this rule focuses on admission period and EOS procedures for F, J, and I nonimmigrant classifications, and does not include changes to employment visas. Furthermore, DHS notes that the issue on whether foreign nationals are displacing U.S. students and workers is beyond the scope of this rule and as such, DHS is unable to comment further on that issue. Likewise, issues regarding restrictions on access to housing market by foreign nationals are also outside of the scope of this rule.

4. Alternative Approaches for Long-Term Students

Comments: Another commenter requested that DHS establish a pathway to lawful permanent residency for foreign students who have maintained legal status and are raising U.S. citizen children. Commenters suggested longer alternatives to the 4-year admission period, such as requiring an EOS if an individual remains in F-1 status for 10 years. A commenter recommended a rule that allows DHS to review the F-1 status of any student whose stay has exceeded 8 years and requires those students to submit information confirming continued academic progress. However, the commenter suggested this 8-year rule should not be triggered for students who have completed their degree and began OPT.

¹⁵⁸ See more detailed discussion in Section II.A above.

Similarly, a commenter recommended establishing frameworks for investigating students who meet specific criteria, such as those spending over 15 years in F–1 or J–1 status. Relatedly, other proposals included setting realistic limits on program extensions and requiring EOS applications only for students wishing to stay longer than 11 years.

Response: DHS acknowledges these commenters' concerns. The request to establish a pathway to lawful permanent residency for certain F–1 students is outside the scope of this rulemaking. Further, DHS believes that the other recommendations are not sufficient to address the issues addressed in the rule. A proposal targeting students who stay more than four years and requiring an EOS at a longer interval would diminish the effectiveness of the rule in its enhancement of national security and its deterrence from overstays and fraud.

5. Requests for Exemptions

Comments: Commenters recommended exemptions for certain groups of F–1 visa holders. For example, a commenter requested that DHS include exemptions or waivers for long-term F–1 nonimmigrants who are parents of U.S. citizen children or another suggested a path to permanent residency for parents of U.S. citizen children. A commenter urged DHS to exempt F visa holders from the June 4, 2025, Presidential Proclamation “Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and other National Security and Public Safety Threats” and to also exempt any future travel bans offered by the administration.

Response: DHS declines to adopt the suggestion that certain populations of students or exchange visitors, such as F–1 nonimmigrants who are parents of U.S. citizen children, be exempt from the fixed period of admission or receive any special pathways to permanent residency outside those in other well-established regulatory provisions. The goals of the rule extend to all F–1 or J–1 nonimmigrants. As explained in the NPRM, DHS has identified troubling instances of aliens using the F classification to reside in the United States for decades, continuously enrolling in or transferring to schools.¹⁵⁹ While these instances of extended stay may not always result in technical violations of the law, DHS is concerned that such stays may violate the statutory intent, given that student status is meant to be temporary and for the primary

purpose of studying, not remaining in the United States indefinitely.¹⁶⁰ Because these instances occur in a variety of programs and educational levels, DHS does not believe that it would be appropriate to only apply a fixed period of admission for limited populations.

DHS acknowledges the request to exempt F visa holders from Presidential Proclamation “Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and other National Security and Public Safety Threats” as well as from any future travel bans. However, this request is outside the scope of this rulemaking and unrelated to the publication of this rule.

Comments: A different commenter suggested an alternative approach and exceptions for English Language Training (ELT) students, reasoning that ELT varies by initial proficiency, and academic, professional, or personal goals. The commenter also suggested separating ELT by visa type, specifically, separating nonimmigrants students who intend to continue to a U.S. degree program under the F nonimmigrant visa category from short-term ELT nonimmigrant students who do not intend to pursue a degree. The commenter shared several advantages to this approach, including additional clarity, alignment with academic intent, natural limits on enrollment, and support for U.S. competitiveness. The commenter also recommended that DHS include safeguards to protect U.S. born children of F–1 students before implementing the final rule, warning that the forced departure of parents of U.S.-born children could disrupt these children's education, stability, and community ties. The commenter expressed concern that absent protection, USCIS might adjudicate mixed-status family cases individually, creating administrative burdens and inefficiencies.

Another commenter agreed with a fixed term but suggested that general intensive English programs be given a maximum of three years, with the possibility of extensions for students pursuing English for specific purposes, provided these align with their declared academic goals. The individual also stated that the current proposal does not clearly address how these students would be accommodated who transition from English as a second language (ESL) programs to a master's program or doctoral program. The individual stated that the concern is whether foreign students would be allowed to continue

their academic journey in the United States after the two-year cap.

Response: DHS appreciates the alternative approaches and exemptions suggested by the commenters regarding ELT. However, DHS believes that the mechanisms proposed in the NPRM are the most effective mechanisms to address issues related to ELT. Furthermore, as mentioned previously, DHS does not believe that applying exemptions or alternatives to certain populations of nonimmigrants would be an effective way to reduce fraud and abuse. U.S. citizen children have different rights than their nonimmigrant parents. They may stay in the United States as long as they wish. They may stay with relatives or travel with their parents to their parents' home country. They may also return when they are older and even sponsor their parents for permanent residency once they turn 21. They do not need to be included on any EOS applications. USCIS will adjudicate separate EOS applications for the parents only if the parents choose to file separate applications. The Form I–539 allows dependents (non-U.S. citizens) to be included for one fee and concurrent adjudication.

As explained in the rule, DHS believes that a 24-month maximum stay for F–1 students in ELT programs (including breaks and vacation), is appropriate to accomplish the intended purpose of stay, which is studying the English language. Given that most English language programs are shorter than 2 years, as cited in the rule, DHS declines to extend the period to a maximum of three years. Notably, the rule aims to prevent F–1 nonimmigrants from abusing the immigration laws by staying indefinitely in the United States through continuous language programs with no limits. As noted in the rule, DHS found that some students have enrolled in lengthy periods of language training, sometimes for more than two decades, including after completing undergraduate or graduate programs that require English proficiency. The lack of standardized completion requirements for language programs has enabled some to remain in the United States for extended periods without progressing academically. The restrictions in this rule are designed to ensure that only bona fide students who intend to temporarily study English are admitted, and to mitigate concerns about program integrity. With respect to transitioning from ESL programs to a master's program or doctoral program, DHS notes that every case is different and that determinations for EOS for the purpose of pursuing a master's or doctoral program will be reviewed on a

¹⁵⁹ See 90 FR at 42071 (Aug. 28, 2025).

¹⁶⁰ See 90 FR at 42079 (Aug. 28, 2025).

case-by-case basis to determine whether the F–1 nonimmigrant is a bona fide student. DHS also notes that most colleges and universities have English language programs to help their foreign students to improve their English skills for college level studies. Nothing in this rule prohibits them from taking these classes.

6. Alternative Approaches to Oversight of Foreign Students and Institutions

Comments: Commenters urged DHS to consider less disruptive alternatives and recommended that DHS apply a more targeted approach for enhanced oversight, such as school recertification risk-tiering and fixed admission periods to high-risk institutions or students showing signs of non-compliance, fraud, or other issues. Commenters recommended enhanced enforcement and fraud prevention through pattern recognition systems to detect suspicious enrollment, risk-based institutional auditing, consequences for violations at both individual and institutional levels, and international cooperation through information sharing and diplomatic engagement. One commenter proposed a risk-based tiered monitoring system that would establish a graduated framework based on objective risk factors and student progression. Another commenter proposed categorizing institutions as low-risk, standard-risk, or high-risk based on compliance history, student success rates, and financial stability indicators.

Some commenters wrote that a tier-based approach would maintain D/S for most students while implementing progressively stricter oversight for longer stays. Another commenter recommended distinguishing between certain demographic groups in immigration policies and recommended that DHS provide quotas and lenient immigration policies for foreign students in STEM fields, while intensifying efforts to combat immigration fraud.

Similarly, commenters called for various institutional monitoring approaches, such as implementing registration frameworks, conducting risk-based audits, site visits, campus visits, and scheduled visits, establishing clear triggers for USCIS review, and focusing enforcement efforts on actual violators. They suggested conducting spot checks at the institutional level, including reviewing data for problematic patterns, surveying DSOs/ AROs to assess their understanding of regulations, and requiring financial documentation for a randomized percentage of I–20s/DS–2019s. Some commenters advocated for stronger

oversight of DSOs, expanding DSO reporting for outlier cases, enhanced reporting in SEVIS, and periodic compliance reviews. Other commenters called for targeted reviews of OPT cases in conjunction with DSOs, stricter limits on CPT, improvements in OPT employer data to stop espionage and technology transfer risks as well as “pay-to-stay” schemes.

On the other hand, some commenters put forward targeted approaches such as a safe harbor for those who file a timely application for an extension. One commenter suggested developing clearer guidelines for what constitutes “integral” training for a student’s curriculum, implementing a system for increased oversight of CPT placements, and establishing stronger penalties for non-compliant educational institutions. This focused approach would successfully address specific vulnerabilities without penalizing the vast majority of legitimate students and damaging the U.S. higher education system as a whole.

Response: DHS acknowledges the commenters’ various recommendations regarding a more targeted, risk-based or tier-based approach, but declines to adopt these alternatives to the rule. Many of these proposals are measures that take place after the fact, *i.e.*, after violations or risks have been detected, whereas this rule takes both a proactive approach to prevent violations as well as to detect existing violations. DHS already incorporates various risk factors into the maintenance, analysis, and administration of the nonimmigrant student and school certification lifecycles.

DHS disagrees that leveraging data in SEVIS to identify possible student status fraud is sufficient to address fraud once it has been identified. In addition, as stated elsewhere in the preamble to this final rule, there is a difference between conducting oversight of schools to ensure they are complying with reporting requirements, and conducting oversight of students to ensure they have complied with the terms and conditions of their admission and are eligible for an EOS. A school may be complying with SEVIS reporting requirements, but a particular student may still be in violation of his or her status, may have obtained his or her status by fraud, or may otherwise be ineligible for an EOS thereby making a tiered approach significantly flawed as it may serve as a way for institutions or students to sidestep the regulatory requirements. Fraud, status violations, and other ineligibilities relating to an individual student may not involve violations committed by a school. As a

result, the school certification, recertification, and out-of-cycle review processes may not always identify individual student status violations, fraud, or other ineligibilities.

In cases where a school is complicit in a student’s fraud or status violations, a school may be held accountable through criminal prosecution or adverse action in connection with the school’s SEVP certification. However, holding schools accountable for fraud is not a substitute for holding individual students accountable for fraud they may have participated in or status violations they may have committed. Additionally, as noted in the preamble of the proposed rule,¹⁶¹ DHS has concerns regarding students at all types of academic institutions and not only those engaged in fraud. DHS noted in the preamble to the proposed rule that some aliens have used the F classification to reside in the United States for lengthy periods by continuously enrolling in or transferring between schools, a practice facilitated by the D/S framework.

DHS is concerned about the integrity of CPT programs and any potential for increased fraud or risk to national security. To address these issues, DHS is amending its regulations by changing the admission period of aliens in F, J, and I nonimmigrant status from D/S to an admission for a fixed time period so as to provide DHS with additional protections and mechanisms to exercise the oversight necessary to enforce our nation’s immigration laws. If DHS makes periodic assessments to verify that F–1 students are maintaining their student status, DHS can better detect and mitigate the risks that have been identified in the D/S framework.

In addition, DHS also notes that there are other regulations currently in place that allow DHS to conduct site visits of educational institutions and employers that hire foreign nationals, which in combination with this rule will strengthen the oversight processes and address some concerns discussed in this comment. *See, e.g.*, 8 CFR 214.2(f)(10)(ii)(C)(11) (site visits for OPT employers); 8 CFR 214.3(h)(1)(ii) (site visits of educational institutions for SEVP certification).

Regarding expanding DSOs and ROs roles, as explained in the NPRM and elsewhere in this rule, DHS believes that DSOs and ROs should not be making determinations with respect to students’ immigration status and that such role should be placed with immigration officers.

¹⁶¹ See 90 FR 42077 (Aug. 28, 2025).

Comments: For J–1 visas, commenters suggested aligning fixed periods with existing category limitations, such as 5 years for Research Scholars and 7 years for Alien Physicians. Commenters recommended exempting certain professional programs like medicine, dentistry, and architecture from arbitrary time limits due to their specialized nature and length.

Response: DHS acknowledges that certain groups under the affected J Visa populations have longer program lengths than the 4-year length of stay, but to the extent these visa holders wish to stay longer, they may timely file an EOS. DHS chooses to utilize the 4-year limit in order to have consistent and regular reviews of all nonimmigrants who are in the country for a lengthy period of time. Allowing for longer lengths of stay or allowing certain groups to remain on D/S would promote arbitrary implementation rather than consistent application across the board and it would prevent DHS from conducting regular reviews of nonimmigrants and prevent consistent enforcement of the rule.

Comments: Commenters also offered alternatives to address potential national security threats, including focused changes to F– and J–certifications of private, for-profit institutions and increased support and training for CBP and Consular Affairs, specifically consular officers and visa adjudicators. The commenters further stated that enhanced surveillance of specific individuals, particularly students in specific fields or from certain countries; regular interviews with campus personnel; and development of a new interagency task force could also address potential national security threats. This task force would also include the FBI for gathering counterintelligence information.

Response: DHS appreciates the recommendations from commenters and generally notes that there are inter-departmental efforts and joint task forces with other agencies and departments that are focused on combating national security threats. However, to the extent that the recommendations involve other non-DHS federal agencies, DHS is unable to comment further, as those comments are outside of DHS's jurisdiction. In order to help mitigate national security threats, DHS believes that this rule will best allow immigration officials to directly and periodically vet applicants for extensions of stay and, in so doing, confirm that they are engaged only in activities consistent with their student status.

7. Other Alternatives

Comments: Another commenter recommended a list of implementation safeguards that should be considered in the final rule, including: Providing service standards and metrics, including target processing times, request for evidence (RFE) checklists, approval/denial rates, and backlog dashboards; making the process digital by default to streamline integration and minimize duplication; providing reasonable fees, fee reductions, and fee waivers; and offering time-sensitive lanes for situations where missed windows cause irreparable harm.

Response: DHS understands that applications are time sensitive. However, DHS does not believe that additional safeguards are needed in this rule. DHS is continuing to explore operational alternatives to address USCIS backlogs. DHS continually monitors workload distribution and adjusts workloads as necessary for quality and efficiency. This rule, while expected to increase the volume of EOS cases, is not the first time that DHS, and USCIS in particular, has prepared for an increase in application volume. For example, in 2012 USCIS began accepting applications for Deferred Action for Childhood Arrivals (DACA) on the new Form I–821D, Consideration of Deferred Action for Childhood Arrivals, created specifically for the DACA program. In fiscal year 2013, USCIS received 427,601 Form I–821Ds, and adjudicated 482,407 applications.¹⁶² DACA was a new process, representing a new workload for the agency and the number of Form I–821Ds received in 2013 outnumber the highest estimated number of EOS estimated to be filed annually for F–1, F–2, J–1, J–2, and I nonimmigrants each year from 2020–2029. Therefore, USCIS has recently demonstrated the capacity to handle increased volumes of applications resulting from new or changed programs and expects to continue to do so. DHS also notes that some nonimmigrants may depart and reenter the United States to extend their stay, as opposed to filing an EOS with USCIS. Further, DHS is working on improvements to the relevant technical systems connected to this rulemaking.

Comments: While expressing concern over the proposed rule's potential impact on international and domestic students, a commenter suggested that

USCIS could instead raise fees for all visa programs by a small amount, such as \$50. The commenter reasoned that the revenue could be used to support travel opportunities for U.S. students.

Response: DHS appreciates the recommendations made by these commenters for raising USCIS fees in replacement of the current rule. However, this would not accomplish the intent of the rule. The rule is intended to establish a regular cadence of review with DHS for all F, J, and I nonimmigrants who are in the country for longer periods of time. This will protect the integrity of these programs and improve national security. The revenue raised by USCIS through the Form I–539, Application to Extend/Change Nonimmigrant Status, filing fee is intended to cover the cost of processing and adjudicating EOS and change of status requests. DHS seeks to address vulnerabilities in the D/S framework, and it is for this reason that DHS is making these specific changes in this rule that will result in greater oversight of student compliance.

E. Calculation of Admission Periods, Grace Periods, and Dependents

1. Early Program Completion Grace Periods

Comments: A commenter requested clarification on the final deciding factor on the program end date and start date of the F–1 nonimmigrant grace period under the proposed rule, particularly if an F–1 student completes their program earlier than the I–20 program end date and Form I–94 admission end date. Commenters stated the 30-day period does not provide enough time for students to book flights where availability is limited nor is it enough time to attain employment. Specifically the commenter outlined two scenarios: (1) a student's Form I–20 lists a program end date of May 31, 2027, but the student actually completes coursework on May 15, 2027; and (2) a student is admitted with a Form I–20 end date of May 31, 2027, and a matching AUD on the Form I–94; however, due to advanced credits and summer coursework, the student completes the program a full year earlier on May 15, 2026.

Response: DHS agrees on the importance of maximizing the period of admission to apply toward the F–1 nonimmigrants' program of study. DHS appreciates the commenter's request for clarification on the grace period and how to resolve instances when a student completes their program of study before the expiration date listed on the Form I–94.

¹⁶² See USCIS, *Number of I–821D, Consideration of Deferred Action for Childhood Arrivals by Fiscal Year, Quarter, Intake, Biometrics and Case Status: 2012–2015*, https://www.uscis.gov/sites/default/files/document/data/I821d_performancedata_fy2015_qtr1.pdf (last visited Feb. 4, 2026).

The rule provides that the 30-day period before the indicated report date or program start date and the 30 additional days (grace period) following the program end date, or the 4-year maximum period of admission, do not count toward the maximum length of stay. See new 8 CFR 214.2(f)(5)(i). Specifically, the calculation of the 4-year maximum periods of admission would not begin from the date of admission during the initial 30-day window, but from the program start date. Similarly, the 30-day departure period would not count towards the 4-year maximum period of admission. This will mitigate scenarios where an F-1 student is in need of an EOS because their admission period is 30 days short from the 4-year program completion date.

With respect to programs ending earlier than the date on the I-94, a nonimmigrant student's period of admission is granted to the program of study on Form I-20, for a maximum of four years, plus an additional 30-days period for departure. See new 8 CFR 214.2(f)(5)(i), (v). When a student completes their program prior to the program end date as listed on the Form I-20, the DSO should shorten the date in SEVIS, and the student will have 30 days to depart the country after their program completion, regardless of the initial admission date provided on Form I-94. The final rule adds a provision to clarify this point, by stating that "if the F-1 student ends his or her study or training prior to expiration of his or her period of admission, the F-1 student, and any eligible dependents, must, within 30 days from the end date of the study or training, depart the United States or otherwise seek to maintain lawful status." See new 8 CFR 214.2(f)(5)(v).

2. Fixed Admission Period Start and End Dates

Comments: A commenter requested clarification on the date from which the fixed period of admission will be calculated for F-1 students, if the proposed rule is finalized. Specifically, the commenters stated that the preamble text and proposed regulatory text do not distinguish between the Program Start Date (or "report date"), and the Initial Session Start Date, which the commenters noted are recorded separately in SEVIS and displayed separately on the I-20. The commenters also expressed appreciation for the ability to set a Program Start Date earlier than the actual start of classes but requested that DHS consider calculating the period of fixed admission from the Initial Session Start Date, which the

commenters stated is the actual start of classes for the program of study. The commenters reasoned that this would ensure that F-1 students who are admitted for a fixed period of admission can maximally use that period of admission toward their program of study.

Response: DHS appreciates this opportunity to clarify how this process works and to point out that even though there appear to be different terminology in use, the final outcome is exactly what the commenters desire. Specifically, the 4-year maximum will be calculated from the date the program begins a.k.a "program start date"—whether first day of classes or first day of research, etc. F or J nonimmigrants are allowed to arrive up to 30 days prior to the program start date, but those days will not be taken into account when calculating the maximum allowed period of stay. Upon admission into the United States, a fixed period of stay is granted up to the program end date, not to exceed 4 years, plus an additional 30-days for F and J nonimmigrants to depart. DHS appreciates the suggested alternatives provided by the commenters, but DHS believes the regulatory text is clear and that no additional clarification is needed as the final rule will achieve the same desired result as what the commenters were suggesting.

3. Dependent Admission Periods

Comments: A commenter requested clarification on what would happen under the proposed changes if a nonimmigrant student traveled separately from their F-2 dependent, the nonimmigrant student's status is shortened upon re-entry, and the F-2's Form I-94 reflects a longer end date.

Response: The current regulation requiring the spouse and minor children of an F-1 student to individually present a Form I-20 or successor form, whether accompanying or following-to-join the F-1 student has not been impacted by this rule. DHS notes that under new 8 CFR 214.2(f)(5)(i)(E), the authorized period of stay for F-2 dependents may not exceed the authorized period of stay of the principal F-1 student. Dependents must file for an EOS when the principal does, cannot stay longer than the principal, and must depart if the EOS is denied. If the principal's stay is shortened, then the dependents must depart at the same time as the principal even if their I-94 has a longer period of stay.

F. Transition Period

1. Transition Period Structure and Alternatives

Comments: Commenters requested a meaningful, phased transition period, such as longer transition periods, additional time before implementation of a final rule, phased implementation, and detailed guidance before the effective date, to avoid immediate status disruptions and allow institutions and employers to adapt. Many commenters stated that the proposed 60-day transition period is too short and would create a heavy burden for universities and students. Suggestions included transition periods ranging from 6 months to 2 years, automatic extensions during pending applications, and safe harbor provisions for students affected by processing delays. Another commenter requested a 6-month to 1 year grace period before the final rule would be enforced to allow for current students to adjust to the new regulations. Many commenters advocated for a grandfathering provision, allowing current and admitted students to complete their programs and practical training under existing rules. They argued this would reduce mid-program disruption, honor reliance interests, prevent disruption to ongoing projects, and avoid overwhelming USCIS and universities with extension requests. Commenters also requested that the rule's effective date should be delayed to align with academic cycles, H-1B cycles, or for at least 1 year from the date of publication, and that post-completion grace periods be preserved or extended.

Specifically, a number of commenters recommended various phased implementation processes. One of these commenters recommended that the proposed rule should be phased in over a minimum 24-month period. Another commenter requested that the proposed rule be implemented with a phased transition that includes empirical checkpoints, including fraud detection, overstay rates, and processing performance. Similarly, another commenter recommended maintaining D/S for all student cohorts graduating in the 24 months following the effective date of the final rule. One commenter recommended maintaining D/S for at least 10 years to allow students to complete undergraduate and medical education on an F-1 visa without bureaucratic interruptions.

Response: DHS believes commenters are confusing the transition period with the implementation period. The transition period, which is described in detail in the new 8 CFR 214.1(m), can

last up to 4 years for aliens who were admitted for D/S prior to the rule's effective date and are properly maintaining F and J status on September 15, 2026 and up to 90 or 240 days for I nonimmigrants who were admitted D/S and are properly maintaining status on September 15, 2026. This will allow for a gradual transition of those admitted under D/S and is more generous than what was proposed by some commenters.

During the 4-year transition period, F or J nonimmigrants in D/S on the day the rule takes effect do not need to have their Form I-94 corrected to a date certain, provided they continue their studies or programs listed on their DS-2019s or I-20s. *See* new 8 CFR 214.1(m)(1). They will be allowed to stay in D/S until the program end date on those DS-2019s and I-20s or 4 years after the effective date of the rule, whichever comes first. *Id.* However, should these F and J nonimmigrants decide to travel abroad during this transition period, they will be issued a new I-94 with a date certain upon their return, as will all other F and J nonimmigrants. *See* new 8 CFR 214.1(m)(1)(ii).

In addition, for aliens in F-1 status, admitted in the United States for D/S, who have timely filed Form I-765 (or successor form) for post-completion OPT or a STEM OPT extension on or before March 18, 2027, there will not be a requirement to file an EOS application. *See* new 8 CFR 214.1(m)(1)(i). However, if this F-1 student departs the United States before filing the Form I-765 (or successor form) for post-completion OPT or STEM OPT, and is subsequently admitted to the United States with a fixed period of admission, the F-1 student will be required to file both Form I-765 (or successor form) and an EOS application, Form I-539 (or successor form) pursuant to 8 CFR 214.2(f)(11)(i)(B)(2) or (C). *See* new 8 CFR 214.1(m)(1)(ii). Likewise, for J-1 exchange visitors who are already present in the United States under the D/S framework at the time that the rule takes effect, *i.e.*, 60 days after the date the final rule is published, they will be able to stay until their program end date on the Form DS-2019 (but no more than 4 years from the effective date), plus 30 days to depart or seek new status. *Id.* *See* new 8 CFR 214.1(m)(1).

In contrast, the implementation period is the 60-day period in between the publication of the rule and the day the rule takes effect. DHS recognizes the need for adjustment and is providing 60 days after publication for affected parties to become acquainted with the new law. After this implementation

period, F, J, and I nonimmigrants will need to be admitted under a fixed period of time, consistent with the new rules. To assist with the transition and implementation, DHS will provide training and guidance to DSOs and schools. DHS appreciates this concern and all the changes that will have to be made to comply with this rule.

DHS disagrees that it will take more than two months to prepare stakeholders for the implementation of this rule. Again, the only adjustment that will be necessary for stakeholders regarding the F and J nonimmigrants already in the United States on D/S is to notate the date 4 years out, when those who have not completed their programs under the D/S system will need to apply for EOS. For those entering after the effective date, they will receive I-94s with a date certain, which reflects the I-20 date already in SEVIS (up to four years) plus 30 days for departure. *See* new 214.1(a)(4). The H-1B cap-gap provisions are not changing due to this rulemaking; therefore, the H-1B cycle should not be affected by this rule.

DHS recognizes that students, their families, and educational institutions may have structured their academic, professional, and personal plans based on the longstanding D/S policy. The Department carefully considered these reliance interests during the rulemaking process. In developing the final rule, DHS sought to minimize disruption by including a transition period, mechanisms for extensions of stay, and clear guidance for students and school officials. These measures are intended to provide affected individuals and institutions with sufficient time and flexibility to adjust to the new requirements.

I nonimmigrants will also have sufficient preparation time with the 60-day effective date in this rule and the transition provisions in new 8 CFR 214.1(m)(3). Any I nonimmigrants who are properly maintaining their status on the date this rule takes effect and who were admitted for D/S are authorized to remain in the United States in I nonimmigrant status for a period necessary to complete their activity, not to exceed either 90 or 240 days (with the shorter period for those I nonimmigrants with a passport from the PRC (except for Hong Kong SAR and Macau SAR passport holders)). *See* new 8 CFR 214.1(m)(3). The 90- or 240-days period is not calculated until the rule takes effect. *Id.* If an alien needs additional time, they may be able to stay in the United States longer in I nonimmigrant status by filing an EOS with USCIS in

accordance with new 8 CFR 214.1(c)(2) and new 8 CFR 214.2(i)(5).

2. Clarity and Guidance for Transition Cases

Comments: Commenters sought clarification for cases where a student's Form I-20 is no longer valid on the effective date of the rule, or where SEVIS records are terminated or pending updates. They requested assurance that students are not deemed unlawfully present due to technical or timing issues beyond their control. A commenter requested clarification about how unlawful presence will be accrued for aliens transitioning from D/S to a fixed period of stay.

Response: An F-1 student whose program or OPT has ended on the effective date of the rule will have the remainder of their allowed departure period to leave the United States, *i.e.*, 60 days from the program end date on their I-20. *See* new 8 CFR 214.1(m). Students needing additional time will not be subject to the transition provision but rather be subject to the new rule and must apply for an EOS. SEVP will continue to process SEVIS corrections as needed. Students should not remain in the United States with a terminated or completed SEVIS record beyond their allowed departure period. Under this final rule, aliens who remain in the United States beyond a fixed time period generally will begin accruing unlawful presence. Calculation of accrual of unlawful presence resulting from the elimination of D/S under this rule will not be applied retroactively but for those with completed programs and therefore expired I-20, unlawful presence will be begin to accrue on the effective date of the rule unless they have applied for reinstatement, a change or status, or an EAD for OPT or STEM OPT before the effective date of the rule. In addition, this rule will not take effect until September 15, 2026, it includes a transition period for nonimmigrants who are currently on D/S, and it allows nonimmigrants to remain lawfully in the United States while an EOS is pending. These provisions will mitigate any issues which may arise related to technical or timing issues beyond their control. Unlawful presence will start to accrue for those on D/S when the nonimmigrant fails to comply with the terms of their F, J, or I nonimmigrant category, or when they fail to transition to admission under a fixed period of time within the time allotted for in new 8 CFR 214.1(m).

3. Lack of Clarity and System Modifications

Comments: Commenters expressed confusion about the transition period's impact on various student scenarios, status end dates, and the interplay between SEVIS, I-94s, and USCIS systems. They requested clear instructions, updated documents, and system improvements to track status and avoid errors.

Response: DHS believes the transition provision is clear: students in D/S status on the rule's effective date continue their programs, only needing to apply for EOS if their program exceeds the program end date on their DS-2019 or I-20, or 4 years after the effective date of the rule, whichever comes first. This addresses various student scenarios. For the EOS adjudication, SEVIS information is used by USCIS officers as part of their adjudication process to determine eligibility. Travel abroad during the transition period triggers conversion to the fixed-date regime. Upon admission following their travel, students will receive an I-94 with a fixed date. DHS is in the process of completing updates to SEVIS to incorporate this new rule and updates will include information about the end date from the Form I-94. USCIS, CBP, DoS, and ICE have always had and will continue to have access to necessary information from each other. DHS and DoS will provide any necessary updated instructions, guidance, and training to stakeholders, including DSOs and ROs, and will ensure technical updates are completed prior to the effective date. DHS and DoS websites will be updated as needed to inform F-1 and J-1 participants about how to maneuver the new system.

4. Modifications to Transition Period

Comments: Commenters proposed additional support during the transition, such as streamlined extensions, clear guidance, training, funding for DSOs, and phased implementation. Suggestions included robust grace periods, service standards, digital filings, reasonable fees, and expedited lanes for academic deadlines. Some commenters warned that too many exceptions increase confusion. Commenters also recommended detailed implementation guidance, technical assistance, and public education efforts. Similarly, a commenter wrote that the proposed rule should include specific procedures for the transition from D/S to fixed time period admission of authorized stay for F and J nonimmigrants.

Response: DHS appreciates the suggestions but declines to make further modifications to the rule based on these suggestions. Many are already part of the transition period, such as current D/S holders remaining in D/S until their program or OPT ends. This transition period results in a phased implementation, since F, J, and I nonimmigrants can transition to admission for a fixed period of time over the course of the next four or so years. Additional grace periods are also not being adopted due to this transition period and the implementation period between the final rule's publication date and the rule's effective date, which is 60 days. DHS maintains that the transition provisions provide an appropriate mechanism for transitioning D/S nonimmigrants to a fixed period of time. DHS and DoS will provide guidance and training as needed, including training for DSOs and ROs to ensure a smooth transition. DHS will continue to evaluate its process for extensions and available technological improvements and appreciates commenters' desires for continued streamlining and digital filings. DHS also appreciates commenters' desire for additional funding of DSOs, but this is outside the scope of this rulemaking.

5. Transition Period for Specific Categories

a. F and J Nonimmigrants

Comments: Commenters stated that replacing D/S with fixed-date rules, coupled with transition rules and new limits, creates traps for diligent students and dependents, increases costs, and disrupts academic and professional progress. They expressed concern about the impact on family members and the risk of losing work authorization or facing school disruptions.

Response: DHS recognizes the importance of minimizing disruption and unintended consequences for diligent students and dependents but disagrees with commenters that this new framework creates a "trap" for students and dependents. DHS also believes the final rule is not unreasonably burdensome. Further, DHS has appropriately considered costs. Most students will complete their programs per the terms of their initial admission. For those in longer programs, mechanisms exist for extension. While there are costs associated with this extension and impacts to affected nonimmigrants, DHS believes the need to protect program integrity and national security outweigh such costs and impacts. The regulations allow EOS if additional time is needed

to complete a program of study, begin a new program of study, or following the completion of studies to engage in post-completion OPT and STEM OPT. Further, the regulations also allow for an EOS if the student has a currently issued Form I-20, or successor form, indicating additional time is left to complete the program of study, or if there is documentation demonstrating the request for an extension is for compelling academic reasons, documented illness or medical condition, or circumstances beyond the student's control. See new 8 CFR 214.2(f)(7)(i). This framework mitigates disruptions to students and families.

DHS acknowledges that this new process will require F, J, and I nonimmigrants to be much more mindful of their status and to keep track of when they need to file for EOS and EADs in order to avoid any disruptions and inadvertent violations. However, most other nonimmigrants must currently do the same; therefore, DHS does not believe that this is an unreasonable requirement. As stated, numerous times throughout this preamble, DSOs and ROs will be provided training to help F and J nonimmigrants not miss any deadlines; SEVIS is being updated to prompt DSOs and ROs when needed; therefore, DHS believes that it is taking sufficient steps to mitigate any possible issues that transitioning to a fixed time period might cause.

b. I Nonimmigrants

Comments: Commenters stated that current I nonimmigrants should not be subject to a fixed period of stay and recommended longer initial admission periods, multiple extensions, and premium processing. They also requested that dependents receive the same terms as principals.

Response: DHS recognizes the operational realities of foreign media assignments and the need for flexibility. However, the D/S framework allows I visa to be abused by bad actors to stay in the country for extended periods of time. Therefore, a fixed admission period is being implemented so that immigration officers can periodically check the veracity of the I visa holder's need to stay in the United States. The transition period and EOS mechanisms are designed to balance oversight with minimizing administrative burdens. DHS acknowledges a desire by some commenters for longer initial admission periods but declines to extend the admission period since the vast majority of I nonimmigrants stay for less than 240 days, and EOS's are available for

those who require additional time.¹⁶³ DHS recognizes commenters' request for multiple extensions for I nonimmigrants, and the rule does allow for multiple extension requests to be filed. Further, DHS recognizes commenters' request for dependents of I nonimmigrants to receive the same term as principles. Under this rule, dependents will generally receive the same terms of admission as the principal I nonimmigrant, subject to applicable statutory and regulatory requirements, such as age-out provisions for minor dependents. DHS remains committed to supporting I nonimmigrants and their dependents while maintaining program integrity. DHS points the reader to sec. IV.G.2.a below for a discussion about premium processing.

c. Not Applicable to Aliens Outside the United States or Present in Violation of Status

Comments: Commenters questioned how the rule applies to those who fell out of status before the effective date and whether retroactive application would create disproportionate penalties.

Response: Nonimmigrants who fell out of status before the effective date are not eligible for the transition provisions and must seek reinstatement or depart the United States. Those maintaining status on the effective date are subject to the transition provisions and will accrue unlawful presence if they overstay the new fixed period. The rules for accrual of unlawful presence are consistent with existing DoS guidance. Importantly, this rule is not retroactive and does not impose new or additional penalties for violations that occurred prior to the effective date. Only those maintaining status on the effective date are subject to the transition provisions and will begin to accrue unlawful presence if they overstay the new fixed period.

6. Implementation and Transition

Comments: Several commenters requested additional details on the transition process, stakeholder training, and system updates necessary for successful implementation of the new rule. A commenter stated that more time is needed to address operational challenges and questions from agencies and institutions. The commenter remarked that a delay would allow for meaningful stakeholder engagement, policy refinement, and a smoother

transition for impacted parties. Another commenter stated that large-scale communication efforts are required among students to receive guidance and information about changes to their original entry agreements; DSOs, AROs, and institutional staff to support compliance; and community members, including immigration attorneys, educational consultants, employers, and community members. A commenter requested the final rule be accompanied by detailed implementation guidance and thorough technical assistance for sponsors, host institutions, and exchange visitors. Another commenter requested that any changes in U.S. policy be clearly communicated in advance to partner governments and impacted nonimmigrants. The commenter further stated that this change would allow for timely compliance with new regulations. Furthermore, one commenter stated that Form I-539 and instructions for extensions and status change would need to be developed, tested, and implemented.

Response: DHS is committed to providing clear guidance and training to all stakeholders, including DSOs, ROs, CBP officers, and affected nonimmigrants. System updates to SEVIS, CBP, and USCIS platforms are underway to support the transition from D/S to fixed admission periods. DHS will issue detailed implementation guidance and conduct outreach to ensure a smooth transition and minimize disruption for students, exchange visitors, institutions, and government personnel. DHS will also make training available to DSOs so that they and the foreign students they advise will be ready for the transition.

DHS maintains that the transition provisions in the new 8 CFR 214.1(m) provide sufficient time for the rule's changes and that delaying the rule is not necessary. DHS believes that the rule appropriately affords due process protections to nonimmigrants, including those already present in the United States on F, J, or I nonimmigrant visas. Complying individuals will be allowed to remain in the United States for the immediate future and will have the opportunity during the transition period to obtain permission to extend their current status under a fixed period of stay. Doing so ensures uniformity in the conditions placed on nonimmigrants while still protecting their legitimate interests in their reasons for coming to the United States.

Regarding Form I-539, DHS notes that this form is currently used by USCIS to determine if a nonimmigrant alien of the appropriate status who seeks to extend

his or her stay beyond the currently authorized period of admission meets the criteria necessary for USCIS to grant an EOS or change to another nonimmigrant status. This final rule does not create a new form for requesting an EOS or change of nonimmigrant status. Instead, DHS is updating existing Form I-539, to allow F, J, and I nonimmigrants to apply for an EOS or change of status (COS) with USCIS.

Comments: A commenter recommended that DHS and USCIS clarify how they plan to answer questions from DSOs and ROs about implementation and practice of the proposed rule, since the USCIS Ombudsman Office has been suspended by DHS.

Response: DHS is committed to providing training and guidance to DSOs and ROs as the rule is being implemented. Resources and updates will be available on SEVP's website at <https://studyinthestates.dhs.gov/> for DSOs, F nonimmigrants and schools, and on DoS website (<https://j1visa.state.gov/programs>) for ROs, J nonimmigrants, and program sponsors.

For general questions about the implementation and practice of the proposed rule:

- DSOs may contact their local field representative, or the SEVP Response Center via email at sevp@ice.dhs.gov.
- ROs may contact the DoS at jvisas@state.gov.

For questions related to F and J benefit applications, including the Form I-765 or the Form I-539, DSOs and ROs should visit USCIS Contact Center (<https://www.uscis.gov/contactcenter>) or email psc.studentead@uscis.dhs.gov for Form I-765 inquiries.

For questions regarding admission to the United States or Form I-94 issuance, please visit <https://www.cbp.gov/>.

DHS will continue to update these resources and provide additional guidance as needed to ensure DSOs and ROs have the support necessary during the implementation process.

G. EOS

1. EOS Regulations, Process, and Requirements

a. Concerns About Potential Drafting Error or Unjustified Change to Form I-129 Deference Policy

Comments: Commenters noted that the proposed technical amendment to section.214.1(c)(5) was not merely technical, as described in the preamble, but would represent a substantive shift that would increase burdens, reduce adjudicatory efficiency, and introduce inconsistency. Commenters stated that

¹⁶³ DHS data shows that 94.6 percent of I nonimmigrants with confirmed exit data stay less than 240 days. Based on DHS's analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

striking all references to Form I-129, Petition for a Nonimmigrant Worker, and Form I-539, Application to Change/Extend Nonimmigrant Status from 8 CFR 214.1(c)(5) would result in the repeal of the current regulatory mandate for USCIS adjudicators to give deference to prior agency determinations involving the same employer and employee when there are no material factual changes. They reasoned this would increase financial and administrative burdens, narrow flexibility, create risks of inconsistent adjudications, and result in unnecessary re-adjudication of petitions. Some commenters also argued this change was outside the scope of the rule and not relevant to F, J, or I regulations.

Commenters further stated that the proposed change could be arbitrary and capricious under the Administrative Procedure Act (APA), lacking reasoned explanation or adequate opportunity for public comment. Some believed the change was likely a drafting error, as the deference issue was not discussed in the preamble and the NPRM may have referenced an outdated version of the regulation.

Response: DHS appreciates the commenters' concerns and notes that the NPRM mistakenly cited 8 CFR 214.1(c)(5) instead of 8 CFR 241.1(c)(7). DHS now recognizes that a 2024 rulemaking had in fact renumbered the provision on decisions for EOS applications as 8 CFR 214.1(c)(7) and had further made technical revisions to the provision, including removal of the specific form numbers.¹⁶⁴ Accordingly, the revisions proposed in the NPRM related to 8 CFR 214.1(c)(5) are no longer needed and will not be finalized in this rule. As such, DHS will not address substantive comments about the impact of the elimination of deference as those are outside of the scope of what DHS intended.

b. General Feedback on the Requirement To File an EOS

Comments: Commenters stated that the proposed rule would increase administrative burden, uncertainty, and inefficiency. The shift to a fixed-term admission would require hundreds of thousands of nonimmigrants, particularly those in longer programs or pursuing OPT, to apply for EOS. Commenters noted that this could disrupt research, dissertations, teaching assistantships, and funding cycles; waste resources; and create duplicative

review processes, especially since schools and SEVIS already monitor compliance. Concerns were raised about the risk of denials due to technical errors or AI-based adjudication. Some commenters said that each additional filing increases the risk of record mismatches or clerical errors, and that incomplete or misfiled forms would become more difficult to address in a system involving multiple agencies and forms. Commenters also cited significant economic contributions of foreign students and warned that the rule could reduce U.S. competitiveness and university revenues.

Response: DHS does not believe that establishing a fixed time period of authorized stay places undue burdens on F, J, and I nonimmigrants. F-1 students may apply for an EOS if they require additional time under their F-1 status, and the rulemaking includes a transition period for students currently on D/S, allowing for an orderly transition. Providing a fixed time period of authorized stay that requires application for extension, change of status, or other authorization is consistent with most other nonimmigrant classifications and with practices prior to 1979. While DHS acknowledges that this rule will impose additional burdens on some populations, the benefit to program integrity and national security outweighs the burdens.

Requiring F, J, and I nonimmigrants to request additional periods of admission directly with DHS will improve consistency, enable stronger oversight, and deter fraud and abuse. DHS acknowledges the economic contribution of foreign students and expects the United States to remain a competitive destination. The rule's potential impact on enrollment is discussed qualitatively in the economic analysis portion of this rule due to the speculative nature of the magnitude of any decrease.

DHS also appreciates commenters' concerns regarding the potential for technical errors and the use of automated or AI-based adjudication in the processing of immigration benefits under this rule. Requests for admission, extensions of stay, changes of status, and employment authorizations will continue to be adjudicated by trained DHS officers who apply statutory and regulatory requirements to the facts of each case. DHS is also conducting updates to SEVIS and updates to training to ensure a smooth transition and to minimize the risk of any technical errors. Further, USCIS, which is fee-funded, will continue to monitor its resource allocations and make

adjustments as appropriate. DHS is committed to ensuring the integrity and fairness of the adjudication process and will continue to ensure appropriate safeguards are in place.

c. Impacts to the Immigration System or DHS

(1) Efficiency Concerns, Duplicative Processes, Backlogs, Delays, and USCIS Staffing

Comments: Commenters stated that the proposed rule would create duplicative processes within the immigration system, noting that nonimmigrants are already highly tracked and regulated. They argued the rule would create inefficiencies, confusion, costs, or risks, without demonstrating that D/S has failed or that the proposed rule would have beneficial outcomes. Some commenters said the rule would overwhelm USCIS with additional applications, exacerbating existing processing delays, and create a fragmented system with multiple agencies controlling separate parts of the process (DoS, CBP, DHS, USCIS). Many challenged DHS's estimate of 414,000 additional EOS applications annually, suggesting it was too low, and projected even higher numbers. Commenters also noted that DSOs would vet EOS applications before recommending an extension to DHS, resulting in duplicative review, and that the rule would force foreign students to navigate dual bureaucracies.

Commenters expressed concern that delays in processing EOS applications could have serious consequences for students and academic programs, including disruptions to research projects, teaching assignments, and clinical training. Doctoral programs and certain undergraduate programs that exceed four years would require at least one EOS application, creating uncertainty for students and institutions. Medical education and training pathways, which extend beyond four years, could also be negatively affected. Commenters expressed concerns that backlogs and delays in EOS applications would leave students and exchange visitors uncertain about their ability to remain in the country and continue their education, potentially disrupting enrollment, employment, stipends, and health insurance. They noted that such uncertainty could prompt status inquiries that would further exacerbate backlogs and could also impact hospitals and patient care. Commenters warned that delays would disrupt operations for students, institutions, businesses, embassies, and ports of

¹⁶⁴ See *Modernizing H-1B Requirements, Providing Flexibility in the F-1 Program, and Program Improvements Affecting Other Nonimmigrant Workers*, 89 FR 103054 (Dec. 18, 2024).

entry. Commenters noted spillover effects on other immigration benefits due to increased workload and cited research showing that processing delays could lead to job losses and reduced hiring. Commenters suggested setting a maximum adjudication timeline (e.g., 90 days) and reducing filing fees to minimize harm.

Response: The need for this rulemaking was discussed at length in the NPRM and is reiterated within this final rule. Fixed admission periods and periodic review will enhance compliance, reduce overstays, and improve national security and these benefits outweigh the effects. While the rule may cause an increase in USCIS processing times, DHS believes that the benefits of increased contact with these nonimmigrants outweigh processing time considerations. Requiring F, J, and I nonimmigrants to request an EOS will improve consistency of terms of admissions between nonimmigrant categories, enable stronger oversight by government officers who will review the nonimmigrant's request and assess compliance, and enhance the government's ability to enforce inadmissibility grounds related to unlawful presence.

DHS appreciates feedback on the estimated volume of additional EOS applications. DHS's estimates are modelled from historical data obtained from the SEVIS and ADIS systems, and the model has been updated with the most recent data sets. DHS will continue to evaluate actual application volumes and adjust resources and processes as necessary. USCIS, as a fee-funded agency, may set fees to support the additional workload and conduct comprehensive fee studies on a biennial basis, mitigating concerns about a spillover effect. USCIS will continue to monitor its resource allocations and make adjustments as appropriate. DHS also concludes that DSOs and ROs should no longer serve as direct proxies for immigration officers, though they will continue to perform important duties to assist DHS and nonimmigrant students. For example, commenters incorrectly assess that the work of the DSOs and ROs will be duplicative of that of USCIS or CBP. Quite on the contrary, it will be the DSOs and ROs who will decide if the program should be extended on academic or programmatic grounds. USCIS will determine if the nonimmigrant properly maintained status, has not abused the system, and is, therefore, eligible for an EOS. DHS understands that some programs of study may require additional time. The rule permits F, J, and I nonimmigrants who wish to

remain in the United States beyond their specific authorized admission period to apply for authorization to extend their stay. Timely filed EOS applications allow students to remain in a period of authorized stay while pending, and automatic extension provisions help mitigate potential disruptions.

DHS appreciates the input regarding academic programs and employment opportunities that may be impacted and does not believe it is unreasonable to require aliens temporarily in the United States to file for an extension with USCIS to confirm compliance with U.S. immigration laws. Provisions in the rule allow F-1 and J-1 nonimmigrants to continue their activities while EOS applications are pending, helping to prevent interruptions.

DHS recognizes concerns about potential duplicative review and the need for students to interact with multiple agencies. While DSOs and ROs continue to play a critical role in advising and supporting students, the rule is designed to ensure that final immigration status determinations are made by DHS officers, consistent with statutory requirements. DHS will work to provide clear guidance to minimize confusion and administrative burden.

DHS understands the importance of timely processing and strives to adjudicate applications as efficiently as possible. However, processing times can be affected by a variety of factors, including security vetting requirements, and the need for thorough review to ensure program integrity. That is why nonimmigrants are always encouraged and will continue to be encouraged to apply well in advance of the expiration of their stay so that their EOS can be timely adjudicated and not cause any disruption to their programs.

(2) Program Sponsor Access and SEVIS Updates

Comments: A commenter expressed concern that program sponsors do not have access to EOS application status, and that this information is not entered evenly or immediately into SEVIS by DHS officials. The commenter warned that the proposed rule would create situations in which program sponsors could not effectively monitor and advise exchange visitors since they would be unaware of the timeline for EOS processing.

Response: DHS appreciates the concern. SEVIS is being modernized to show sponsors the status of EOS applications, thereby alleviating these concerns.

d. Impacts to Nonimmigrants, Students, or Their Support Systems

(1) Logistical Burdens of Application Process

Comments: Commenters expressed significant concerns about the administrative and logistical burdens and processing delays associated with the proposed EOS application process for F, J, and I nonimmigrants. Commenters emphasized that requiring Form I-539 filed with USCIS would create substantial administrative burdens for students, given USCIS's significant backlogs and lengthy processing times. The process would transform what is currently a routine administrative update handled by university DSOs into a formal, costly, and time-consuming adjudication process. Commenters also noted concerns about timing challenges, especially with peak filing periods, and the burden of traveling to USCIS field offices or consulates for required steps.

Response: DHS does not believe that establishing a fixed time period of authorized stay places an undue burden on F, J, and I nonimmigrants. While the rule will impose additional burden on some populations, the benefit to program integrity outweighs the burden. The rule provides that F-1 and J-1 nonimmigrants can continue their studies or program activities while properly filed EOS applications are pending, subject to certain conditions and time limits. These allowances help to minimize disruptions. Further, as noted above, USCIS (which is a fee-funded agency) will continue to monitor its resource allocations and make adjustments as appropriate.

(2) Risk of Status Violations Due to Processing Delays

Comments: Many commenters noted concern that processing delays or a denied extension could lead to students falling out of status through no fault of their own, potentially accruing unlawful presence and triggering reentry bars.

Response: DHS disagrees that this rule will increase students falling out of status through no fault of their own, potentially accruing unlawful presence and triggering reentry bars. For timely filed EOS applications, the F, J, or I nonimmigrant is considered to be in a period of authorized stay and does not accrue unlawful presence during adjudication of their EOS. If an EOS application is denied after the period of admission has expired, the nonimmigrant student and any dependents must depart immediately. See new 8 CFR 214.2(f)(7)(vii). DHS also notes that reentry bars are not triggered

until an alien departs the United States. One primary aim of this final rule is to institute policies that encourage aliens to maintain lawful status and reduce instances of unlawful presence. USCIS will assess allocation of resources as appropriate to address processing needs.

(3) Negative Impacts on Academic Flexibility and Educational Pathways

Comments: Commenters noted concerns that the proposed rule would limit students' academic flexibility, making routine academic adjustments immigration adjudication events. They provided examples of combined degree programs, transitions from master's to doctoral studies, and other pathways that would be complicated by the rule. Commenters criticized the rule for shifting supervision of academic decisions from institutions to USCIS and warned it could decrease the incentive for foreign students to study in the United States.

Response: DHS recognizes the concerns about reduced academic flexibility. Students may be admitted for up to four years and may apply for an extension if their program requires additional time. The regulation outlines the parameters for study, but students may make academic decisions within those parameters and continue to seek guidance from educational institutions, helping to protect the integrity of the F nonimmigrant classification while also preventing fraud and abuse. Furthermore, only DHS has authority to determine whether a nonimmigrant student remains in status. DHS believes, as discussed elsewhere in this rule, that nonimmigrant students will continue to come to the United States to study because of the quality of education offered and the ability to gain work experience in specialized fields.

(4) Financial Burdens

Comments: Commenters expressed significant concern about the financial burdens the proposed rule would impose on F, J, and I nonimmigrants, including increased fees for EOS applications and potential legal fees. Commenters noted that these costs would be particularly burdensome for students with limited financial resources and could accumulate over multiple extensions. Additional expenses could include travel costs for biometrics or interviews and indirect costs such as loss of income or health insurance due to pending EOS applications.

Response: DHS is authorized to charge fees for adjudication and naturalization services at a level to ensure recovery of the full costs of

providing such services. DHS acknowledges that EOS applications will incur costs for nonimmigrants, but these costs are necessary for program integrity and national security. The Regulatory Impact Analysis accounts for these costs, and DHS believes the benefits outweigh the financial burden.

(5) Driver's Licenses

Comments: Commenters expressed concern about obtaining a driver's license and warned that the proposed rule would create additional complexities with respect to driver's licenses, as many states issue licenses only for the period of stay specified on a nonimmigrant's Form I-94. Affected nonimmigrants and their dependents would need to seek license renewal each time they file an EOS, adding further cost and inconvenience.

Response: DHS recognizes various state laws related to driver's licenses for aliens but does not have authority to adjust these state laws. DHS believes that timely filing of extension requests will minimize potential delays in license renewals.

(6) Emotional Burden

Comments: Many commenters described the stress, psychological impacts, and uncertainty F, J, and I nonimmigrants would face from dealing with the complexity of the extension process under the proposed rule. Commenters noted, for F nonimmigrants, this was especially true after investing significant resources in their education.

Response: DHS acknowledges that regulatory changes require adjustment and can be difficult. However, DHS believes the benefits of the rule outweigh these effects and that F, J, and I nonimmigrants will adapt to these changes. DHS declines to adjust the regulations for this reason.

(7) Economic Hardship and Special Student Relief (SSR)

Comments: A commenter supported codifying automatic extension of employment authorization for SSR beneficiaries with timely EOS applications, noting it aligns with longstanding policy and reduces lapses in employment. Others requested clarification on how automatic extension applies to severe economic hardship and raised concerns about increased administrative burdens.

Response: DHS appreciates the support and clarifies that individuals with a timely filed, pending EOS may receive automatic extensions of employment authorization under certain circumstances for up to 240 days or

until the end date stated in a **Federal Register** notice. *See* new 8 CFR 214.2(f)(5)(viii). The 240-day period is consistent with other nonimmigrant classifications and balances the need for oversight with minimizing disruptions. DHS acknowledges additional costs but believes the benefits outweigh the burdens.

(8) Interaction With H-1B Status (Cap-Gap Protection)

Comments: Commenters expressed concern that the rule could undermine cap-gap protection for F-1 students transitioning to H-1B status, potentially causing legal consequences for brief lapses in status. They requested clarification on whether cap-gap protections would remain and how the rule interacts with existing provisions for H-1B portability and status bridging.

Response: DHS confirms that the rule does not modify or remove automatic EOS and employment authorization for F-1 students who are beneficiaries of timely filed H-1B cap-subject petitions. Eligible F-1 students will continue to be granted automatic EOS and employment authorization through April 1 of the relevant fiscal year or until the H-1B petition's validity start date, whichever is earlier.

(9) Impact on OPT and Employment

Comments: Many commenters expressed concern that delays in processing EOS applications could disrupt work authorization for students and employers, resulting in lost income, interruptions to employer operations, and jeopardized research projects or clinical care. Commenters stated that the OPT/STEM OPT pipelines supply critical U.S. industries and that the proposed rule would introduce uncertainty and additional complexity, particularly for unpaid or volunteer OPT work. Some commenters provided data on the number of OPT authorizations and warned that the rule could deter participation in OPT and reduce the U.S. technical workforce.

Response: DHS understands concerns regarding potential disruptions to employment and research due to EOS processing. To minimize disruptions, the final rule includes provisions for automatic extensions of the authorized period of stay and employment authorizations for F-1, J, and I nonimmigrants who timely file EOS applications.¹⁶⁵ These provisions help minimize interruptions in activities and employment while applications are pending. DHS recognizes commenters'

¹⁶⁵ *See* new 8 CFR 214.2(f)(5)(viii), (j)(1)(vii), (i)(5)(i)(B), (iii), and 8 CFR 274a.12(b)(20).

concerns about the effects of this rule on OPT and STEM OPT. DHS has sought to balance program integrity, national security, and compliance with the need to minimize disruptions to students and the U.S. workforce. OPT and STEM OPT participants are included in the transition period outlined in this rule, reducing immediate burdens and allowing time for adjustment to the new process.

2. Feedback, Recommendations, and Requests for Clarification

a. Premium Processing

Comments: Commenters suggested offering premium processing for Form I-539.

Response: USCIS will continue to explore expanding premium processing for Form I-539 for affected populations requesting an EOS. USCIS will alert the public through the USCIS website that governs premium offerings.¹⁶⁶ In the absence of premium processing, an applicant may request that USCIS expedite the adjudication of an application, including for an EOS, that is under USCIS jurisdiction.¹⁶⁷ USCIS considers all expedite requests on a case-by-case basis and generally requires documentation to support such requests.¹⁶⁸ The decision to expedite is within the sole discretion of USCIS.¹⁶⁹ Expediting a case generally means that USCIS would adjudicate a benefit ahead of others, including those who may have filed earlier, so USCIS carefully weighs the urgency and merit of each expedite request.¹⁷⁰ DHS has built in protections for students with timely filed EOS applications, including periods of authorized stay and automatic extension of employment authorization.

b. EOS Process Recommendations and Clarifications

Comments: Commenters recommended modifications to the EOS process, such as limiting the number and length of extensions per degree level, allowing program-based extensions for healthcare workers, eliminating EOS for students maintaining valid enrollment or for students making institutional transfers or program changes at the same level, and allowing visa stamp delivery with EOS approval. Commenters also

requested clarification on the roles of DSOs/AROs, and the documentation required for EOS.

Response: DHS thanks the commenters for their suggestions; however, DHS is concerned that perhaps there is a misunderstanding of when there is a need to file for an EOS. Many degrees, except for some Ph.D. programs, can be completed within the 4-year maximum period of stay. Therefore, most F-1 students, who are in Masters and Bachelor's programs, are not expected to need an EOS unless they wish to progress to higher levels of education. Their period of admission will be limited in length based upon their program duration, not to exceed the 4-year maximum period of stay. Healthcare workers are also able to file for extensions should their J nonimmigrant activities extend beyond their admission period, which can initially be up to 4 years. However, that said, this rule does not require students or exchange visitors to complete their intended program within four years. Rather, the four-year period serves as a law enforcement and screening tool to assess whether a student or exchange visitor is maintaining their nonimmigrant status. Therefore, DHS appreciates commenters' recommendations to limit the number of extensions, but declines to adopt this limitation, as DHS will review the eligibility of each EOS application and the rule changes being adopted via this final rule will help to prevent fraud and abuse. DHS will not be eliminating EOS for select groups, as this would undermine the goals of this rulemaking.

DHS appreciates the suggestion to allow visa stamp delivery with EOS approval. However, under current law, DHS does not have this authority since visa stamps can only be issued by DoS.

Finally, DHS appreciates the requests for clarification about the roles of DSOs and AROs and the documentation required for EOS. These roles and the necessary documentation have been described in this rulemaking and DHS will continue to provide guidance and training as deemed necessary.

c. Safe Harbor Provisions and Appeals

Comments: Commenters recommended that DHS establish "safe harbor" protections for students whose extension applications are pending when their status expires due to processing delays. For example, a commenter stated if the denial notice is mailed via United States Postal Service and the student is not notified of the denial in any other way, it would take approximately ten (10) to fifteen (15) days for the denial notice to reach them

(given current mailing times of other USCIS notices). The commenter was concerned the student could be accruing days of overstay and not even know it and advised providing a grace period for departure would alleviate this concern.

Suggestions included specific timeframes for these protections, ranging from 180 days to 12–18 months of lawful status while awaiting USCIS decisions. Commenters emphasized that these protections would prevent workforce and academic disruptions. Additionally, commenters requested clarification regarding the appeals process for EOS denials, specifically asking what activities students would be permitted to engage in, such as class enrollment, while appeals or motions are pending.

Response: DHS has built in protections for students who have a timely filed EOS application because the nonimmigrant is considered to be in a period of authorized stay and does not accrue unlawful presence during this time. As has been discussed in this final rule, activities consistent with the classification, as well as certain work authorizations, may also continue after the filing of an EOS, with some restrictions which have been discussed within this final rule. Notably, F-1 students who timely file an EOS application before their period of admission expires are considered to be in a period of authorized stay while the application is pending and they may continue their studies during this time. See new 8 CFR 214.2(f)(7)(iii)(B). Given the current protections in place, DHS declines to adopt further "safe harbor" protections.

This rule does not alter the unavailability of appeals for denials of Form I-539, as these applications currently cannot be appealed; however, a motion to reopen or reconsider may be filed if the application is denied. USCIS issues denial notices with specific reasons for the denial, as required under 8 CFR 103.3(a)(1)(i), with the exception of classified information. As with all other nonimmigrant statuses that are denied an EOS, filing a motion does not stay the execution of any decision or extend a previously set departure date. DHS recognizes commenters' concerns about accrual of unlawful status while awaiting receipt of their denial and the inability to work during this time. This is something that can happen in many visa categories and aliens can consult with immigration professionals to understand the requirements of their visa category and the risks of not following those requirements. Because this concept is already embedded in the

¹⁶⁶ See USCIS, *How Do I Request Premium Processing?* (last updated June 18, 2024), <https://www.uscis.gov/forms/all-forms/how-do-i-request-premium-processing>.

¹⁶⁷ See USCIS, *Expedite Requests* (last updated Oct. 30, 2025), <https://www.uscis.gov/forms/filing-guidance/expedite-requests>.

¹⁶⁸ See *Id.*

¹⁶⁹ See *Id.*

¹⁷⁰ See *Id.*

current regulations, this rule does not affect this provision in the CFR.

d. Suggestions for Streamlining and Modifying the EOS Process

Comments: Several commenters advocated for automatic extension mechanisms that would allow students to continue their programs as long as they maintain status, emphasizing the need to avoid mid-program disruptions. Commenters also recommended streamlining extensions for low-risk students, exempting certain categories from EOS requirements, and prioritizing applications involving research or clinical care.

Response: DHS recently updated its regulations to expressly require that evidence of maintenance of status must be included with petitions or applications seeking an extension or amendment of stay. See 8 CFR 214.1(c)(6). This requirement streamlines and clarifies the process for EOS requests and helps ensure compliance. DHS believes that USCIS review of extensions is necessary for program integrity and national security, and that the benefits of this oversight outweigh the administrative burden. DHS declines to lower the review threshold for certain categories of F, J, and I nonimmigrants since this would undercut the goals of this rulemaking.

e. Requests for Clarification and Predictability

Comments: Commenters requested clarification on numerous aspects of the proposed rule, including when EOS filings would be necessary versus simple SEVIS system updates, especially for early program changes. Commenters also asked for clear, fair, and predictable extension criteria, logistics, processing timelines, costs, and expectations. They recommended that DHS publish service-level targets for EOS processing and automatically approve interim extensions for pending applications when these targets are not met. Commenters also sought clarification on the number of EOS applications allowed in a lifetime, allowable delays, hardship exceptions, and how OPT/STEM OPT extensions would be managed under the new process.

Response: Under this rule, an EOS application is required when a nonimmigrant's authorized period of admission will not be sufficient to complete their program, training, or activity, or when additional time in the United States is needed beyond the nonimmigrant's current fixed admission period. An EOS may also be required for nonimmigrants transitioning from D/S

to a fixed admission period, as described within the transition provisions in new 8 CFR 214.1(m). A system update in SEVIS is required for certain routine changes but does not substitute for an EOS when more time in status is needed.

DHS did not propose changes to 8 CFR 214.1(c)(4), the regulation governing timely filing and maintenance of status. An alien seeking an EOS must have continually maintained status, and late filings may be excused at USCIS discretion if certain factors are met. DHS will continue to provide guidance and training to clarify EOS requirements, allowable delays, and the process for OPT/STEM OPT extensions. DHS notes that if the F, J, and I nonimmigrant submits an EOS prior to the expiration of the I-94, which includes the 30-day grace period, the extension request will be considered timely filed. There are currently no lifetime limits on the number of EOS applications that can be filed for F, J, and I nonimmigrants.

f. Concerns About OPT Participation and EOS Requirements

Comments: Commenters recommended that DHS ensure OPT participation is not disrupted by EOS requirements, with some stating that EOS should not be required for OPT at all. They requested clarification on whether students could apply for OPT after completing a degree without first obtaining an EOS, and whether OPT would continue while an EOS application is pending. One commenter wrote that CBP already admits students to the date of EAD expiration or a DSO-endorsed OPT end date, arguing that this renders a second EOS adjudication unnecessary.

Response: DHS appreciates commenters' concerns about potential complications with filing for EOS along with work authorization. Students have always been encouraged, and will continue to be encouraged, to apply for their EAD for OPT as soon as possible and not wait until they complete all their studies. Under the new rule, for those students not under the transition provisions of 8 CFR 214.1(m), they will also need to extend their stay. They can do so by filing both an EOS and EAD concurrently. But, even if they file them separately, when USCIS receives an EOS or work authorization application, an immigration officer searches DHS systems to locate related files. This process will not change once this final rule goes into effect. If USCIS receives an extension request, USCIS will conduct searches to determine if a related application, such as an application for employment

authorization, has been filed. If a related file is found, both cases will be adjudicated together to avoid gaps in authorization. Currently, students cannot begin employment until they receive an EAD from USCIS. This will not change under this rule.

DHS has ensured efficient processing for EOS applications to avoid any impact on the processing of the EAD petition related to OPT. Students who complete their OPT during their program of study will not need an EOS. Those opting for post-completion OPT or STEM OPT will most likely need to file for an EOS with USCIS unless they travel abroad and apply for readmission with a Form I-20 containing the DSO OPT recommendation. Nonimmigrants can choose how to extend their stay by either traveling abroad and re-entering through a POE or applying for EOS with USCIS. It is not necessary to do both.

For those finishing a program of study and wanting to start OPT or STEM OPT and their authorized stay expires when their program of study concludes, they can file both an EOS (I-539) and EAD (I-765) application concurrently. They will be considered to be in a period of authorized stay while the EOS application is pending but may not start new employment until both EAD and EOS are approved. DHS has also provided transition provisions to minimize disruption for students in OPT/STEM OPT status at the time the rule takes effect.

With respect to whether OPT continues while an EOS application is pending, the rule does not provide for automatic extension of post-completion OPT employment authorization during the pendency of an EOS application. However, for those participating in STEM OPT, the current regulations at 8 CFR 274a.12(b)(6)(iv) are not changing and provide that those with pending STEM OPT EAD applications can continue to work up to 180 days after the expiration of their current EAD. Students may begin or continue OPT employment only after both the EOS and employment authorization applications are approved, unless they qualify for transition relief or unless the F-1 students began their OPT as pre-completion OPT and still have time left after completion of their program.

g. Travel, Reentry, and EOS Applications

Comments: Commenters sought clarification on travel implications, asking whether F and J nonimmigrants could exit the United States and reenter under the same status as an alternative to the EOS process. They also asked whether students would be required to

remain in the country while their EOS applications were pending and urged DHS to allow extensions from within the United States rather than requiring visa holders to exit.

Response: DHS has opted to provide flexibility by allowing F and J nonimmigrants to either file for an EOS or depart and reenter the United States to extend their stay. Each option has advantages and disadvantages, and the decision is up to the individual. If the nonimmigrant unexpectedly travels after filing an EOS application, DHS recommends that nonimmigrants carry their EOS receipt notice when traveling and notes that departing and reentering may result in abandonment of a pending EOS application if admitted on a new Form I-20 or DS-2019 after the previous admission has expired. *See* new 8 CFR 214.1(c)(8).

h. 240-Day Grace Period and Family Unit Extensions

Comments: Commenters expressed concern with the proposed 240-day grace period while an EOS remains pending, asking DHS to clarify how this timeframe was determined. They also remarked on the provision that “the shortest period granted to any member of the family will be granted to all members,” expressing concern that this could be unfair if dependents age out before the normal end of stay.

Response: DHS based the 240-day period on the established timeframe in 8 CFR 274a.12(b)(20), which provides an automatic extension of employment authorization for several nonimmigrant classifications. The finalized regulation requires that extensions granted to family members be for the same period, which promotes efficiency and oversight. DHS often aligns the extension period for dependents (family members) with that of the principal nonimmigrant. This is intended to promote administrative efficiency and oversight.

Generally, USCIS will grant the maximum period of stay authorized for the principal nonimmigrant and all dependents; however, there may be situations (*i.e.*, a child will age out) where one family member’s time limitation is less than the principal’s. However, the reverse is not true. DHS notes that under new 8 CFR 214.2(f)(5)(i)(E), the authorized period of stay for F-2 dependents may not exceed the authorized period of stay of the principal F-1 student.

i. Opposition to Extensions and Successive EOS Applications

Comments: Some commenters opposed extensions altogether,

suggesting that DHS pause all student and visitor visas or not allow nonimmigrants to pursue EOS after graduating. Others expressed concern that students might request successive EOSs, potentially allowing them to remain in the United States much longer than the initial admission period.

Response: DHS requires that evidence of maintenance of status be included with EOS applications and will review each request to ensure compliance. *See* new 8 CFR 214.2(f)(7). Successive EOS applications are subject to eligibility requirements, and USCIS may deny requests if the applicant does not meet the criteria. The process is designed to prevent indefinite stays and ensure that nonimmigrants remain bona fide students or exchange visitors.

3. EOS Process and Requirements for F-1 Students

a. General Concerns About EOS Requirements for F-1 Students

Comments: Many commenters expressed concerns that the proposed EOS requirements for F-1 students would increase burdens on nonimmigrants, government agencies, employers, educational institutions, and DSOs. They argued that the procedures are duplicative and unnecessary, could disrupt or delay academic progress, employment or training opportunities (including OPT and H-1B), research, housing, and family unity, and do not align with standard academic timelines. Commenters cited studies showing that bachelor’s and doctoral programs often require more than four years. Commenters also indicated that associate degree programs could take longer than 2 years due to prerequisites, class offerings and modality, and full-time enrollment requisites, and requiring extensions would be burdensome for such students. Concerns were raised about USCIS’s capacity to process EOS applications in a timely manner, risking delays or administrative errors that could result in students unintentionally falling out of status.

Commenters urged DHS to consider the practical challenges and time constraints associated with the EOS process, noting that existing oversight through SEVIS, DSO reports, and DHS monitoring is already robust. They also highlighted that the proposed requirements do not account for the variety of academic scenarios, such as the needs of English language students, those in short-term programs, or students in disciplines with non-standard timelines.

Response: DHS recognizes this rule will require changes for stakeholders,

but maintains the burdens are outweighed by the benefits of this rule. As explained within the NPRM, the F-1 program has been subject to fraud, exploitation, and abuse and this rule will help combat these issues.¹⁷¹ While DHS cannot guarantee processing times for applications filed at USCIS due to numerous governing factors, DHS will continue to explore system improvements to promote efficiency, prompt adjudications, and paperwork reduction.

F nonimmigrants who properly file an EOS may remain in the United States and are considered to be in a period of authorized stay during that period, consistent with USCIS policy for most nonimmigrants admitted for a fixed period of admission.¹⁷² F students may continue to pursue a full course of study while the EOS is pending, and certain types of authorized employment are also extended for up to 240 days. *See* new 8 CFR 214.2(f)(7)(iii)(B). Additionally, DHS believes that the process of requesting an EOS should not hinder timely completion of research projects, just as traveling abroad and re-entering the United States and going through inspection under current rules do not hinder such research.

DHS disagrees that the extension procedures create uncertainty or are unduly disruptive. It is the responsibility of the alien to maintain status, and requiring an extension is consistent with requirements for other nonimmigrant categories. The 24-month cap for English language programs is designed to prevent abuse of the F-1 program. DHS acknowledges increased responsibilities for DSOs and believes these changes are necessary to maintain program integrity and to obtain compliance with immigration laws. DHS has found that the existing oversight through SEVIS, DSO reports, and DHS monitoring is not robust enough and that actual review by immigration officers of aliens who want to stay beyond their program end date or 4 years is necessary for program integrity and national security.

b. Financial Documentation

Comments: Commenters opposed requiring students to provide evidence of sufficient funds for each EOS. One commenter argued that institutions already verify financial capacity during enrollment and the requirement is overly burdensome.

Response: DHS requires evidence of sufficient funds for each EOS filings to ensure students can study without

¹⁷¹ *See* 90 FR at 42077.

¹⁷² USCIS Memorandum, *supra* note 72.

unauthorized employment. This is consistent with statutory and regulatory requirements and is within DHS's authority. Specifically, the sufficient fund requirement is designed to ensure that applicants for an EOS under new 8 CFR 214.2(f)(7)(i) meet the statutory and regulatory eligibility criteria for the nonimmigrant classification sought. Demonstrating sufficient funds to cover expenses is a critical component of this eligibility determination, as it directly relates to the applicant's ability to maintain their status and fulfill the requirements of their nonimmigrant classification. DHS acknowledges that the evidence required to demonstrate sufficient funds may involve detailed financial documentation, such as account statements, receipts, letters from school accounts offices, or other financial records. However, these requirements are necessary to ensure the integrity of the process and to verify that applicants have the financial means to support their education and related expenses without becoming a public charge or violating the terms of their status.

4. Acceptable Reasons for Requesting an EOS and Evidence

a. General Comments on Standards for EOS Filing and Approval

Comments: Some commenters supported stricter approval standards, while others advocated for more lenient standards that account for research delays, funding gaps, program type, institutional delays, and emergencies. Commenters urged DHS to clarify what constitutes "compelling academic reason," "compelling medical reason," and "circumstances beyond a student's control," and to recognize program length and design as qualifying exceptions.

Response: DHS appreciates the diverse perspectives about approval standards for EOS requests. While the final rule establishes the regulatory framework and eligibility criteria for EOS, the specific adjudication standards and consideration of individual circumstances are matters of agency policy and operational guidance. These operational details are outside the scope of this rulemaking. DHS will continue to review and update its internal policies and training to ensure fair and consistent application of the regulatory criteria.

DHS provides examples of compelling academic, medical reasons, and circumstances beyond a student's control in new 8 CFR 214.2(f)(7)(i)(C)(2)(i)–(ii), and the list is non-exclusive to allow for discretion.

DHS is not restricting DSOs from inputting program lengths that align with institutional curricula. If additional time is needed beyond the initial program length, students must submit evidence for an extension. Each scenario is evaluated case-by-case.

b. Elimination of the Normal Progress Standard

Comments: Commenters opposed the elimination of the "normal progress" standard, arguing that it is not undefined or difficult to apply, and it reflects the flexible, individualized nature of academic programs. Commenters argued institutions already have robust procedures for evaluating progress. Commenters suggested DHS retain the standard with a clearer definition, align it with Satisfactory Academic Progress (SAP) standards, or require documentation from academic advisers or deans for EOS determinations.

Response: The prior regulations relied on a standard of "normal progress" when addressing program extensions, leaving interpretations up to DSOs and resulting in inconsistencies in evaluating a student as each school has different standards and procedures for program extensions. By eliminating "normal progress" for program extensions and emphasizing that extensions must be granted only in cases where there is a compelling academic reason, a documented illness or medical condition, or circumstances beyond a student's control, DHS expects more consistency throughout all schools when considering an EOS. *See* new 8 CFR 214.2(f)(7)(i).

DHS appreciates commenters' suggestions to instead modify the definition or clarify "normal progress" and to ensure alignment with SAP standards. However, SEVP-certified schools include a diverse range of institutions, many of which are private and not required to follow U.S. Department of Education (ED) standards. DHS believes it is more practical to allow immigration officers to rely on individual schools' standards and policies to determine normal progress and to review evidence on a case-by-case basis. The extension process allows students to submit documentation in support of a program extension, including letters from advisers or deans.

c. Compelling Academic Reasons and Evidence

Comments: Several commenters stated that the "compelling academic reasons" standard is too narrow, vague, and does not reflect the realities of

academic progression. They argued that higher education is rarely linear and that the examples provided do not cover all scenarios. Commenters also opposed codifying terms like "probation," "dismissal," and "suspension," as these vary across institutions.

Response: The compelling academic reasons standard is designed to balance academic realities with statutory requirements that nonimmigrant students maintain progress toward their educational objectives. DHS recognizes that unexpected or unforeseen academic circumstances may arise during the course of study and that, in appropriate cases, such circumstances may warrant an extension of status. The standard is not intended to be so rigid as to penalize students for isolated or temporary academic difficulties. At the same time, DHS does not consider repeated or prolonged inability to complete required coursework, when taken as a whole, to necessarily constitute a compelling academic reason for continued extensions of stay. A demonstrated pattern of insufficient academic progress may indicate an unwillingness or inability to complete the program of study within a reasonable timeframe. Each EOS application will be adjudicated individually on a case-by-case basis. DHS declines to define institutional terminology but will continue to require DSOs to report academic status changes and the effective date or period of suspension, dismissal, probation, or withdrawal based on their institution's definitions.

d. Documented Illness or Medical Condition and Evidence

Comments: Commenters expressed concern that the list of medical professionals who can document a "compelling medical reason" is too narrow and suggested expanding it. A commenter proposed resetting D/S after medical leave and requested a transparent appeal process.

Response: DHS acknowledges the variety of healthcare providers, but these changes are outside the scope of the rulemaking and DHS cannot expand the list without further notice and comment. Immigration officers will evaluate whether delays are due to compelling academic or medical reasons. The rule does not alter the appeals process or availability of appeals.

e. Exceptional Circumstances Outside the Student's Control

Comments: A commenter supported the inclusion of "exceptional circumstances outside the student's control" as a valid basis for extensions,

while others suggested expanding the definition to include DSO errors, research delays, emergencies, and more.

Response: DHS will evaluate each scenario on a case-by-case basis rather than defining specific circumstances, to avoid inadvertently limiting eligibility. The process ensures that only legitimate cases receive extensions.

5. Timely EOS Requests and Reinstatement

Comments: Some commenters supported the requirement for timely EOS filings and the safeguard against fraud. Others requested clearer definitions of “timely submitted,” clarification about campus employment limitations, and clarification on whether departing the United States with a pending EOS application constitutes abandonment. Commenters sought guidance on late filings, recommended allowing EOS submissions up to six months before expiration, and raised concerns about duplicative documentation requirements for EOS and reinstatement, suggesting F–1 students should be able to request status extensions as part of reinstatement rather than filing separate applications. Some suggested that English language students should use the SEVIS HelpDesk for changes instead of EOS. Commenters also proposed streamlining the EOS process by identifying longer academic programs at visa issuance and expediting extensions for students progressing from undergraduate to graduate programs at the same institution. Some also noted inconsistencies in employment authorization provisions and requested that employment eligibility be extended regardless of when the EOS is filed.

Response: USCIS considers a Form I–539 timely filed when received before status expires, and there is no regulation preventing early filing. Generally, EOS applications are not considered abandoned if the nonimmigrant leaves the United States while the application is pending, unless admitted on a new I–20 or DS–2019 after expiration. See new 8 CFR 214.1(c)(8). DHS declines to adopt commenters suggestions about utilizing the SEVP Response Center to extend a program rather than applying for an EOS with USCIS, as the EOS process is completed in accordance with statutory and regulatory requirements. DHS also declines to make exceptions for longer programs or those students progressing from undergraduate to graduate programs at the same university because that would defeat the purpose of this rule, which is to have a specified period after which a student must have a check-in with an

immigration officer so that the government can make sure that student has not committed any crimes and has properly maintained status. The EOS process provides immigration officers an opportunity to directly review and determine whether F, J, and I nonimmigrants who wish to remain in the United States beyond their fixed period of admission are complying with U.S. immigration law and are indeed eligible to retain their nonimmigrant status. DHS will continue to evaluate opportunities to reduce administrative burdens and improve efficiency in the future as it continues to develop guidance and system enhancements, to better support students and institutions while maintaining program integrity.

This rule does not generally alter the existing employment authorization regulations which do not permit the F–1 nonimmigrant to engage in employment during the departure period. Under the final rule, EOS and EAD applications do not always have to be filed together, as explained in other parts of this rule, but all employment must cease if the EOS application is filed after the F–1 completes their course of study and any authorized post-completion practical training, including during the departure period. Therefore, DHS declines to modify the language in this rule to allow continued employment regardless of when the EOS is filed.

Current system limitations require separate filings for reinstatement and extension. DHS will continue to explore system improvements but believes the current process is necessary for program integrity.

6. EOS Process and Requirements for J Nonimmigrants

a. Concerns About J–1 Program Transfers and Category Changes

Comments: Commenters expressed concern about how the proposed EOS process would interact with the J–1 transfer process. One commenter noted that, because the J–1 transfer process only allows the new program sponsor to extend the J–1 on the expiration date of the previous sponsor, the proposed EOS requirement could not possibly be “timely filed” with USCIS, potentially leading to overstays through no fault of the nonimmigrant. Another commenter questioned whether J–1 exchange visitors would be considered out-of-status and unable to begin at their new institutions if they could not file extensions with USCIS before their Form I–94 expiration due to transfer delays.

Commenters also raised concerns about J–1 category changes, such as research scholars changing to alien physician status, and whether such changes would be a valid reason for an EOS. They questioned whether a physician who does not receive their DS–2019 before their I–94 expires would be considered out-of-status and ineligible to participate in their medical training program, and whether an unexpired I–94 based on a previous DS–2019 would be valid in combination with a new Form DS–2019.

Response: New 8 CFR 214.2(j)(1)(iv) states that an alien in J–1 status seeking to extend his or her stay beyond the currently authorized period of admission must apply for an EOS, including if a sponsor issues a Form DS–2019 or successor form extending an alien’s program end date for any reason. An EOS application is considered timely filed if the receipt date is on or before the date the authorized admission period expires, including the 30-day grace period. If the extension application is received during the 30-day period following the completion of the exchange visitor program, the J–1 may continue to participate in the program. If the RO is required to update the program status or program end date for an exchange visitor after the program end date listed on the most recent Form DS–2019 (or successor form), the sponsor is required to submit the necessary correction or reinstatement in the manner and timeframe required by DoS. Once the record is corrected or reinstated, the J–1 exchange visitor must submit a request for an EOS to USCIS within 30 days of the status update. Exchange visitors are required to transfer before their programs end and should work with their new sponsor to get an updated Form DS–2019. Category changes and transfers should be coordinated with timely filings to avoid status issues.

b. Concerns About Late Requests for Extension

Comments: Commenters stated that the proposed regulation at 8 CFR 214.2(j)(1)(iv)(D) is unclear, especially regarding the fee structure, reference to fees under 22 CFR 62.43, and the process for correcting or reinstating status after the program end date. A commenter stated that current regulations do not require the sponsor to request a reinstatement or pay a fee if the SEVIS record is not extended by the program end date, allowing for errors to be corrected in the SEVIS system without a fee or adjudication. Commenters requested clarification on whether the 30-day correction and

reinstatement processes can be used to correct status in cases where the SEVIS record was extended in a timely manner, but the extension request to USCIS was filed late or misfiled and returned after the I-94 expired.

Response: Currently, if a sponsor fails to timely extend an exchange visitor's program, SEVP allows up to 120 days to return the record to Active status and extend the program end date (Correct Minor or Technical Infraction). This final rule updates the language which was previously proposed in 8 CFR 214.2(j)(1)(iv)(D) to offer additional clarity and to remove the reference to "the required fee" at 22 CFR 62.43. Once the record is corrected or reinstated, the J-1 must submit a request for EOS to USCIS within 30 days of the status update.

c. Processing Delays and Program Disruptions

Comments: Commenters expressed concern about USCIS processing times for EOS applications and the potential for disruptions to J-1 exchange programs. A few commenters stated that current USCIS processing times often exceed several months, which would make timely decisions unlikely for many J-1 categories with already shorter program durations. One commenter expressed concern that some trainees in lengthy programs might need to go through the process multiple times.

A couple of commenters stated that while the proposed rule would allow J-1 exchange visitors to continue their program activities for up to 240 days after the expiration of their Form I-94 and while an EOS application is pending, this period is shorter than many academic years and medical training programs. These commenters further stated that if an EOS application is still pending after 240 days, exchange visitors might need to stop working mid-year, causing disruptions to educational programs, research activities, and patient care. The commenters recommended that the final rule permit authorization for exchange teachers to remain authorized until adjudication, regardless of the 240-day limit. One commenter provided discussion of academic calendars and employment decision-making in support of their recommendation. Another commenter stated that regardless of the proposed rule, J-1 students who file timely EOS applications should be permitted to remain in the United States and continue their program activities, including academic and extracurricular participation, for the full duration of their DS-2019 extension.

Another commenter noted that the longer processing times may lead to gaps in work for J-1 physicians, which would mean longer hours for physicians who are U.S. citizens and potential burn out from those physicians.¹⁷³ One commenter expressed a similar concern, stating that if a J-1 trainee or researcher encounters an arbitrary admission expiration, they may be required to pause or abandon ongoing study while awaiting an EOS. The commenter also stated that hospitals cannot provide consistent clinical training or achieve research breakthroughs if J-1 staff members face unpredictable admission deadlines under the application of the proposed rule.

A commenter expressed concern that this would be particularly burdensome on USCIS operations as it would require the submission of several separate application fees, and another commenter wrote that this burden would deter foreign physicians from choosing U.S. medical schools for their training and the schools would thus become less globally competitive.

Response: DHS has considered the effects of the rule on J-1 nonimmigrant physicians, teachers, and other exchange visitor program categories. DHS does not intend, through this rule, to discourage J-1 exchange visitors to extend their stay in the United States. DHS does intend to improve monitoring of this population and support the integrity of the country's immigration system. DHS disagrees that a requirement to file an extension request or to depart and reenter the United States is unduly burdensome, noting that this is a requirement for most other nonimmigrants, which include teachers and members of many other professions (e.g. H-1B, L-1, O-1, etc.).

DHS notes that a J-1 nonimmigrant will have a 30-day grace period after their program end date. See new 8 CFR 214.2(j)(1)(ii)(C). As such, the receiving sponsor will have 30 days to issue a new DS-2019 and at that time the alien may apply for an extension. If the extension request is filed within the 30-day period, it will be considered timely.

DHS appreciates the contributions of J-1 nonimmigrants and does not intend to unduly interrupt their work. Under this final rule, J-1 nonimmigrants who timely file EOS on or before March 18, 2027, may engage in J-1 activities, including authorized training and employment, as permitted by their exchange visitor program, for the period

up to the end date of the DS-2019 submitted with the EOS. J-1 nonimmigrants who file for EOS after March 17, 2027, may continue employment activities while their properly filed EOS is pending, for up to 240 days beyond the expiration of their authorized period of admission which should help to minimize potential interruption in employment. See new 8 CFR 214.2(j)(1)(viii). In some instances, J-1 nonimmigrants may choose to depart and reenter the United States to extend their stay. However, those who are here for unpaid training or for studies are allowed to continue those programs for the entire time the EOS application is being adjudicated and are considered in status during that time.

Regarding the commenter's concerns that EOS requests, including the need in some instances to file multiple applications, will be burdensome on USCIS operations, DHS acknowledges there will be an increase in volume of EOS applications received by USCIS following the effective date of the final rule as those nonimmigrants who are required to file EOS begin to do so. DHS has the capability to shift resources as needed and as appropriate to ensure that the larger increased volumes are integrated into existing workflows. With the projected increase in EOS requests, the fees collected for these EOS requests will allow USCIS to allocate their resources to ensure continued service.

d. Existing Oversight and Monitoring for J-1 Exchange Visitors

Comments: Commenters stated that the J-1 Exchange Visitor Program already has sufficient oversight and monitoring, making the proposed changes unnecessary and duplicative. They noted that J-1 exchange visitors are subject to rigorous oversight through DoS, Accreditation Council for Graduate Medical Education (ACGME), the J-1 sponsor, and SEVIS monitoring, and that many J-1 categories already have regulatory time limits. Commenters expressed concern that the proposed rule would divert USCIS resources from higher-priority enforcement tasks and that the D/S system was implemented to reduce administrative burden.

Response: DHS appreciates commenters' feedback regarding the existing oversight and monitoring mechanisms for the J-1 Exchange Visitor Program. DHS recognizes that the program is subject to rigorous oversight by DoS, including sponsor vetting, SEVIS monitoring, and, for certain categories, additional accreditation and sponsorship requirements such as those provided by ACGME and the Educational

¹⁷³ The commenter referenced National Academy of Medicine, *Action Collaborative on Clinician Well-Being and Resilience*, <https://nam.edu/initiatives/clinician-resilience-and-well-being/>.

Commission for Foreign Medical Graduates (ECFMG). DHS also acknowledges that many J-1 categories already have regulatory time limits and that the D/S system was originally implemented to reduce administrative burden for both participants and government agencies.

In drafting the final rule, DHS has carefully considered the effectiveness of current oversight mechanisms and the concerns raised about resource allocation and administrative efficiency. DHS determined that establishing fixed admission periods for J-1 exchange visitors will enhance program integrity and compliance by allowing for periodic review of status and eligibility, consistent with DHS's statutory authority and practices for other nonimmigrant categories. DHS believes this approach will strengthen the overall integrity of the exchange visitor program and provide clearer compliance requirements, while continuing to coordinate with DoS and other relevant entities to minimize unnecessary duplication and administrative burden.

7. Coordination With DoS and Program Sponsors

Comments: Commenters critiqued the rule for not addressing the possibility that authorization issues could be resolved directly between DoS and program sponsors, and for not addressing how DoS delays may impact the process of applying for EOS through USCIS.

Response: The process currently in place for the coordination between DoS and sponsors will continue. This process does not negate the need for further vetting of nonimmigrants in the United States to ensure that they are complying with the terms of their visa and is different from what DoS and sponsors do. Sponsors will be made aware of this rule and its implications and DoS will train sponsors on the rule; therefore, DHS believes that sponsors will have the training necessary to avoid any unnecessary delays in processing new DS-2019s so that nonimmigrants can file for EOS when needed.

8. Concerns About EOS for I Nonimmigrants

Comments: Commenters objected to the need for an extension every 240 days for foreign media representatives, noting that journalists often require several years to complete assignments. Commenters questioned whether there would be limits on the number of extensions, the clarity of denial reasons, and the procedures for existing I visa holders. Concerns were also raised about the impact on dependents,

including family unity and lawful status during pending EOS, and about bundled processing for journalists and dependents. Commenters warned that EOS denial could result in unlawful status and reentry bars.

Commenters proposed that EOS applicants should receive employment authorization until adjudication without time limits, that the maximum period of stay should be increased, and that premium or expedited processing should be available. They also requested bundled or expedited adjudication for dependents, and that travel by the principal should not result in denial of dependents' EOS. Other proposals included eliminating content-based justification requirements for journalists, affirming that EOS review would be limited to neutral immigration criteria, and eliminating nationality-specific admission limits. Some suggested allowing I nonimmigrants to extend visas inside or outside the United States, or at consulates, and proposed an automatic extension term of up to two years for I visa holders already in the United States.

Response: DHS is sensitive to concerns about processing times and the impact on I nonimmigrants and appreciates the alternatives and requests proposed by commenters. After considering these, DHS declines to further modify the final rule. Admitting I nonimmigrants for D/S afforded them different treatment from most other nonimmigrants. DHS considered alternatives and chose to admit I nonimmigrants for a specific time period to ensure oversight and compliance. DHS believes that the 240-day period is not only sufficient to cover the vast majority of assignments¹⁷⁴ but is also an appropriate interval for the U.S. Government to ensure that the alien remains eligible as an I nonimmigrant. DHS is adopting an established timeframe with which I nonimmigrants are already accustomed when they change employers while in the United States. There is no limit on the number of extensions if the applicant continues to pursue I activities and meets eligibility requirements. Dependents may be included in the principal's EOS application or they may file separately, and extensions for dependents may not exceed the principal's authorized period. DHS cannot guarantee processing times but will continue to plan for operational adjustments. The

¹⁷⁴ DHS data shows that 94.6 percent of I's with confirmed exit data stay less than 240 days. Based on DHS's analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

rule does not change eligibility criteria for dependents.

DHS does not believe the rule restricts journalistic activity or imposes content-based review as DHS will review content for the limited purpose of confirming that the foreign information media representative is engaging in bona fide journalism as required to maintain I nonimmigrant status under INA section 101(a)(15)(I), rather than engaging in entertainment or promotional purposes. Nationality-specific admission limits are based on statutory requirements and reciprocity. I nonimmigrants may apply for extensions inside the U.S. or by traveling abroad and being inspected and admitted by a CBP officer; consular processing is not addressed in this rule.

An I nonimmigrant who timely files an EOS application before the expiration of their authorized period of stay is considered to be in a period of authorized stay while the application is pending with USCIS. See new 8 CFR 214.2(i)(5). If the EOS application is denied and the authorized period of stay has expired, the individual must immediately cease employment and depart the United States. DHS encourages I nonimmigrants to closely monitor their admission period and to file extension requests as early as possible to minimize the risk of lapses in status. A lapse in status may result in accrual of unlawful presence and bars to reentry. Under current law, accrual of unlawful presence for more than 180 days may result in bars to reentry under INA 212(a)(9)(B). USCIS does not automatically extend the stay of dependents to match the principal's new period of stay if the principal departs without his or her dependents and is subsequently admitted by CBP. If the principal's EOS application is deemed abandoned because CBP grants a new AUD, USCIS can conduct a split adjudication of the dependents' EOS applications, and USCIS may grant the dependents up to the principal's new AUD, but only beginning when the dependents' initial validity period ends.

9. Denial of EOS for Family Members and Clarification Requests

Comments: Commenters expressed concern about requiring F-2 dependents to file separate EOS applications, citing financial and emotional burdens and requested clarification on whether a denial for the principal would affect dependents.

Response: DHS notes that dependents may be included in the principal's EOS application for no additional fee if statuses expire simultaneously. If filed separately, each requires a fee. If the

principal's EOS is denied, dependents' EOS will also be denied.

Comments: A commenter criticized the language regarding denying EOS for J–2 family members due to criminal activity or unauthorized work and asked if the same would apply to F–1 students and F–2 dependents. The commenter also requested clarification on whether denial of EOS for a J–1 principal would result in denial for all J–2 family members, whether this applies only to jointly filed extensions, and if a denial of the J–1 would require all to leave the United States.

Response: All nonimmigrants, whether principal applicants or dependents are denied EOS if they are found to have committed any crimes while in the United States or have worked without authorization. Under the D/S system this was more difficult to identify because there was no requirement to touch base with immigration officers unless they traveled and were denied entry due to these reasons. This rule will put F, J, and I nonimmigrants on par with all other nonimmigrants. As with all other nonimmigrant visa holders, dependents can be denied EOS or entry into the United States for criminal activity or work without authorization while the principal and other dependents are granted EOS or entry into the United States. However, the reverse is not true. If a principal is found inadmissible for criminal activity or working without authorization, the principal and all the dependents are denied EOS or entry. It does not matter if the EOS was filed under one application or separate applications.

10. Nonimmigrant Status vs. Period of Authorized Stay

Comments: Commenters expressed concern that the rule provides only a “period of authorized stay” rather than maintaining valid F–1 or J–1 status while an EOS application is pending. They noted this distinction has legal implications and recommended revising the language to clarify that applicants with timely filed EOS applications are considered in valid status.

Response: DHS notes that timely filing of an EOS places the alien in a period of authorized stay, avoiding unlawful presence based upon mere expired status and enabling the alien to remain in the United States. See new 8 CFR 214.2(f)(7)(iii). If the EOS is approved, the alien is considered to have maintained status throughout the pendency and subsequent validity period. This approach is consistent with USCIS policy for most nonimmigrants admitted for a fixed period; therefore,

no clarification in the regulatory text is needed.

H. Background Checks and Biometrics

1. Support and Concerns Regarding Additional Security Measures

Comments: Many commenters voiced disapproval about requiring foreign students to undergo more frequent background checks and biometric collections and instead stated existing government oversight is sufficient. Commenters suggested targeted enforcement, background checks, and additional biometrics collections should be used instead of blanket policies. A small number of commenters stated additional background checks and biometric data collection could address security concerns without broad regulatory change. Additionally, some commenters expressed support for following the 2019 GAO recommendation¹⁷⁵ to require DSOs and ROs to undergo more training and more rigorous background checks.

Response: DHS disagrees that existing government oversight is sufficient for F, J, and I nonimmigrants. Under the D/S framework, there are no background checks required while the alien is in the United States unless the F, J, or I nonimmigrant applies for a change of status to a different nonimmigrant status, or another benefit with USCIS. As a result, under D/S, F, J, and I nonimmigrants can be present for long periods in the United States without undergoing U.S. government review in the form of an EOS application, including accompanying background checks or subsequent visa application or inspection at a POE.

DHS believes that additional background checks and biometric data collection is appropriate to enhance oversight, prevent fraud, and address national security concerns. By transitioning from D/S to admission for a fixed period of time, DHS will be able to conduct periodic background checks of nonimmigrants to mitigate national security risks and enhance compliance with immigration law. Further, collection of biometric data will verify identity, monitor compliance, and detect potential risks. These measures align with other nonimmigrant visa categories and are consistent with the purpose of this rulemaking. Targeting specific groups of people or individuals, as some commenters suggests, could lead to constitutional violations and would be programmatically difficult to implement. Therefore, DHS believes it is easier and more fair to implement this

provision across the board. DHS recognizes commenter's support to require DSOs and ROs to undergo more training and more rigorous background checks, but DHS declines to adopt requirements in regulation at this time. Under this rulemaking, DHS offices will be providing greater oversight to prevent and deter fraud and abuse within the F, J, and I nonimmigrant categories.

2. Request for Waiver of Biometrics and Interviews

Comments: Commenters called on DHS to waive the biometrics and interview requirement, including in cases where students that have no violations and are bona fide students. Commenters stated that mandatory biometrics collection for EOS applications would be logistically unfeasible given limited USCIS appointments. One commenter believed I-visa applicants should be exempt from biometrics, stating biometrics add little security value but create significant barriers.

Response: DHS declines to waive the biometrics and interview requirements, as those steps are critical in the vetting process of nonimmigrants and are necessary for program integrity, identity verification, background checks, and national security. DHS will continue to evaluate operational capacity to ensure effective and feasible collection of biometrics. As part of the EOS application process for F, J, and I nonimmigrants, USCIS may require biometrics (such as fingerprints, photographs, and signatures) as provided in 8 CFR 103.16, and applicants may be required to appear for an interview under 8 CFR 103.2(b)(9). The purpose of collecting biometrics is to confirm identity, conduct background and security checks, and screen for national security or fraud concerns. The requirements in this rule are not unique in that DHS has continually amended and incorporated biometric requirements regarding the admission process and sharing data with relevant agency components.

I. Employment Authorization

1. General Feedback on Automatic Extension of Employment Authorization

Comments: Some commenters opposed the automatic extension of employment authorization during pending EOS filings, suggesting it could incentivize meritless filings. Others appreciated the inclusion of automatic extensions for on-campus work, CPT, Special Student Relief, and Severe Economic Hardship, and recommended expanding these authorizations.

¹⁷⁵ GAO 19–297, *supra* note 73.

Commenters highlighted the importance of employment authorization for part-time work, internships, and career development, noting that without it, students may not be able to afford tuition or living expenses.

Response: DHS appreciates the commenter's concern that the automatic extension of employment authorization during pending EOS filings could create incentives for nonimmigrants to file meritless EOS requests. DHS notes separate commenters' appreciation for the inclusion of this automatic extension of employment authorization during pending EOS filings in certain situations, including commenters' request to expand this automatic extension. DHS carefully considered the options and based this timeframe on the period of stay authorized in 8 CFR 274a.12(b)(20). DHS believes that adopting an already established timeframe, to which at least thirteen nonimmigrant classifications are already accustomed, while also requiring the nonimmigrant to leave the United States immediately for a denied EOS request, is reasonable and allows authorized work for a limited period of time and activities consistent with the classification while maintaining program integrity.

2. Proposed 240-Day Auto-Extension Period

Comments: Many commenters expressed concern that the proposed 240-day automatic extension of employment authorization while an EOS application is pending would be insufficient given USCIS processing times and backlogs. They recommended increasing the length of automatic extension, with some suggesting it last for the duration of the pending EOS request, including for OPT and STEM OPT. One commenter stated that USCIS processing times include 30–60 days for SEVIS updates, university admission cycles typically span 6–12 months, and OPT and CPT applications require 90 or more days of lead time. Commenters wrote that the processing times for I–539s often exceed 240 days; one noted that during the first Trump administration, backlogs of Form I–539 grew as long as 18 months. Commenters also wrote that the lack of an option for expedited processing for the I–539 is a critical flaw.

Commenters stated that additional adjudication volume, coupled with new screening requirements, staffing reductions, and the complexity of training new adjudicators would likely exacerbate these delays. A commenter stated that it would shift limited USCIS resources away from higher priority

cases such as asylum or family reunification. One commenter cited a report stating that DHS will face additional EOS requests from 220,122 F–1 students and 240,583 J–1 exchange visitors each year.¹⁷⁶

Response: DHS acknowledges and recognizes concerns that USCIS will experience an increased workload due to an expected increase in volume of EOS applications, following the effective date of the final rule. However, as noted in the NPRM, DHS will not require those aliens in F–1 status who have timely and properly filed an application for post-completion OPT or a STEM OPT on or before March 18, 2027 to file an EOS application. Those aliens are only required to file the application for employment authorization for post-completion OPT or STEM OPT extension. DHS expects this flexibility will mitigate the potential processing delays associated with Form I–539. DHS will continue planning operational adjustments to address future processing times and believes that a temporary measure is appropriate as these processing times are subject to change. In addition, USCIS is a fee funded agency and may set fees to support the additional workload associated with the adjudication of these cases and can continue to prioritize higher priority cases as needed. USCIS will account for the projected volume of filings and level of effort necessary to adjudicate various immigration benefit requests when conducting its biennial assessment of fees.

Comments: Commenters requested clarification on whether it will be legal for them to stay in the United States while their OPT or EOS applications are still pending after 240 days. One commenter recommended clarifying the effect of departure while EOS or EAD is pending. Another commenter requested clarification on whether students approved for OPT accrue unemployment days in SEVIS while awaiting EOS adjudication.

Commenters requested clarification on several other aspects of the proposed rule, particularly regarding transfers while an EOS application is pending. A commenter said that there are numerous statements throughout the proposed rule text that seem to ignore the 4-year admission limits or the 240-day extension of employment authorization while the EOS application is pending, citing proposed 214.1(a)(4)(iii) as an

example. A commenter recommended that DHS clarify whether an F–1 student with a pending EOS application will remain eligible to: (1) timely file an OPT application, (2) have that application adjudicated without delay, and (3) begin authorized employment while the application is pending, provided all other eligibility requirements are met.

Response: This rule provides that an alien with F–1 status whose admission period on Form I–94 has expired, but who has timely filed an EOS application, will be authorized to continue pursuing a full course of study after the expiration of the admission period until USCIS adjudicates the EOS application.¹⁷⁷ This provides nonimmigrant students with ongoing authorization to continue studies as long as the student has timely filed his or her EOS and nonimmigrant students will not be penalized if USCIS is unable to adjudicate his or her EOS application before the student's new term or course of study is underway. In such cases, the student will be able to continue pursuing his or her full course of study.

The new provision at 8 CFR 214.1(a)(4)(i) addresses aliens applying for admission as F nonimmigrants. This new section regulates admission periods at points of entry when an EOS application is pending (if they have time remaining on the period of stay authorized prior to departure or after a period of admission has expired and when the alien seeks admission with a Form I–20 for a program end date beyond their previously authorized period of admission). For pending applications for OPT and STEM OPT, the provision allows for admission of the F–1 students for the time recommended by the DSOs on the I–20 (plus 30 days). These aliens will be admitted for either a new period of time or the remaining period of time in F–1 status. A pending EOS may be deemed abandoned if the alien leaves the United States, applies for admission while his or her EOS application is pending, and is admitted based on a new Form I–20 or DS–2019.¹⁷⁸ In this case, the AUD provided by CBP on the alien's I–94 would govern.¹⁷⁹ This is because, in these cases, CBP's grant of a new period of authorized stay would supersede the pending EOS application seeking a period of authorized stay, rendering the EOS application superfluous.

Per this rule, F–1 students with properly filed, pending EOS applications will be considered to be in a period of authorized stay and may

¹⁷⁶ The commenter referenced Chishti, M. and Gelatt, J., *Antiquated U.S. Immigration System Ambles into the Digital World*, Migration Policy Institute (2023).

¹⁷⁷ See new 8 CFR 214.2(f)(5)(viii).

¹⁷⁸ See new 8 CFR 214.1(8)(ii).

¹⁷⁹ *Id.*

remain in the United States while the application is pending, and may continue to pursue a full course of study, but are prohibited from engaging in employment until their EOS applications and applications for employment authorization based on either an internship with an international organization, pre-completion OPT, or post-completion OPT are approved. For F–1 nonimmigrants who have timely applied for EOS and are currently authorized for on-campus CPT and employment authorization due to severe economic hardship, the rule provides the automatic extension of authorized employment to 240 days. Severe economic hardship employment authorization resulting from emergent circumstances under the redesignated paragraph 8 CFR 214.2(f)(5)(vi) is automatically extended for up to 240 days or until the end date stated in the **Federal Register** notice announcing the suspension of certain requirements, whichever is earlier. See new 8 CFR 214.2(f)(5)(viii). Further, J–1 exchange visitors may also continue their employment for up to 240 days. See new 8 CFR 214.2(j)(1)(vii)(A).

DHS recognizes commenter's request for clarification about whether students approved for OPT will accrue unemployment days in SEVIS while awaiting EOS adjudication. If the student does not have a valid OPT employment authorization, they will not incur unemployment time in SEVIS.

In response to the requested clarification on the transfer process while an EOS application is pending, DHS retained certain existing school transfer procedures while implementing new restrictions to prevent the abuse of the F classification. This rule will restrict school transfers and changes of educational objectives within a student's first academic year of a program of study, unless an exception is authorized by SEVP. This rule also prohibits F–1 students in a graduate level program of study from changing educational objectives or transferring at any point during their program of study, but it does allow SEVP to authorize an exception to the transfer prohibition due to extenuating circumstances.

Additionally, DHS has updated the number of expected EOS requests using updated data for the regulatory impact analysis of the final rule. DHS expects 390,052 F Visa and 31,007 J Visa EOS requests in Year 10, when the number of EOS requests annually is expected to be more stable.

Comments: Many commenters suggested that DHS use SEVIS data to facilitate automatic extension of status

for students in good standing to prevent administrative burden. One commenter suggested that DHS leverage its access to SEVIS data to identify which pending EOS requests should be subject to an RFE after filing, rather than imposing a fixed period of admission on all students. One commenter reasoned that even with fixed admission periods, DHS could develop new EOS protocols that would provide the compliant majority of F and J nonimmigrants with flexibility, predictability, and certainty in maintaining their status. One commenter recommended that the I–94 and an EAD receipt notice serving as evidence of eligibility for an automatic extension up to 240 days. One commenter recommended that DHS remove the 30/60 day I–765 filing requirement as it proposed to do in 2020.

Response: DHS disagrees with the commenters' proposals to utilize SEVIS data to grant automatic extensions as that is the current system and it is not working. However, both USCIS and CBP will utilize information in SEVIS to identify fraud and abuse in EOS filings and admission requests. As noted in the NPRM, there has been considerable fraud and abuse even with DHS leveraging SEVIS data. DHS believes that the mechanisms that are implemented in this rule are the best tools to combat fraud and abuse. Furthermore, DHS has considered and disagrees with commenters' proposals regarding the 240-day period. DHS based the 240-day timeframe on the period of stay authorized in 8 CFR 274a.12(b)(20), which generally provides an automatic extension of employment authorization of 240 days to aliens whose status has expired, but on whose behalf an application for EOS was timely filed through a Form I–539. DHS believes that adopting an already established timeframe that aligns with other nonimmigrant classifications is reasonable and will help minimize disruptions to on-campus employment by teaching assistants, post-graduates working on research projects, and other positions that are integral to an F–1 student's educational program. Additionally, given that USCIS's average EAD processing time is typically 60–120 days for foreign students and 90–120 for most others, a 240-day timeframe provides sufficient flexibility in case of unexpected delays.

Comments: Commenters also raised concerns about the effect of travel during the 240-day period, including scenarios where a family emergency could require travel abroad, resulting in the EOS application being deemed abandoned. Additionally, commenters

stated that the 240-day extension does not account for the most common extension scenarios, such as extensions for a summer or a single academic term, which are often less than 240 days.

Commenters noted that employment disruptions due to processing delays could negatively impact educational institutions, employers, research projects, and campus operations. They requested clarification on legal status during pending applications, the effect of departure, and eligibility for OPT while EOS is pending.

Response: DHS understands the commenters' concerns regarding circumstances that may require international travel during the 240-day extension period. In the NPRM, DHS specifically considers scenarios where an F, J, or I nonimmigrant with a pending EOS application may need to travel abroad (e.g., for a family emergency). The NPRM states that USCIS will not consider the EOS application abandoned if the alien departs the United States while the application is pending, provided that the previously authorized period of admission has not expired, and the alien seeks admission for the balance of the previously authorized admission period. However, if the alien departs and seeks admission with a new Form I–20 or DS–2019 for a program end date beyond their previously authorized period of admission while the EOS is pending, USCIS may deem the EOS application abandoned.

DHS appreciates commenters expressing concern that the 240-day extension does not account for the most common extension scenarios, such as extensions for a summer or a single academic term, which are often less than 240 days. But, the 240-day extension period does generally allow for nonimmigrants who timely request short extensions (lasting less than 240 days) to continue their activities consistent with their classification while the EOS is pending. There is an exception for I nonimmigrants with passports from PRC (excluding Hong Kong SAR and Macau SAR), where the period is up to 90 days.

DHS believes the 240-day period is sufficient and aligns with other nonimmigrant classifications. Applicants with properly filed, pending EOS applications are considered to be in a period of authorized stay and may continue their studies, but are prohibited from employment until their EOS and EAD are approved, except for certain types of employment that are automatically extended discussed elsewhere in this rule. Generally, F–1 students may not engage in post-

completion OPT while an EOS is pending, but there is an exception during the transition period for this rule.

DHS acknowledges concerns about increased workload and processing delays. To mitigate these, DHS will not require F–1 students who timely file for post-completion OPT or STEM OPT on or before March 18, 2027 to file an EOS application for the requested period of post-completion OPT or STEM OPT; only the employment authorization application is required.¹⁸⁰ If the alien's application for post-completion OPT or STEM OPT employment authorization is approved, the alien will be authorized to remain in the United States in F status until the expiration date of the EAD, plus 60 days.

3. Impact on Pending Employment Authorization for OPT and STEM OPT and Travel

Comments: A commenter requested clarification on how the proposed rule would impact students with pending employment authorization applications who are admitted based on a DSO's recommended employment end date for post-completion OPT or STEM OPT. The commenter stated that the proposed changes that impact post-completion OPT and/or STEM OPT are confusing and appear to address a situation in which an OPT or STEM OPT applicant travels while their OPT or STEM OPT Form I–765 application is pending, but more analysis or clarification from DHS is needed.

Response: DHS appreciates commenters' concerns, but, as proposed in the NPRM, if an alien in F, J, or I nonimmigrant status timely files an application for EOS, USCIS will not consider the application abandoned if the alien departs the United States while the application is pending, provided that when the alien seeks admission, the previously authorized period of admission has not expired, and the alien seeks admission for the balance of the previously authorized admission period. See new 8 CFR 214.1(c)(8)(i). However, an application for EOS may be deemed abandoned if an alien departs the United States and seeks admission with a new Form I–20 or DS–2019 for a program end date beyond their previously authorized period of admission while the application for EOS is pending. As noted in the NPRM, USCIS will not consider as abandoned any corresponding applications for employment authorization. See new 8 CFR 214.1(c)(8)(ii).

If USCIS approves the Form I–765 and the EAD expiration date is different from the expiration date on the I–94, the F–1 nonimmigrant would still be authorized to stay in the United States until the expiration date indicated on the I–94, even if the F–1 nonimmigrant ceases employment upon the expiration of the EAD. (and assuming the F–1 nonimmigrant does not violate any terms of the authorized stay). See new 8 CFR 214.2(f)(5)(i). DHS also notes that aliens in F, J, and I nonimmigrant status should travel with a copy of their Form I–797C, Notice of Action, or successor form, which confirms the receipt of either their Form I–539 or Form I–765, along with proposed length of stay as evidenced by the Form I–20, DS–2019, or letter of employment for foreign media organization. See new 8 CFR 214.1(c)(8)(iii).

4. OPT and EOS/Employment Authorization Requirements

Comments: Commenters expressed concern about the requirement for students seeking to engage in OPT to file both an EOS and an employment authorization application, citing duplicative, burdensome, and costly processes. The commenters noted potential delays or misalignment in the processing of the two forms could prevent students from starting OPT on time, harming their education and professional development. Commenters also requested clarification on concurrent filing and premium processing. Furthermore, commenters recommended that F–1 status be automatically extended with OPT approval, and that OPT and EOS applications be bundled or adjudicated together, or that Form I–765 be updated to include an EOS for an increase in efficiency. Some suggested eliminating the EOS requirement for OPT or STEM OPT altogether.

Response: DHS appreciates these concerns and clarifies that, under the final rule, F–1 students who timely file for post-completion OPT or STEM OPT within six months of the effective date of this final rule are not required to file an EOS application. The only form that the nonimmigrant will need to file is the Form I–765. For others, concurrent filing is recommended, and related cases will be adjudicated together. DHS believes this approach balances regulatory compliance with minimizing disruptions. DHS will continue to assess resource allocation and processing improvements. At this time, however, EOS and EAD applications must be filed on separate forms but can be filed together at the same time. And the need to file EOS is based on the program end

date on a student's I–20. Therefore, a student who opts to engage in OPT during his or her program rather than after completion, will only need to apply for an EAD, and not an EOS. However, under this rule, an F–1 student would need to apply for an EOS if more time is needed to complete their program, apply for OPT, STEM OPT, or begin a new program of study. The student will need to work with their DSO to ensure that the EOS application is timely filed.

5. Employment Authorization Processing Delays

a. OPT and STEM OPT

Comments: Commenters remarked that the proposed rule left considerable ambiguity around processes and timelines associated with post-completion OPT, including whether students would be able to begin OPT if their employment authorization was approved while their EOS was still pending. Commenters expressed concern that if they are required to file an I–539 while on OPT authorization, and are denied or otherwise delayed, then it would instantly end their F–1 nonimmigrant status and cancel OPT work authorization. One commenter stated that it is unclear what steps should be taken if one wishes to apply for OPT while EOS is pending. Commenters asked how DHS would handle dual applications and ensure the EOS application is processed before the work authorization. A commenter expressed concern that the rule would replace a single-step process with two separate USCIS applications by requiring the filing of both an EOS and Form I–765 to engage in OPT. Specifically, the commenter explained that after receiving the DSO's OPT recommendation, students would first need to submit Form I–539 (Extension of Stay) to USCIS, including the OPT-endorsed I–20, filing fees, biometrics, and proof of maintained status. Only after securing this extension would they be able to proceed in filing Form I–765 for work authorization. The commenter stated that the rule doubles the number of applications, fees, and adjudication timelines.

Another commenter argued that almost all F–1 students would be required to expedite their process, which would be a financial burden. Another commenter cited an anecdote of a friend whose OPT application was delayed for almost 5 months, making it almost impossible to find a job. One commenter wrote that DSOs would need additional training on how to recommend EOS for a student in SEVIS

¹⁸⁰ See new 8 CFR 214.1(m)(1)(i).

and may take on legal liability should students request advice on their EOS applications.

Commenters cited studies showing the economic benefits of OPT, including a study that OPT does not cost U.S. workers their jobs or decrease their wages, and an analysis that found curtailing OPT would result in the loss of 443,000 jobs, including 255,000 jobs held by U.S. workers.¹⁸¹ One commenter also flagged that many students use OPT or CPT to do service-based volunteer or internship training after graduation. Another commenter cited a study that found unemployment rates to be lower in areas with larger numbers of students working through OPT as a share of workers in STEM occupations.¹⁸²

Commenters expressed concern that the proposed requirements would dissuade employers from hiring foreign students due to uncertainty about when students could begin work, potentially leading to missed project milestones, increased turnover, and a weaker position in global talent competition. Commenters added that employers may be unwilling to extend offers or initiate onboarding for students whose OPT authorization is uncertain, which would deny students valuable professional opportunities through no fault of their own.

Multiple commenters recommended alternative solutions for OPT situations. One commenter recommended that F–1 status be automatically extended with OPT approval. Another commenter noted that currently, as part of the I–765 adjudication, many USCIS officers issue RFEs to confirm that F–1 students have maintained their status. USCIS could modify the I–765 instructions to require the submission of maintenance of status documents.

Commenters expressed appreciation for the inclusion of the 180-day automatic extension of OPT-related employment authorization while STEM OPT extension requests are pending. However, some commenters expressed concern that USCIS processing delays could result in situations where petitions remain pending beyond the 180 days provided. Commenters recommended updating the automatic extension period to either lengthen it or

allow conditional continuation of employment authorization until Form I–765 applications are adjudicated, without a specified maximum period. One commenter recommended that DHS pause the OPT unemployment clock during documented 221(g) administrative processing.

A commenter asked DHS whether a student filing a change of status from an undergraduate to a graduate degree would see their OPT or STEM OPT work authorization continue without interruption, and if not, what bridging mechanism would prevent status gaps and unlawful-presence accrual.

Response: When USCIS receives an application, an officer searches DHS systems to locate related files. This process will not change once this final rule goes into effect. If USCIS receives an extension request, or OPT request, USCIS will conduct searches to determine if a related application has been filed. If a related file is found, both cases will be worked together.

DHS disagrees that the requirement to file Form I–539 to extend an alien's stay in the United States beyond their fixed period of admission is unnecessary when an alien is also filing Form I–765 requesting employment authorization for OPT. These two forms serve two distinct purposes and require two separate adjudications. The request for EOS governs the alien's status and determines whether that alien remains eligible for the classification, whereas the request for employment authorization is focused on whether the alien is eligible for OPT pursuant to his or her studies. A student who opts to engage in OPT during his or her program rather than after completion, will only need to apply for an EAD, and not an EOS. However, under this rule, an F–1 student would need to apply for an EOS if more time is needed to complete their program, apply for OPT, STEM OPT, or begin a new program of study. The student will need to work with their DSO to ensure that the EOS application is timely filed. Under the final rule, DSOs and ROs will have to spend approximately 135 hours for rule familiarization and adaptation in the first year after the rule takes effect. To minimize disruptions, the final rule includes provisions for automatic EOS and employment authorization for F–1, J, and I nonimmigrants who timely file EOS applications. These provisions help prevent interruptions in activities and employment while applications are pending.

During the transition period, under the final rule, aliens in F–1 status who have timely filed Form I–765 for post-completion OPT or a STEM OPT

extension on or before March 18, 2027, will not be required to file an EOS application, but, instead, need only approval of the Form I–765.¹⁸³ DHS believes this will help alleviate concerns regarding the impact of potential processing delays on such applicants. After this period, an F–1 student recommended for post-completion OPT must apply for an EOS and employment authorization and may not engage in post-completion OPT unless such employment authorization is granted.¹⁸⁴

If the student wishes to begin a new program at a higher educational level, they must obtain a new Form I–20 and, if the new program is not completed within the current admission period, apply for EOS before the end of their current authorized stay (including the 30-day grace period).

DHS acknowledges some foreign students may face delays or other situations that limit opportunities to participate in OPT. Nonimmigrants studying in the United States on F–1 visas, by statute, must be bona fide students who seek to enter the United States temporarily and solely for the purpose of pursuing such a course of study.¹⁸⁵ DHS recognizes the importance of balancing regulatory compliance with minimizing disruptions. However, the loss of training opportunities for foreign students does not outweigh the national security benefits of having a fixed period of admission and EOS procedure. Additionally, the rule allows F–1 students recommended for post-completion OPT or STEM OPT to remain in the United States without filing a separate EOS application, provided they timely file for an EAD within six months of the rule's effective date. If approved, the nonimmigrant will be granted F–1 status until the EAD expires, plus 60 days. If the EAD is denied, they can stay until their program end date plus 60 days if otherwise maintaining status.¹⁸⁶ Additionally, DHS acknowledges the benefits of OPT opportunities to both nonimmigrant students and employers for building a workforce and avoiding potential labor shortages in technology fields. However, DHS notes that the primary purpose of the F–1 student classification is not employment. Instead, the purpose of OPT and STEM OPT is to complement a student's academic experience in the United

¹⁸¹ Commenters referenced *Optional Practical Training and International Students After Graduation*, Niskanen Center (2019) and *The Economic Impact of Curbing the Optional Practical Training Program*, Business Roundtable (December 2018).

¹⁸² The commenter referenced Zavodny, M., *International Students, STEM OPT, and the U.S. STEM Workforce*, National Foundation for American Policy (March 2019).

¹⁸³ See new 8 CFR 214.1(m)(1)(i).

¹⁸⁴ See new 8 CFR 214.2(f)(10)(ii)(D).

¹⁸⁵ INA 101(a)(15)(F)(i)–(ii); 8 U.S.C. 1101(a)(15)(F)(i)–(ii).

¹⁸⁶ See new 8 CFR 214.1(m)(1)(i).

States and to provide practical training in the student's major area of study.

Per this rule, F–1 students with properly filed, pending EOS applications will be considered to be in a period of authorized stay and may remain in the United States while the application is pending, and may continue to pursue a full course of study, but are prohibited from engaging in employment until their EOS applications and applications for employment authorization based on either an internship with an international organization, pre-completion OPT, or post-completion OPT are approved. The rule specifically provides that an F–1 student who has timely filed an EOS application will be able to continue engaging in CPT (or other employment such as on-campus or severe economic hardship employment) for up to 240 days while the EOS is pending with USCIS, even if the period of admission on Form I–94 or successor form expired.¹⁸⁷ During the automatic extension, if the EOS application is filed during the 30-day grace period after completion of studies or OPT, the student may continue studying but may not engage in practical training or employment until the EOS is approved. See new 8 CFR 214.2(f)(7)(iii)(B). If the EOS is denied, the alien must cease working and depart the United States immediately.

DHS acknowledges commenters' suggestions to automatically extend F–1 status with OPT approval, lengthen or remove existing automatic extension periods, or pause the OPT unemployment clock in certain circumstances. These recommendations would require changes to regulatory and policy frameworks beyond the scope of this rulemaking. DHS will, however, continue to monitor implementation of this rule and may consider whether additional adjustments or guidance are warranted in the future.

b. Curricular Practical Training

Comments: Commenters expressed the importance of CPT and the ability of students to participate in an uninterrupted program. Commenters expressed concern that the proposed rule would increase uncertainty for CPT students while their EOS is pending. One commenter stated that CPT is a critical bridge for STEM students who are not accepted to an H–1B position.

One commenter wrote that a DSO must recommend the EOS in SEVIS before the program end date but has no visibility into when the student actually filed or when USCIS received the

application. Without this information, the commenter reported the DSO cannot reliably confirm ongoing CPT eligibility or advise on status, creating avoidable compliance risk. This commenter recommended enabling real-time data sharing among USCIS, CBP, and SEVIS, and standardizing I–94 issuance and update practices. Commenters requested clarity on how DSOs can confirm eligibility and SEVIS, USCIS, and CBP data should be integrated. Another commenter wrote that DHS would need to provide clarity on how a student who would have to file an EOS for their last semester of studies in which CPT is also required to meet the course requirements, as the EOS takes a minimum of four months to be approved, the semester would end, and the student would fail to get their degree because they could not get CPT.

Commenters expressed uncertainty and requested clarification about how CPT would be handled under the proposed rule. One of these commenters noted that proposed 8 CFR 214.2(f)(5)(v) states that students are not eligible for any practical training or employment while their EOS is pending, but proposed rule 8 CFR 214.2(f)(5)(viii) states that CPT authorizations will be “automatically extended.” They said they did not understand how both could be true at the same time.

This same commenter also requested clarification around CPT and severe economic hardship put forth by proposed 8 CFR 214.2(f)(5)(viii). The commenter questioned how CPT could be “automatically” extended when DSOs are only able to authorize CPT up to the I–20 program end date, asking whether DSOs could authorize CPT beyond a student's authorized duration of stay as long as the Form I–539 has been filed within the previous 240 days. The commenter said that DHS needs to consider details related to employment, training, and potential Form I–9 discrepancies, stating that the proposed rule, as written, could lead to confusion that will cause students to violate status without knowing. The commenter additionally voiced concern that the rule expects all employers to understand what a student's work eligibility is when applying for an EOS.

Some recommended allowing DSOs to add or update CPT authorizations while EOS is pending and suggested automatic extensions for students in critical technology fields. They reasoned that adding new CPT authorizations allows students to continue making progress toward completing their program and avoid unnecessary delays due to an inability to complete internships, practical, or other required experiences.

They further reasoned that updating existing authorizations allows DSOs to appropriately report when a CPT experience has ended. The commenter also suggested that DHS should also ensure any modifications to SEVIS allow for the technical capability to make these edits to a student's record.

One commenter stated that if the misuse of CPT is an issue, then DHS could limit CPT to one program per level or eliminate it entirely rather than punishing students who have no intent to misuse CPT. Another commenter recommended specifically rescinding day-one CPT.

Response: DHS understands the concerns but disagrees with the premise that the rule will increase uncertainty for F–1 students engaged in CPT. The rule specifically provides that an F–1 student who has timely filed an EOS application will be able to continue engaging in CPT, on-campus employment, or severe economic hardship employment, for up to 240 days while the EOS is pending with USCIS, even if the period of admission on Form I–94 or successor form expired.¹⁸⁸ This means that the CPT will be automatically extended for up to 240 days or until USCIS adjudicates the EOS application. During this period, the F–1 student will be in a period of authorized stay, even if the Form I–94 or successor form expired.

An EOS application is timely filed if it is filed before the Form I–94 or successor form expires, including the 30-day grace period for departure under new 8 CFR 214.2(f)(5)(v).¹⁸⁹ However, it is important to note that if the EOS is filed during the 30-day grace period for departure, the student may not continue or begin engaging in practical training or other employment (*i.e.*, on-campus or severe economic hardship employment) until the EOS is approved; the student may only continue his or her full course of study during this time. In other words, if the EOS is filed within the 30-day grace period, the F–1 student does not receive an automatic extension of CPT and must wait for approval of the EOS application before engaging in CPT, even if the EOS is considered to be “timely filed.” For these reasons, to avoid any interruptions to CPT, students are encouraged to apply for EOS application prior to entering the 30-day grace period for departure.

To be clear, the rule does not make substantive changes to the eligibility or the process for requesting CPT authorization under 8 CFR 214.2(f)(10)(i). The first step for

¹⁸⁷ See new 8 CFR 214.2(f)(5)(viii).

¹⁸⁸ See new 8 CFR 214.2(f)(5)(viii).

¹⁸⁹ See new 8 CFR 214.2(f)(7)(iii)(B).

requesting CPT authorization begins with the school's DSO and does not require an EAD from USCIS. The DSO endorses the Form I-20 for CPT, and students must continue to meet the requirements under the existing regulations. Similarly, the provisions in this rule do not affect the DSO's role in authorizing CPT; it only affects the student's employment eligibility status during the EOS process. To grant authorization for a student to engage in CPT, the DSO will continue to update the student's record in SEVIS as being authorized for CPT and provide the endorsed Form I-20 or successor form to the student prior to the commencement of employment, indicating that CPT has been approved, as required by the existing regulations.¹⁹⁰ For purposes of the admission period, if the F-1 student's 4-year fixed period is about to expire, then the student will need to file a timely EOS application with USCIS consistent with the new provisions of this rule, as discussed earlier.

For purposes of employment eligibility verification Form I-9 for CPT, the student's authorized employment period, when combined with a notice issued by USCIS indicating receipt of an EOS application, will be considered unexpired for up to 240 days or until USCIS issues a decision on the EOS application, or for CPT, until the CPT end date authorized by the DSO on Form I-20 or successor form, whichever is earlier.

DHS has carefully considered the alternative recommendations for CPT put forth by the commenters but declines to adopt changes to CPT at this time. Specifically, this rule focuses on eliminating the D/S framework and setting fixed admission periods and EOS requirements, and it was not intended to substantially revise CPT provisions. As such, amendments to CPT, such as exceptions for certain fields or eliminating Day-1 CPT, are beyond the scope of this rule. DHS is in the process of updating SEVIS and will continue to provide guidance and technical updates to stakeholders to ensure compliance and to minimize confusion.

c. Economic Hardship and Special Student Relief

Comments: A commenter expressed support for DHS's proposal to codify an automatic extension of employment authorization for F-1 students approved for SSR due to emergent circumstances when a timely EOS application is pending (proposed 8 CFR 214.2(f)(5)(viii)). They said this

clarification aligns with longstanding SSR policy and reasoned it would reduce avoidable lapses in lawful employment, mitigate household financial shocks for students affected by crises, and decrease unnecessary expedite requests and RFEs, thereby conserving USCIS resources.

A commenter requested clarification around automatic extension of work authorization for severe economic hardship, reasoning that this authorization comes from USCIS. The commenter asked, if a student is authorized until their I-20 program end date and then applies for an EOS, whether an "automatic" extension of severe economic hardship would mean that a student can work beyond the EAD end date without requesting a new EAD card. They further asked what would happen if the student has already been approved for a full year of severe economic hardship authorization prior to the extension.

Another commenter expressed concern that the rule would exacerbate financial and administrative burdens for economic hardship and SSR beneficiaries needing to extend, as they would require additional petitions to continue their authorizations. In line with other commenters' remarks, they said that the 240-day extension does not consider that Form I-539 petitions could have processing times between 12 and 18 months during peak periods, and this rule would in many cases double the applications that USCIS would be receiving and adjudicating.

Response: DHS appreciates the commenter's support for DHS's proposal to codify an automatic extension of employment authorization for SSR due to emergent circumstances when a timely EOS application is pending adjudication. DHS understands that some F-1 students may encounter economic hardship during their nonimmigrant stay in the United States. Students may, under certain circumstances, be eligible for off-campus employment authorization if they demonstrate severe economic hardship.¹⁹¹ As this relates to this rule, individuals with a timely filed and pending EOS application are considered to be in an authorized period of stay and may receive automatic extensions of employment authorization under certain circumstances.

DHS based the 240-day timeframe on the period of stay authorized in 8 CFR 274a.12(b)(20), which generally provides an automatic extension of employment authorization of 240 days to aliens whose status has expired but

on whose behalf an application for an EOS was timely filed through a Form I-539, and believes that adopting an already established timeframe to which many nonimmigrants are accustomed, is reasonable and will help minimize disruptions while balancing the need of DHS to monitor and verify the activity of these aliens in the United States and provide additional protections and oversight for the programs in which these aliens engage.

DHS acknowledges this rule does result in additional costs and time for some nonimmigrants. However, as discussed in this preamble and in the NPRM, DHS believes that any burdens and costs imposed are outweighed by the benefits of this rule, which creates a mechanism for DHS to increase vetting, reduce overstays, and determine whether nonimmigrants are complying with the conditions of their nonimmigrant classification. The requirements imposed by this final rule provide the U.S. Government more opportunities to review a nonimmigrant's records, admissibility, and any possible indicators of fraud, abuse, or national security concerns. Furthermore, fixed admission periods and filing an EOS application with USCIS are requirements for most other nonimmigrants who wish to enter or remain in the United States. DHS believes that the EOS requirement will allow DHS to vet nonimmigrants periodically to prevent and reduce issues of fraud, abuse, and national security threats.

DHS also acknowledges that this rule will affect USCIS' workload. As outlined within this final rule, USCIS is a fee funded agency and may set fees to support the additional workload associated with the adjudication of these cases. USCIS will account for the projected volume of filings and level of effort necessary to adjudicate various immigration benefit requests when conducting its biennial assessment of fees.

d. Interaction With H-1B Status

Comments: Commenters expressed concern that the proposed rule would undermine or eliminate cap-gap protection for F-1 students transitioning to H-1B status. Commenters stated that eliminating cap-gap protection would hurt both students and employers. Another commenter added that eliminating cap-gap would increase burden on DHS staff to process extra extension of status requests. Commenters stated that currently, F-1 status and work authorization are automatically extended for students who timely file for a change of status to

¹⁹⁰ See 8 CFR 214.2(f)(10)(i).

¹⁹¹ See 8 CFR 214.2(f)(9)(ii)(C).

H-1B, covering the gap until the H-1B start date. Commenters stated that eliminating D/S would force cap-gap students to apply for an EOS during this period. Commenters raised concerns about complications with travel and re-entry, as the cap-gap date would not be covered under the proposed rule. Commenters also expressed concern that the proposed rule could cause legal consequences for students even for a brief lapse in lawful presence, which would create brief lapses in lawful status.

Commenters remarked that the proposed rule lacks clarity regarding its impact on cap-gap protections and fails to provide a mechanism for cap-gap extensions. Commenters requested clarification about the process and timeline for transitioning to H-1B status for students who are beneficiaries of H-1B cap petitions. Specifically, commenters asked whether the H-1B cap-gap extension process would change and whether extensions of F-1 status and OPT employment authorization would still be granted if the Form I-94 expired during the “cap-gap extension” period before H-1B status began.

Commenters urged DHS to preserve cap-gap status in the final rule and continue automatically extending F-1 status and work authorization for students who are beneficiaries of an H-1B cap petition. They reasoned that maintaining cap-gap protection would ensure the retention of top international talent while EOS requests are pending. Commenters requested clarification in the final rule that cap-gap protections would remain in place, noting that any ambiguity could cause disruption for thousands of students and employers who rely on these protections annually.

One commenter wrote that the extension period will overlap with cap-subject H-1B filings and OPT requests, meaning USCIS will be at their busiest when these extensions are submitted. This commenter wrote that this would impact physician training.

Another commenter asked how the rule will interact with existing statutes, such as the American Competitiveness in the Twenty-First Century Act of 2000 (AC21) portability for H-1Bs.

Commenters expressed concern that without similar protections for F nonimmigrants, students could experience unnecessary gaps in employment authorization.

One commenter requested clarification on the new bridging mechanics of status and OPT EAD to October 1st for students transitioning to H-1B. One commenter asked what mechanism will be in place to prevent

a gap if a fixed admission period expires before a cap-gap transition, whether the student will need to file an EOS application, whether USCIS will adjudicate timely filed EOS applications in a way that preserves status, whether there will be a maximum duration for employment authorization during pending EOS or cap-gap, and if so, whether USCIS will issue receipts or other evidence acceptable to employers for continued employment during any cap-gap or pending EOS period.

Response: DHS understands the commenters’ concerns regarding the H-1B cap-gap provision and EAD extensions. Notably, this rule does not make any significant changes to the automatic extension of employment authorization regulations governing the H-1B cap-gap extension under redesignated 8 CFR 214.2(f)(5)(vii) and the EAD extensions for STEM OPT under 8 CFR 214.2(f)(11)(i)(C) and 8 CFR 274a.12(b)(6)(iv). Under this rule, eligible F-1 nonimmigrants will continue to benefit from the cap-gap automatic EOS and any employment authorization, which extends until April 1 of the fiscal year for which the H-1B status is being requested or until the validity start date of the approved petition, whichever is earlier. *See* redesignated 8 CFR 214.2(f)(5)(vii). Similarly, eligible F-1 nonimmigrants who have timely applied for the 24-month STEM OPT extension will benefit from the automatic extension of employment until the date of USCIS’ written decision on the Form I-765, but not to exceed 180 days. *See* 8 CFR 214.2(f)(11)(i)(C) and 8 CFR 274a.12(b)(6)(iv).

6. Employment Authorization and Auto-Extension for Pending EOS/EAD: Applications Under Sec. 214.2(j)(1)(v)–(viii), (ix) and 274.12(c)(5)

Comments: Commenters requested that DHS provide continuation of employment and status for OPT/STEM OPT and J-1 researchers while timely EOS or related adjudications are pending. One commenter wrote that J-1 scholars often extend short-term research stays, and that requiring USCIS approval for each renewal could delay or disrupt these collaborations.

Commenters expressed specific concern about the impact of the proposed rule on nonimmigrants in J-1 and J-2 status, and work authorization. Commenters expressed concerns that J-2 spouses would not receive automatic employment authorization extensions. One commenter asserted that disruption in J-2 employment status would be particularly troublesome for dual income households. Commenters

suggested that automatic extensions should also be applied to J-2 EAD holders. One commenter reasoned that many J-2 spouses are physicians and that expiration of their work authorization could disrupt patient care. Another commenter suggested that J-2 spouses remain authorized to work until the adjudication process is complete. The commenter reasoned that, specifically for teachers, if spouses lose their work authorization, J-1 exchange teachers would be more likely to pursue H-1B status, which would destabilize program attrition for dual language classrooms. The commenter remarked that this policy revision aligns with existing regulations under 8 CFR 214.2(j)(1)(v) and 8 CFR 274a.12(b)(20).

Response: DHS acknowledges commenters’ concerns about the continuity of employment and status for J-1 researchers, and J-2 spouses while EOS or related adjudications are pending. Under the rule, J-1 researchers may continue their program activities and employment for up to 240 days after the expiration of their admission period, provided their EOS is timely filed. However, at this time, DHS is not extending automatic employment authorization to J-2 spouses while their EOS is pending. J-2 spouses must have a valid EAD and period of admission to work in the United States, and employment authorization is not automatically extended during the pendency of an EOS application because a J-2 spouse is only allowed to work to earn extra income for the family’s customary recreational and cultural activities and related travel, among other things, but not to support the J-1 principal alien.¹⁹² DHS believes the current approach is necessary to maintain program integrity and ensure proper vetting of all applicants.

J. F Nonimmigrants

1. Changes in Educational Objectives, School Transfers, Training Limits, Program Duration

a. Definition of Educational Level and Lifetime Limits

Comments: Many commenters expressed concern that the term “educational level” was not sufficiently defined or clarified in the proposed rule. These commenters remarked that DHS did not provide a clear hierarchy of educational levels, leaving questions about how different types of degrees would be classified. Commenters requested clarification on how various degrees would be ranked, including whether a Juris Doctor (JD) would be

¹⁹² *See* new 8 CFR 214.2(j)(1)(v).

considered equivalent to, higher than, or lower than a master's degree (such as LLM), Ph.D., or MD; whether post-master's certificates would be considered equivalent to, higher than, or lower than a master's degree; and how stackable credentials would be classified. Another commenter expressed confusion on definitions for undergraduate and graduate level training in medical education. Commenters remarked that proposed rule artificially separates "program extension" from "status extension," even though current regulations already require justification and documentation for program extensions through DSOs and ROs.

Commenters also raised concerns about whether the proposed rule could be interpreted as a lifetime limit on pursuing programs at the same or lower level, or if it would only apply to a student's current SEVIS record. Commenters remarked that a lifetime limit is unjustified, reasoning that there are many situations where another degree or certificate at the same or lower level would make academic or professional sense.

Response: DHS appreciates these comments. DHS generally relies on NCES' definition of educational levels, which provides a structure for determining whether a nonimmigrant student's program of study reflects upward academic progression. The list of educational levels that schools use to update their Form I-17, "Petition for Approval of School for Attendance by Nonimmigrant student," is available to the public.¹⁹³ This list contains the following educational levels: 1. Primary and Secondary Education; 2. ELT; 3. Post-secondary Certificates/Non-Degree; 4. Associate; 5. Bachelor; 6. Master; 7. Doctorate. DHS anticipates providing guidance on educational levels to clarify how it utilizes the NCES definitions of education levels to ensure consistency across components, with ED, and by DSOs. DHS recommends that for specific student circumstances, the aliens contact their DSO for more information about particular programs including medical education.

DHS acknowledges commenters concerns that there may be instances where a student desires to enroll in a lower educational level or repeat the same level. The policy in this rule prevents F-1 students who have completed a program at one educational level from starting another program at

the same or a lower level (e.g., someone who finished a bachelor's degree cannot start another bachelor's degree or an associate degree as an F-1 student). This is to prevent F-1 students from using the U.S. educational system as a means to unnecessarily (or under false pretenses) prolong their stay in this country. Additionally, the limits of study at the same or lower educational levels will be applied prospectively. Any programs completed prior to the effective date of the rule will not be counted towards the limits. DHS has therefore clarified in the final rule that this limitation of study at the same or lower educational levels applies only to programs that are completed after the effective date. See 8 CFR 214.2(f)(5)(ii)(C).

DHS also acknowledges that a program extension is not the same as a status extension and reiterates that aliens must follow applicable requirements for both.

b. ELT Limits and Program Duration

Comments: Commenters expressed opposition to the proposed 24-month cap on ELT programs, stating it fails to account for the individualized nature of language training and fails to account for students' learning goals, with most ELT students enrolling for less than one academic year (averaging 12.8 weeks in 2024). Commenters explained that language learning depends on numerous variables including starting proficiency level, native language, age, prior education, and individual aptitude. One commenter submitted a detailed comment explaining how the proposed rule would significantly and disproportionately disrupt ELT students and the industry. They explained that the proposed rule limiting ELT to 24-months does not consider the students' baseline English proficiency at the beginning of the ELT program as well as the differing speeds of language progression and cited to research showing that working communication proficiency may take more than two years.

Commenters expressed particular concern about a potential lifetime limit, noting that language skills can regress over time, and many students return, legitimately, for additional English study years later for new or renewed professional, academic, or personal reasons. A commenter stated that a potential 24-month lifetime limit on ESL, restrictions on transfers, and a ban on reverse matriculation would be difficult to monitor and enforce at the programmatic level since schools would need to collect additional information prior to I-20 issuance.

Commenters recommended maintaining the current framework, stating that it more accurately reflects the flexible nature of ELT acquisition, and allows students to remain for the full length of their program as indicated on their Form I-20. Commenters alternatively recommend extending the maximum admission period to lengths such as 36 or 48 months, instead of 24 months. Another commenter recommended that the limitation on language studies should be extended when a nonimmigrant student is pursuing Testing of English in Foreign Language studies.

Additionally, the commenters noted that some nonimmigrant students may require additional time due to illness, disability, family emergencies, or simply because they began at beginner level. Commenters expressed concern that the proposed fixed admission period is arbitrary and lacks empirical support. Commenters expressed particular concern about the impact the proposed changes would have on pathway programs and conditional admission models that integrate intensive English language study with academic coursework. Commenters noted that ELT programs typically last less than a full academic year and serve as bridges to degree programs.

Commenters cited data from Open Doors, indicating that 28 percent of language training nonimmigrant students intend to pursue degree programs in the United States following the completion of the nonimmigrant student's ESL program. One commenter referenced the 2024 Open Doors Report on International Educational Exchange which noted that 67,924 foreign students participated in intensive ELT during the year, with 50 percent of students enrolled at programs linked to U.S. colleges and universities; 42 percent of those students planned to pursue a degree after their training, arguing that the rule could hamper enrollment and finances for ELT institutions if the path to a graduate program is uncertain.¹⁹⁴ Commenters also referenced research distinguishing between Basic Interpersonal Communication Skills, typically achieved in 1 to 2 years, and the more advanced Cognitive Academic Language Proficiency, which can require 5 to 7 years of intensive study. Both approaches would be impacted by the proposed fixed period of admission. Commenters noted that the Cambridge study cited in the proposed rule

¹⁹³ See DHS, *Form I-17 Petition Update* (last updated June 2, 2025), <https://studyinthestates.dhs.gov/sevis-help-hub/school-records/school-certification/update-school-information/form-i-17-petition-0>.

¹⁹⁴ The commenter did not elaborate on their citation to the 2024 Open Doors Report on International Educational Exchange.

measures basic proficiency rather than sophisticated academic communication skills needed to succeed at a post-secondary level. Commenters also noted that the Foreign Service Institute's research contradicts the proposed timeframe, as the Institute estimates that approximately 2,200 hours (equivalent to more than 3 years) are needed for native speakers of languages like Chinese, Korean, Arabic, or Japanese to reach English speaking proficiency. Commenters stated that ELT represents a distinct educational objective rather than an education level, with no nationally recognized completion standard. Commenters further stated that the proposed rule conflicts with established accreditation standards. Commenters also requested clarification on whether the proposed 24-month aggregate cap applies per program, per uninterrupted F-1 stay, or as a lifetime limit, with some commenters stating that this creates confusion and potential risk for students and institutions.

On the other hand, one commenter recommended that the ESL cap be reduced to 12 months as opposed to 24 months, stating that 12 months is more than enough time for an F nonimmigrant to learn English.

Response: DHS appreciates the comments but notes that any programs completed prior to the effective date of the rule will not be counted towards the limits for ELT or other programs. In addition, the lifetime limit of 24 months for ELT will be applied prospectively. This timeframe coincides with the amount needed to gain the highest level of English proficiency under the Cambridge English Exam.¹⁹⁵ DHS expects this rule will affect relatively few ELT students and believes the 24-month cap is appropriate for program integrity and oversight. In addition, F-1 nonimmigrants pursuing ELT who are subject to the transition period (F-1 students admitted for D/S and present in the United States on the effective date of the final rule) may continue their program of study until the program end date, not to exceed 4 years. *See* new 8 CFR 214.1(m).

DHS appreciates the commenters' concerns about English training programs; however, an aggregate of 24 months of ELT will be applied to all students to prevent abuse of the F-1 program. Most ELT students were enrolled in programs shorter than 2 years, as reflected by data provided in the NPRM preamble.¹⁹⁶ DHS recognizes commenters' reports that more advanced language proficiency requires additional years of study, or that some ELT students may require more than 2 years to obtain English language proficiency. To the extent a nonimmigrant wanted to continue with ELT in the United States after the 24-month cap was completed, they can do so while admitted for other reasons. For example, an F nonimmigrant admitted for programs other than ELT are not precluded from continuing ELT during their stay in the United States. Any programs completed prior to the effective date of the final rule will not count towards a foreign student's limits for ELT or programs of study at the same or lower educational levels.

DHS is concerned about vulnerabilities, fraud, and abuse in the nonimmigrant student classification, but especially in the ELT programs. The two years for standalone ELT schools/programs will be calculated as an aggregate of 24 months from the student's program start date (plus a 30-day period for departure). Students who encounter extenuating circumstances such as illness, disability, or other emergencies during their studies, will still be limited to the 24-month admission period. Students may depart and reenter the United States to resume studies (such as for a school break) but will not receive additional admission time to account for the time spent outside of the country.

DHS recognizes commenters' concerns about the impact the proposed changes would have on pathway programs and conditional admission models that integrate intensive English language study with academic coursework. An F-1 student who has been admitted to a degree program that integrates completion of a pathway program at the same institution of higher learning will be granted a period of admission that includes completion of both programs of study, up to a maximum of four years. For example, if a student has been admitted to a bachelor's degree program but needs to first complete a six-month pathway program at the same school, DHS will grant the student a period of admission that includes the time

allotted to complete both the pathway and bachelor's programs, up to a maximum of four years. If more time is needed to complete the degree program, then the student will need to apply for an EOS. This ensures that bona fide students engaged in such pathway programs are able to request an EOS with USCIS to stay in the United States and continue their studies, reflecting a clear upward academic progression. Additionally, students in pathway programs who encounter extenuating circumstances prior to program completion, such as illness, disability, or other emergency, may also cite such reasons when applying for an EOS. Per existing regulations at 8 CFR 214.3(k), DSOs are prohibited from issuing Forms I-20 based on conditional admission and should not be issuing Forms I-20 for students who have not met all admission requirements for the programs they are seeking to attend.

DHS recognizes the importance of supporting legitimate educational pathways and acknowledges the need for flexibility in certain circumstances, such as recognized bona fide educational tracks, graduate program specializations, and market-driven licensure requirements. DHS will provide updated guidance to clarify the application of these restrictions, particularly for graduate programs and specialized educational pathways.

As far as the commenters' concerns that these new rules will cause difficulty for monitoring, SEVIS is being updated to manage all the new requirements from this rule. DHS will also be providing training to stakeholders and broadcast messages with reminders, so DHS is confident that the transition to this new rule will provide the enhanced monitoring needed to effectuate this rule.

Finally, DHS disagrees with the commenters that say this rule conflicts with established accreditation standards. The commenters are mistaken when they think that accredited programs will need to be shortened to fit the 4-year admission period. That is untrue. If the program has been accredited as a 5-year program, the I-20 or DS-2019 will state the full program length. The student will need to apply for an EOS with USCIS prior to the expiration of his or her currently authorized period of stay¹⁹⁷ using the same I-20 or DS-2019 used to enter the country and may continue to study while the application is pending. If the student has not committed any crimes

¹⁹⁵ According to Cambridge English, it takes approximately 1,000 to 1,200 hours to achieve the highest level of English proficiency from being a beginner of English. This is based on the Common European Framework of Reference (CEFR), which is an international standard for describing language ability. *See* Cambridge English, *Guided Learning Hours* (Dec. 17, 2025), <https://support.cambridgeenglish.org/hc/en-gb/articles/202838506-Guided-learning-hours>. Given that an academic year is 9 months, it would take the average F-1 student less than 18 months (or less than 24 months to include summer breaks and annual vacations) to achieve advanced English proficiency through guided instruction.

¹⁹⁶ *See* 90 FR at 42087 and Cambridge English, *supra* note 195.

¹⁹⁷ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

or otherwise violated his or her status, then the EOS should be granted and the program of study completed as accredited.

c. Impact on K–12 Students and 4–Year Limit

Comments: Several commenters stated that the impact of the proposed rule on K–12 students would be significant, noting that the proposed rule focuses on post-secondary education with little acknowledgment of the impact on K–12 nonimmigrant students who also utilize the F–1 visa. A commenter noted that F–1 visas are not just for post-secondary education, and that in 2024, there were over 54,000 foreign students in K–12 schools. Commenters requested exceptions to the 4-year limit for students enrolled as K–12 students, particularly those who want to enter in 7th or 8th grade and stay until they graduate high school. A commenter stated that many high school campers choose to apply and attend their academy the following fall and requiring a formal EOS for a camper enrolled for only 4 to 6 weeks prior to the academy transfer would be an unnecessary and unreasonable burden.

Response: Regarding the 4-year limit and the K–12 population, the rule provides that SEVP-certified private schools for grades K–12 may issue Forms I–20 for up to grade 12, requiring an application for an EOS only every four years if the student never travels abroad during that time. If the student travels abroad, the stay will be extended for a four-year maximum every time the grade school student travels abroad. This may not work for the camper scenario because they will most likely need a new I–20 to indicate the new study program; however, F–1 students are allowed to begin studies while an EOS application is pending.

DHS does not believe this rule will cause undue burden to students or schools. DHS is not changing the fundamental requirements to qualify for these nonimmigrant statuses; it is instead changing the length of time that an individual may lawfully remain in the United States in F or J status without filing an EOS. Further, as is the case for the fixed period of admission policy more generally, a fixed date of admission simply places these nonimmigrants in the same position as most other nonimmigrants who are temporarily in the United States. They will still be able to continue to pursue their full course of study or exchange program; however, if they need additional time in F or J status, the burden will now be on them to request authorization directly from DHS and

establish eligibility to extend their period of stay in such status, whereas previously they obtained an extension of lawful status in conjunction with a program extension through a DSO or RO. DHS does recognize it is imposing limits to F–1 undergraduate students on transferring or changing educational objectives within the first academic year of a program of study, unless an exception is authorized by SEVP for extenuating circumstances. This will help to combat fraud and abuse in this visa category. DHS also recognizes F–1 students may need to change programs or educational objectives to complete elementary or secondary education. DHS has therefore clarified in the final rule that a student needing to change schools to complete elementary or secondary education may be considered an extenuating circumstance. *See* new 8 CFR 214.2(f)(5)(ii)(A).

d. Same-Level or Lower-Level Degree Enrollment

Comments: Commenters stated that limits to same and lower-level degree enrollment will not meet the needs of students. Commenters emphasized that pursuing programs at the same or lower level is common practice, particularly for students in professional programs seeking to specialize in new subject matter. Commenters urged DHS to rescind the rule, stating it would unnecessarily restrict students from adjusting their studies and pursuing diverse programs, especially in STEM jobs, and would also contribute to a chilling and coercive work atmosphere, reasoning that educational mobility is an important tool to improve working conditions for all. Comments stated that the rule limits nonimmigrant students' ability to diversify their resumes, making them less competitive in the global marketplace, and disproportionately impacting students from developing countries who may need to retrain or requalify in new disciplines due to evolving labor market demands.

Along these lines, commenters noted that the rule restricting multiple degrees imposes difficulties for nonimmigrants in fields that involve interdisciplinary components of research and study. Commenters noted that the United States is experiencing ongoing workforce shortages in STEM, especially in areas requiring interdisciplinary expertise gained through multiple academic programs, including advanced manufacturing and pharmaceutical manufacturing.

Commenters reiterated that F visa students may have legitimate reasons for pursuing multiple degrees at the same

level, including specialization, professional pivoting, gaining of interdisciplinary skills, meeting licensing requirements, fulfilling prerequisites for graduate study, career advancement, and developing specialized skillsets. In that regard, a commenter proposed regulatory changes under 8 CFR 214.2(f)(5)(ii)(C) to include that “[s]tudents may pursue a second degree at the same level if in a different field or institution.” Similarly, another commenter suggested adding that “[s]ame-level prohibition applies only to identical CIP codes, not substantially different disciplines” under 8 CFR 214.2(f)(5)(ii)(C).

One commenter explained that nursing, dental hygiene, diagnostic medical sonography, and veterinary technology programs require students to first complete prerequisites and then often wait one to two years before program admission. Another commenter stated community colleges provide a critical steppingstone for students refining their career goals and the limit on transfers between levels of study would disproportionately affect students who discover new academic interests after completing an undergraduate program.

Similarly, commenters described reasons students may pursue lower-level degrees, such as the need to complete certificate programs in specialized fields or enrollment in community college courses to develop specific academic skills or for financial reasons.

A commenter added that DHS failed to provide a reasonable explanation as to why changing programs and pursuing consecutive degrees is impermissible or non-compliant. Similarly, another commenter stated that the rule's restrictions on second master's degrees, limitations on transferring schools, or changing majors, and rigid time caps on student status' do not directly advance the goal of preventing visa abuse or ensuring compliance.

Response: Under the new requirements, any undergraduate student who has enrolled in a program at one educational level, but who has not completed that program, is authorized to change to another program at the same educational level or transfer to another school after completion of one academic year.¹⁹⁸ DHS believes this will prevent aliens from remaining in the United States for lengthy periods of time in F–1 student status, while also accommodating the legitimate academic activities of bona fide students that are not following the typical upward

¹⁹⁸ *See* new 8 CFR 214.2(f)(5)(ii)(A).

progression. This includes a desire to pursue a different field of study or to pursue more specialized studies in their established programs. The limits on specific programs at the same or lower educational levels will be applied prospectively, allowing students who began their studies under the previous regulatory scheme to continue their program.

DHS understands that there are legitimate cases of students gaining knowledge at a lower or the same educational level. However, DHS believes that most students follow an upward trajectory. For that reason, any undergraduate-level student who has enrolled in a program at one educational level is authorized to change to another program at the same educational level or transfer to another school only after completion of one academic year.¹⁹⁹

DHS is also restricting school transfers and changes of educational objectives within an undergraduate student's first academic year of a program of study, unless an exception is authorized by DHS, and prohibiting F-1 students in a graduate level program of study from changing educational objectives or transferring at any point during their program of study, unless SEVP authorizes an exception for the transfer due to extenuating circumstances.²⁰⁰ DHS believes these changes will accommodate the legitimate academic activities of bona fide students, such as a desire to pursue a different field of study or more specialized studies in their current field at the undergraduate level, while maintaining the integrity of graduate level programs to avoid school and major switching that takes places away for aspiring graduate students. These changes will also provide DHS with flexibility to grant exceptions for extenuating circumstances.

DHS believes this will encourage F-1 students to complete the programs of study for which they were admitted to the United States and to only pursue additional programs of study that demonstrate an upward progression in degree levels, which is expected from a qualified bona fide student who is coming to the United States temporarily and solely to pursue a course of study.

DHS disagrees with the commenters' assertion that DHS has failed to provide a reasoned explanation regarding changing programs and the permissibility of pursuing consecutive degrees. In the NPRM, DHS provided a reasoned explanation balancing the

logical progression to a higher educational level as the traditional trajectory for higher education with the necessity to address and deter fraud, exploitation, and abuse in connection with the duration of stay framework.²⁰¹ Continuing to allow nonimmigrants to complete one program, then move on to another, or move to a lower education level raises serious concerns that the intent is not to pursue a full course of study but rather to circumvent the U.S. immigration system and prolong their stay in the U.S. under the guise of pursuing education. As such, these restrictions do advance the goal of preventing visa fraud and abuse, enhancing national security, and ensuring program integrity.

DHS recognizes commenters' concerns about the restrictions effect for those pursuing multiple degrees, including the concern that this will impose difficulties for nonimmigrants in fields that involve interdisciplinary components of research and study. Students will be able to continue learning at all academic levels while also making progress in the degree program for which they have been issued a Form I-20, thereby mitigating these effects and ensuring students continue to make upward progress on their studies in the United States while in the country as an F nonimmigrant. However, this rule does not prevent students who need double majors to achieve their goals from planning ahead and enrolling in both at the same time. For example, nothing in this rule prevents someone from doing a J.D./M.B.A. program at one institution with one I-20 indicating the program end date that accounts for the longer time it takes to complete the double major.

DHS also recognizes commenters' concerns about programs which require the completion of prerequisites, then waiting a year or more before program admission. During this gap, if a student no longer qualifies for their current nonimmigrant visa category (for example, if they are no longer enrolled full-time in a qualifying course of study), they cannot remain in the United States. This requirement is the same as currently required under D/S. In such cases, the students need to depart the country and apply for a new visa once they are eligible for admission to the new program. DHS encourages students to plan ahead and consult with their DSO or an immigration advisor to understand their options and maintain compliance with U.S. immigration regulations.

e. Program Changes for Undergraduate Students

Comments: Commenters pointed out that there are many academic programs and educational pathways. Commenters emphasized that the restrictions would particularly affect dual, interdisciplinary, and accelerated degree programs, noting that at one institution approximately 20 percent of foreign students graduated with dual majors. Commenters expressed concern that the rule would disrupt innovative collaborative programs between institutions, such as 2+2-degree programs through which students complete 2 years at a community college before transferring to a four-year institution. Commenters stated imposing EOS requirements would undermine the seamless transition promised by these educational packages and discourage resource-pooling programs.

Commenters stated that changes for undergraduate students were unfair and unrealistic. A majority of commenters expressed opposition to the prohibition on F-1 undergraduate students changing programs or educational objectives within their first year of study. Commenters expressed the restriction is overly limiting and lacks sufficient justification, particularly since similar restrictions do not apply to U.S. students. Commenters remarked that changing majors is a common practice among all undergraduates, with studies indicating approximately 80 percent of students change majors at least once, often increasing their likelihood of graduating. Along these lines, some commented that nursing students who don't meet the GPA requirements must change majors and indicated that the proposed restrictions on changing majors were not realistic.

Commenters described how the U.S. higher education system is uniquely designed to allow students to explore different fields through general education requirements before selecting a major. Commenters noted the first year typically consists of exploratory coursework that helps students discover interests across interdisciplinary fields. Many commenters pointed out that foreign students face additional challenges when selecting institutions, as they often must choose schools without having visited campuses or met faculty, making it unreasonable to limit them to their initial choice if it proves to be a poor fit.

Commenters identified numerous reasons why students might need to legitimately change programs or schools before completing their first academic

¹⁹⁹ See new 8 CFR 214.2(f)(8)(i).

²⁰⁰ See new 8 CFR 214.2(f)(5)(ii)(A) and new 8 CFR 214.2(f)(8)(i).

²⁰¹ See 90 FR at 42087–89 (Aug. 28, 2025).

year, including discovery of new academic interests, poor academic fit, financial constraints, family circumstances, safety concerns, discriminatory treatment, school closures, program eliminations, and the need for additional language training. Commenters also expressed concern that the transfer restriction would particularly impact English language programs and community colleges, potentially increasing costs and time to degree completion. Clarification was sought about when transfers would be allowed for F-1 students.

Response: Undergraduate students seeking to transfer to another school or change their educational objectives during their first year of study still retain flexibility in having their cases reviewed by DHS, which may then authorize the change in educational objective or school transfer if an exception is warranted. Transfers to other schools or changing majors after the first year of study is allowed at the undergraduate level, including for students who do not meet certain requirements to progress within their program and change majors. Any graduate student that fails out of the program will need to return home.

This particular change seeks to address significant costs incurred by universities when working with potential F-1 students who then transfer to less expensive schools upon arrival in the United States. This provision will provide more stability in the admission process and still provides the students with the ability to explore coursework and majors during the first year. Most undergraduate students take similar classes in their first year; therefore, the majority of the commenters' objections about changing degrees in the first year are not a concern under this new framework.

f. Program Changes for Graduate Students

Comments: Commenters stated that changes to graduate programs do not account for actual experiences of students. The majority of commenters expressed opposition to the proposed rule's prohibition on F-1 graduate students changing programs or educational objectives during their program of study. Commenters expressed particular concern about the impact on Ph.D. students, remarking that the proposed restrictions demonstrate a lack of understanding about the nature of graduate education, which often involves interdisciplinary work and evolving research interests.

Commenters stated that the rule would disrupt common practices in

graduate education, including master's students being promoted to Ph.D. programs midway through their studies, Ph.D. students receiving master's degrees enroute to their doctorate, and students pursuing dual degrees at the graduate level. Another commenter expressed the proposed rule would eliminate the "master-out" option for Ph.D. students who are awarded a master's degree when they cannot finish, and harm "academic mobility" for second master's degrees and master's-out pathways. Commenters clarified that graduate school, particularly at the doctoral level, is not a fixed, linear path, and intellectual discovery often leads students to pivot to related fields. Commenters stated that the rule would punish academic growth by causing students to abandon years of work rather than transition programs. Many commenters expressed concern with the proposed rule's different provisions for graduate students compared to undergraduate students, noting that the proposed rule lacks explanation or rationale for these distinctions. One commenter reported extenuating and uncontrollable circumstances may cause a graduate student to transfer programs or institutions, while another commenter thought the proposed rule would punish students for issues beyond their control by locking students into a major their first year and by requiring graduate students to remain in their program. Another commenter stated that the proposed rule would make Ph.D. enrollment riskier and would leave open teaching assistant and research positions that are dependent on foreign students.

Commenters provided numerous reasons why graduate students might need to change programs, including refined research direction, changes in advisors, moves from master's to doctoral programs, suggestions from faculty members, personal or academic circumstances, and changes in research funding. Commenters emphasized the critical relationship between graduate students and their faculty advisors, explaining that students often choose specific institutions because of faculty members whose research aligns with their interests, reasoning that when faculty members relocate to another university, graduate students may need to transfer to continue working with their chosen mentors and maintain access to specialized research facilities. Commenters noted that research funding is often tied to specific faculty members, requiring students to follow

their advisors to maintain financial support.

Commenters urged DHS to reconsider its restrictions on graduate students seeking to transfer or change educational objectives, with specific requests to allow Ph.D. students the option to transfer, particularly in cases involving academic or financial necessity. If DHS proceeds with finalizing the rule, commenters suggested establishing exceptions, such as allowing students to transfer to continue mentorship with their advisor, and proposed simplifying procedures for program extensions and transfers, especially at the graduate level. Commenters asked what happens after the 240-day authorized stay ends while an application is pending, the earliest filing date for applications, and how Ph.D. students whose programs exceed four years would justify extensions.

Commenters noted the rule could prevent individuals who completed a Ph.D. from later enrolling in a U.S. MD program or vice versa, despite these degrees preparing students for distinct career paths. Commenters expressed concern about uncertainty for medical residents on F-1 visas regarding whether residency would be considered a higher education level than medical school, potential barriers to changing disciplines during residency, and disruptions to transitions between PharmD programs or movement from PharmD to research-focused graduate programs.

Relatedly, a few commenters noted that the changes would prohibit students from pursuing a second master's degree which could hamper their ability to shift careers and add interdisciplinary training. One commenter pursuing a second STEM master's degree also expressed concern for the uncertainty surrounding using OPT after a second master's degree and stated that this might direct students away from the United States. Another commenter spoke about how the inability to pursue a second master's degree may hamper a student from "applied, industry-ready training."

Response: DHS acknowledges that students may seek to engage in programs simultaneously at a lower level or obtain multiple degrees, at differing levels, throughout the course of their time in the United States. Students will be able to continue earning such credentials while also making progress in the degree program for which they have been issued a Form I-20. For example, a student issued a Form I-20 for a Ph.D. program as their primary academic objective could obtain a master's degree incidental to

status while progressing toward completion of the Ph.D. program.

DHS generally relies on NCES' definition of educational levels, which provides a structure for determining whether a nonimmigrant student's program of study reflects upward academic progression. The list of educational levels that schools use to update their Form I-17, "Petition for Approval of School for Attendance by Nonimmigrant student," is available at <https://studyinthestates.dhs.gov/sevis-help-hub/school-records/school-certification/form-i-17-listing-of-available-degrees>. This list contains the following educational levels: 1. Primary and Secondary Education; 2. ELT; 3. Post-secondary Certificates/Non-Degree; 4. Associate; 5. Bachelor; 6. Master; 7. Doctorate. DHS may provide updated guidance on educational levels to ensure consistency across components and with ED.

DHS appreciates commenters' concerns about the rule's effect on academic growth of students. DHS recognizes academic pathways can be complex and that students may pursue multiple degrees or transition programs, including from undergraduate to graduate studies. The Department does not intend to discourage academic advancement or require students to abandon years of work.

DHS also recognizes the different approaches for undergraduate students and graduate students. This rule aims to balance program integrity and national security with the need to support legitimate educational pursuits. DHS believes differing approaches for undergraduate and graduate students are appropriate given the difference in the general ages of the students, a graduate student's previous opportunities to explore academic interests prior to entering graduate school, and a focus on more specific degree programs at the graduate level. DHS maintains it is appropriate to prohibit an F-1 student at the graduate degree level or above from changing educational objectives at any point during their program of study for the reasons outlined above. However, DHS recognizes that extenuating circumstances, such as a school closure or a school's prolonged inability to hold in-person classes due to a natural disaster, may prevent a graduate student from being able to continue their studies unless the student transfers to another SEVP-certified institution. The NPRM proposed prohibiting an F-1 student at the graduate level from transferring, without exception. DHS agrees with commenters that these situations may be outside the students' control and, taking

this into consideration, DHS has amended the regulatory text to allow SEVP to authorize an exception to this transfer prohibition in extenuating circumstances. See new 8 CFR 214.2(f)(5)(ii)(A), 8 CFR 214.2(f)(8)(i)(C), and 8 CFR 214.2(f)(8)(i)(D). For the purposes of this rule, "extenuating circumstances" for a transfer are rare, exceptional events beyond the control of the school and the affected students that prevent an SEVP-certified school from continuing to provide the student's approved course of study, such as a permanent or extended school closure, a school merger that eliminates the student's program, a loss of necessary authorization for the school to enroll F-1 students, or the school's prolonged inability to deliver required instruction due to a natural disaster or comparable emergency. In such circumstances, SEVP may, in its discretion and in coordination with the impacted SEVP-certified school or schools, permit the transfer of student records to another SEVP-certified school so that the student may continue, to the extent practicable, in the same educational objective. This exception is narrow, is intended only to preserve continuity of study in emergency situations, does not create an entitlement to transfer, and does not otherwise authorize an F-1 student to change educational objectives. Affected students generally will access this exception through their DSOs, as SEVP becomes aware of qualifying extenuating circumstances through notifications from SEVP-certified schools and SEVP's existing outreach to schools during such events.

Regarding the claim that the rule will make Ph.D. enrollment riskier and result in unfilled teaching assistant and research positions, DHS does not intend for this rule to significantly affect these populations since foreign students may still study, teach, and research in the United States under this fixed period of admission framework. They may also apply for an EOS if they want to request an extension of their admission period and shouldn't experience any disruptions if they apply as early as possible (180 days) before the expiration of their current stay. Additionally, assistantships are awarded based on student need and should not be the primary motivation in enrolling foreign students.

Regarding comments on the relationship between graduate students and their faculty advisors and students choosing institutions based on faculty member's research, such students should consider applying for J-1 visas to better align their goals with the appropriate nonimmigrant status. DHS

notes that J-1 categories include research scholars and college and university students, and requirements for transferring programs for J-1 students are governed by DoS regulations. See 22 CFR 62.20, 62.23, 62.42.

DHS also acknowledges the request for simplified procedures for program extensions and transfers. DHS declines to alter the current procedures, as they are necessary for program integrity and national security. DHS will, however, evaluate needs for guidance to assist in the transition and application of these new rules and will provide this guidance to stakeholders as needed.

DHS recognizes commenters' request for clarification about what happens after the 240-days. The 240-day period offers certain F nonimmigrants the ability to continue with authorized employment for this time period while their EOS is pending. If the EOS takes longer than 240 days to adjudicate, the F nonimmigrant would need to stop authorized employment, but they can remain in the United States, can continue their full course of study, and are considered to be in a period of authorized stay during that period.

g. Delay and Suspension of Change in Educational Objectives

Comment: Commenters discussed several technical and implementation concerns regarding the proposed limitations on program changes and transfers. A commenter expressed concern that the discretionary provision in 8 CFR 214.2(f)(5)(ii)(E) may be exploited by future administrations. Other commenters opined DHS should not codify a regulation which cannot be implemented. Another commenter opined the delay or suspension of the educational objectives provision could create confusion and arbitrary outcomes. Similarly, a commenter thought 8 CFR 214.2(f)(5)(ii)(E) would cause students, schools, and employers unnecessary uncertainty and resulting harm.

Response: DHS recognizes that this rule requires updates to SEVIS and other systems and it has been planning for these changes. The language proposed in 8 CFR 214.2(f)(5)(ii)(E) would provide DHS authority to delay or suspend implementation of the provisions relating to a change in educational objectives, outlined in 8 CFR 214.2(f)(5)(ii)(A) through (C), via announcement in the **Federal Register** and SEVP's website. DHS has given the comments on this provision considerable thought and agrees that this provision, as proposed, could cause unnecessary confusion and uncertainty

in the future. DHS does not identify an indefinite need to suspend or delay the implementation of 8 CFR 214.2(f)(5)(A) through (C) and therefore, DHS has decided to amend 8 CFR 214.2(f)(5)(E) to limit the agencies' ability to delay or suspend implementation to two years from the effective date of this final rule.

2. Preparation for Departure

a. Support for Reducing the F–1 Departure Period From 60 to 30 Days

Comments: A few commenters expressed support to reduce the F–1 visa departure period from 60 days to 30 days. One commenter stated the 60-day departure period was misaligned with enforcement objectives and increased the risk of visa overstays. This commenter referenced DHS reports showing above-average overstay rates in the student and exchange visitor visa categories. Another commenter stated that shortening the departure period would limit the risk of unauthorized employment or “loitering” after the lawful stay has ended.

Response: DHS appreciates the commenters' support for this rule and agrees that reducing the departure period will reduce overstays, strengthen oversight, and yield additional benefits to enhance the U.S. immigration system. This rule establishes an effective mechanism to periodically and directly assess whether nonimmigrants in F, J, and I status are complying with the conditions of their nonimmigrant classifications and U.S. immigration laws, and to obtain timely and accurate information about the activities these aliens have engaged in and plan to engage in during their temporary stay in the United States. DHS believes that this rule will encourage aliens to maintain lawful status and reduce instances in which aliens in F, J, and I nonimmigrant status unlawfully remain in the United States after their program, practical training, or activities or assignments end.

b. Opposition to Reducing the F–1 Departure Period From 60 to 30 Days

Comments: Most commenters expressed opposition to reducing the F–1 post-completion departure period from 60 to 30 days for many reasons because this timeframe serves as a critical buffer for foreign students in transitioning without risking life-changing immigration penalties for minor issues at no fault of the alien before going back to their country. For example, commenters said delayed transcripts, job offers, or cancelled or delayed flights could trigger unlawful presence which could lead to bans from

re-entering the U.S. Commenters also remarked that DHS presented no data suggesting the current 60-day period poses national security issues or compromises program integrity. As one commenter stated, there is no evidence offered that the extra 30 days are somehow used to threaten national security, avoid authorities, or otherwise abuse the F–1 visas. Another commenter stated that the shortening of the grace period from 60 to 30 days was unnecessary and counterproductive to ensure an orderly completion of stay.

Commenters stated that 30 days was insufficient for foreign students to complete post-graduation logistics such as terminating housing leases, selling belongings, closing financial accounts, arranging shipping, and making travel arrangements. Commenters added that these unresolved logistical and financial matters often burden local communities when students cannot efficiently conclude their affairs. In addition, commenters state a shortened 30-day departure period amid USCIS processing delays could lead to an increase in inadvertent overstays and unlawful presence, potentially exposing students to serious immigration consequences including reentry bans.

Commenters cited a negative impact on academic institutions, including an increased administrative burden for schools and DSOs, who would face greater pressure to process requests quickly in the 30-day grace period during already busy periods, potentially leading to higher error rates.

One commenter stated the shortened departure period will negatively impact foreign students in transition to other institutions or educational levels. Regarding academic transitions, a commenter stated that many institutions require more than 30 days to post final grades, verify program completion, or issue diplomas, making the proposed timeframe impractical for students needing to secure admission to new programs. Other commenters said that abruptly changing baselines disrupts settled expectations and will deter prospective students from choosing U.S. programs, which will in turn harm U.S. economic competitiveness.

Commenters identified negative effects of the shortened departure period on students' eligibility for the OPT program, including those in STEM programs. A commenter stated that the current 60-day departure period provides essential flexibility for students to select OPT program start dates that align with job search efforts and USCIS processing times and added that shortening this window would constrain students' ability to secure

suitable employment and potentially increase the risk of exceeding unemployment limits. One commenter stated that in the 2023–2024 academic year, approximately 242,800 foreign students participated in OPT, a record high. Commenters also reported foreign students contributed \$43.8 billion to the U.S. economy and supported 378,000 jobs in the same period. Research has shown that OPT participants directly enhance innovation; for instance, an additional 10 OPT participants in a region is correlated with 5 more patents filed. By reducing the grace period, the commenter stated that DHS risks making the OPT program essentially unworkable, leaving graduates without enough time to transition into jobs. In effect, OPT could become nominal but not functional, depriving both students and the U.S. economy of its benefits. Commenters stated that USCIS processing delays combined with the shortened departure period could result in students losing portions of their OPT eligibility, which ultimately discourages participation in the program and negatively affects the U.S. workforce and economy. Commenters also stated broader economic concerns, including that the shortened departure period could impact STEM fields where foreign students constitute a significant portion of the graduate student population and workforce.

Also discussing the OPT program, one commenter stated that hard end dates can collide with graduation and employment start dates under OPT and STEM OPT and the grace-period reduction further complicates transfers and changes of level. The United States hosted more than 1.1 million foreign students in 2023/24, and 242,782 students participated in OPT—record highs. Even small percentages of disrupted transitions would affect thousands of offers and research projects. At a national scale, a 1 percent policy-driven deferral/attrition/drop-out ($\approx 11,000$ students) corresponds to roughly \$0.43 billion less in annual tuition plus local spending, based on Association of International Educators' (NAFSA) \$43.8 billion total economic contribution across 1.13 million students (\$38,900 per student).

Another commenter stated that OPT requires an extensive adjudication process, typically three to four months for approval and issuance of the EAD. Students may only file for OPT within 90 days prior to their program end date, and any delay in adjudication, issuance, or delivery of the EAD can extend well beyond the proposed 30-day grace period. A commenter was concerned DHS had not provided sufficient

guidance on how the shortened grace period would apply in complex scenarios involving OPT and international travel. A commenter also stated that, under the proposal, F-1 students admitted under D/S would continue to receive a 60-day grace period following their program end date, consistent with prior rules. However, the proposal fails to account for a critical edge case. Under current regulations, an F-1 student may select an OPT start date up to 60 days after their program end date. Consider, for example, a student whose OPT EAD card—issued prior to the effective date of the proposed rule—bears a start date 59 days after program completion. The commenter reported the proposal is unclear as to whether such an EAD would remain valid if the student departed the United States after the program end date and sought reentry. The commenter asked if the newly reduced 30-day grace period applies retroactively to such students, thereby rendering their validly issued EAD unusable. The commenter continued that it remains unclear whether a student would also be required to file an EOS application to preserve their status, despite already holding an approved and valid EAD. This ambiguity raises serious concerns about retroactive impairment of vested rights and undermines the predictability and reliability essential to the immigration system.

Multiple commenters stated they anticipated their specific work sectors would be affected by the decrease from 60 days to 30 days, including:

- In Technology: Final interviews, relocation logistics, and HR onboarding often require more than 30 days for international graduates to transition into tech roles. The current 60-day period is already tight and cutting it in half will make tech companies lose promising candidates.
- In Accounting/CPA: The busy season stretches into late spring, and international staff often finish work assignments before transitioning to OPT or other statuses. Thirty days is insufficient to close out engagements, relocate housing, and file applications without risk of status violation.
- In Tax Consultancy: Filing seasons are cyclical, and projects often stretch beyond a month. Critical deadlines including quarterly filings or compliance reviews could be missed, creating risk for the U.S. tax system.
- Global Supply Chain: Predictable cycles are disrupted by shortening the grace period, leaving gaps in staffing that cannot be modeled or mitigated in time.

Several commenters expressed opposition to DHS's rationale for reducing the F-1 departure period to align with other nonimmigrant visa categories. One commenter stated that F-1 students differ significantly from M and J visa holders, as they are full-time, degree-seeking individuals with unique administrative needs who often establish deeper connections and accumulate more possessions during their longer stays. Commenters also expressed concern with comparisons to H-1B holders with a 10-day grace period, remarking that the departure logistics for professional workers differ significantly from those of students who have developed years' worth of belongings and community ties.

Response: DHS understands concerns related to the shortened departure period. However, as noted in the NPRM, many nonimmigrants who are authorized to remain in the United States for several years are only provided with a 10-day period to depart the United States. In addition, individuals in other student and exchange visitor categories—M vocational students and J exchange visitors—have been subject to a 30-day departure period for many years under the current regulations and have shown that this time frame is sufficient. This change is meant to align all nonimmigrant student categories with the same departure period.

DHS disagrees with the contention that it takes longer for F nonimmigrant students to depart than it does for J-1 scholars and physicians, some of whom stay up to 7 years, and DHS believes it has provided sufficient justification for making the change to the departure period timeframe. As stated in the NPRM, the F and J classifications should have a standard period of time to prepare for departure, or take other actions to extend, change, or otherwise maintain lawful status.²⁰² The F category, albeit distinct from M or J, shares a core similarity in that many aliens in these categories are seeking admission to the United States to study at U.S. educational institutions. Thus, these categories should have a standard period of time to prepare for departure, or take other actions to extend, change, or otherwise maintain lawful status.²⁰³ Notably, J exchange visitors only get 30 days to depart and do so effectively, and commenters have not identified meaningful distinctions between F

nonimmigrant students and J exchange visitors that should be considered, or that demonstrate why a different period for departure for F nonimmigrant students would be appropriate.

DHS does not believe that this rule will increase overstays and unlawful presence especially due to USCIS processing delays. Upon nearing the expiration of the fixed admission period, F, J, and I nonimmigrants may seek to extend their status with USCIS by timely filing an application for EOS. Upon a timely filed EOS, F, J, and I nonimmigrants will not need to cease their studies, programs or activities authorized within their nonimmigrant classification. As discussed in sec. IV.G. above, students may apply for an EOS with USCIS if seeking to continue a research project or other academic project, or if otherwise needing additional time to complete their academic program. A student ultimately has the responsibility to comply with the law. For students who depart the United States, they may apply for admission with CBP upon re-entry rather than with USCIS.

Furthermore, this rule also includes provisions to minimize any employment interruptions for those F-1 nonimmigrants filing timely EOS applications and seeking to extend their employment authorization. Any F-1 student's currently on authorized on-campus, CPT and/or severe economic hardship authorized employment are automatically extended during the pendency of the EOS application, but such automatic extension may not exceed 240 days beginning from the end date of his or her period of admission. For severe economic hardship employment authorization resulting from emergent circumstances under 8 CFR 214.2(f)(5)(vi), the employment authorization will be automatically extended for up to 240 days or until the end date stated in the **Federal Register** notice announcing the suspension of certain requirements, whichever is earlier. However, for any F-1 student who files an EOS application during the 30-day grace period for departure provided under new 8 CFR 214.2(f)(5)(v), the F-1 nonimmigrant will not receive an automatic extension of authorized employment, including on-campus employment, CPT, and severe economic hardship, and must wait for approval of the EOS application (and employment authorization application, if required) before engaging in one of the forementioned employment benefits. Notably, this rule does not make any significant changes to the automatic extension of employment authorization regulations

²⁰² See *Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers*, 81 FR 82398, 82401 (Nov. 18, 2016).

²⁰³ *Id.*

governing the H-1B cap-gap extension under redesignated 8 CFR 214.2(f)(5)(vii) and the EAD extensions for STEM OPT under 8 CFR 214.2(f)(11)(i)(C) and 8 CFR 274a.12(b)(6)(iv). Under this rule, eligible F-1 nonimmigrants will continue to benefit from the cap-gap automatic EOS and any employment authorization, which extends until April 1 of the fiscal year for which the H-1B status is being requested or until the validity start date of the approved petition, whichever is earlier. Similarly, eligible F-1 nonimmigrants who have timely applied for the 24-month STEM OPT extension will benefit from the automatic extension of employment until the date of USCIS' written decision on the Form I-765, but not to exceed 180 days.

DHS does recognize confusion may arise related to the shortened grace period and OPT, since students will now have 30 days, rather than 60 days, to depart the country or seek to maintain lawful status, but current regulations allow a student to request a start date that is up to 60 days after the student's program ends. To resolve this conflict, DHS has updated 8 CFR 214.2(f)(11)(i)(D) to replace "60" with "30." This technical change aligns with the 30-day period that was proposed in the NPRM under 8 CFR 214.2 (f)(11)(i)(B)(2) and with the 30-day period of preparation for departure under new 8 CFR 214.2 (f)(5)(v).

c. Recommendations and Alternatives to the Proposed 30-Day Departure Period

Comments: Many commenters offered the alternative of keeping the 60-day departure period intact. Others recommended special departure period provisions for specific situations. For example, a commenter suggested maintaining a 60-day departure period for graduates of accredited health-professional programs and for students with timely-filed OPT/STEM OPT or cap-gap situations. Another commenter suggested limited, compliance-conditioned automatic grace extensions to reduce needless filings and "status gaps" for OPT/STEM OPT and R&D roles.

One commenter suggested that the 60-day grace period be extended if the F-1 visa holder is seeking employment in the United States. Another commenter suggested graduates be granted a minimum 90-day grace period, extendable to 120 days when seeking academic employment. A commenter suggested maintaining the 60-day period while implementing additional reporting requirements in SEVIS at the end of the departure period or allowing

more flexibility in departure periods based on individual circumstances. Commenters recommended that DHS focus on strengthening visa screening at the issuance stage rather than reducing the F-1 departure period to address security concerns.

Rather than shortening the F-1 period, a commenter suggested extending the departure period for J-1 and M-1 visa holders to 60 days for consistency across student visa categories. Other commenters suggested making the departure period 45 days. Some commenters suggested requiring periodic SEVIS check-ins or improved reporting mechanisms, rather than shortening the grace period. Similarly, one commenter stated that to the extent the grace period reduction is intended to reduce the likelihood of potential unlawful stays or activities, a background check at the beginning of the approval process is the key.

Three commenters recommended that the grace period be extended. One suggested extending it to a period of one year, rather than 30 days, another to a period of 180 days, and another that did not state a specific period of time. Another encouraged DHS to allow a middle-ground solution, such as fixed-term authorization combined with automatic grace periods, or tiered extensions based on academic progress and institutional standing.

Response: DHS believes that changing the departure period for F nonimmigrants from 60 to 30 days is appropriate for several reasons as discussed in the NPRM. Under existing regulations, F-1 students are provided 60 days following the completion of their studies and any practical training to prepare for departure from the United States. However, this is twice as long as other SEVP programs (J and M nonimmigrants). In addition, this 60-day period is also six times longer than certain nonimmigrants who are authorized to remain in the United States for years but are only provided with a 10-day period to depart the United States. For example, DHS provides a 10-day period following the end of the alien's admission period as stated on the I-94 for aliens in the E-1, E-2, E-3, H-1B, L-1, and TN classifications in a 2016 rulemaking. DHS notes that a grace period of up to 10 days after the end of an authorized validity period provides a reasonable amount of time for such nonimmigrants to depart the United States or take other actions to extend, change, or otherwise maintain lawful status.²⁰⁴ It is unclear to DHS why F students would need a

significantly longer period of time to prepare for departure when other nonimmigrants have less time to prepare for departure.

DHS believes that 30 days is sufficient and an appropriate balance between the 60-day and 10-day periods that aliens are granted to prepare for departure. As with the J and M nonimmigrants, F students are seeking admission to the United States to study at a U.S. educational institution. Thus, DHS believes the standard period of time of 30 days is reasonable and adequate period for F-1 students to prepare for departure and is in line with similar classifications (the M and J departure periods). DHS understands that there are legitimate reasons for F-1 nonimmigrants to require additional time to complete a program. As noted, the rule provides F-1 nonimmigrants with the opportunity to apply for EOS if required, or to depart and re-enter the United States. DHS disagrees that 60 days is insufficient to either apply for EOS if required, or to depart and re-enter the United States.

3. Practical Training: OPT, STEM OPT, CPT, and I-94 Expiration Dates

Comments: A commenter requested clarification and examples as to how the fixed admission period and grace periods would interact with: (a) completion of Program A to post-completion OPT (and STEM OPT, if applicable) to enrollment in program; (b) school processing timelines; and (c) any automatic or conditional extensions, if the rule is finalized.

Response: The proposed rule provides timelines and mechanisms for maintaining status when transitioning between programs, engaging in post-completion OPT/STEM OPT, and applying for extensions. See new 8 CFR 214.2(f)(5), (f)(7), and (f)(8), and 8 CFR 214.2(f)(10). First, F-1 students are initially admitted for the length of their program as listed on Form I-20, not to exceed 4 years, plus a 30-day grace period for departure or to take steps to maintain lawful status. After completing Program A, a student may apply for post-completion OPT through their DSO and upon the DSO's recommendation, apply for EOS and employment authorization with USCIS. If EOS is approved for OPT, the student's period of admission is extended to the end date of the EAD for OPT, plus a 30-day grace period. If eligible, the student may apply for a STEM OPT extension. Both would require filing a subsequent EOS application and employment authorization to USCIS. If approved, the admission period extends to the new EAD end date for STEM OPT, plus a 30-

²⁰⁴ See 81 FR at 82401 (Nov. 18, 2016).

day grace period. If the student wishes to begin a new program at a higher educational level, they must obtain a new Form I-20 and, if the new program will not be completed within the current admission period, apply for EOS before the end of their current authorized stay (including the 30-day grace period). However, if USCIS has not approved the EAD at the time of application for admission but the DSO has approved a term for OPT, the F or J nonimmigrant may be admitted for up to 240 days to allow for USCIS to adjudicate the EAD.

The student must ensure their EOS application is filed before the current period of admission expires. If a student timely files an EOS application before their current admission period expires, they are considered in a period of authorized stay while the application is pending. *See new 8 CFR 214.2(f)(5)(viii).* For certain types of employment (*e.g.*, on-campus, CPT, severe economic hardship), employment authorization is automatically extended for up to 240 days while the EOS is pending. *See new 8 CFR 214.2(f)(5)(viii) and new 8 CFR 274a.12(c)(3)(iii).* If the EOS application is filed during the 30-day grace period after completion of studies or OPT, the student may continue studying but may not engage in practical training or employment until the EOS is approved. *See new 8 CFR 214.2(f)(7)(iii)(B).* The rule provides that USCIS may approve extensions in cases such as school closures, natural disasters, or other circumstances beyond the student's control, as described in the rule. *See new 8 CFR 214.2(f)(7)(i)(C)(2)(iii).*

Comments: Some commenters expressed concerns in that the rule would eliminate Day-1 CPT, indicating that fields such as business, computer science, and health sciences often require early practical training as part of the academic program. Along these lines, they stated that prohibiting Day-1 CPT would undermine the integrity of these academic programs and prevent students from meeting graduation requirements on time, while reducing the ability of U.S. industries to access talent trained in cutting-edge fields. Similarly, another commenter noted that the rule would impose financial accessibility and tuition burdens because students rely on Day-1 CPT to pay tuition and living expenses, given that foreign students must pay full tuition. The commenter called for DHS to retain flexibility for Day-1 CPT authorization, while addressing concerns through different methods, such as increase in reporting requirements or SEVIS oversight.

Response: These comments misinterpret the rule as the rule does not prohibit or eliminate Day-1 CPT. The rule primarily imposes a fixed admission period of up to 4 years for F-1 students and requires students to apply for EOS if additional time is needed to complete their programs of study or for practical training. In doing so, it eliminates the D/S framework, but it does not make substantive changes to CPT.

Separately, DHS notes that the primary purpose of the F-1 nonimmigrant status is for foreign students to study in the United States and not a pathway for employment. Moreover, as a requisite for the F-1 nonimmigrant visa, foreign students must provide evidence of financial ability to support themselves to study in the United States by demonstrating that they (or their sponsor) have sufficient funds to cover tuition and living expenses during the period of intended study. As such, F-1 students should not be relying on future or prospective income from Day-1 CPT as their primary means to financially support themselves in the United States.

Comments: Many commenters stated the need for OPT reform, specifically highlighting OPT students working in STEM. One commenter said despite being backed by the INA, OPT is now used to bypass congressionally set limits on H-1B visas, with the program operating as an H-1B substitute. The commenter further states that this influx of OPT students into STEM fields has offset many American STEM graduates into other non-related fields. Another commenter suggested that, due to not being explicitly authorized by statute and disproportionately benefitting foreign graduates over U.S. citizens and permanent residents, the STEM OPT extension program should be phased out entirely.

Response: This rule does not make any substantive changes to OPT and STEM OPT other than in the context of admission and extensions. Requests for OPT, STEM OPT, and H-1B reform are outside of the scope of this rule. However, DHS notes that while this rule does not make any substantive changes to OPT and STEM OPT other than in the context of admission period and extensions of stay, DHS believes that strengthening the F nonimmigration classification and creating more vetting mechanisms will help DHS in identifying issues of OPT and STEM OPT fraud and abuse.

Comments: A commenter stated that the overlap between OPT processing and H-1B application cycles creates a 6–8 week window where status

uncertainties could disrupt the talent pipeline.

Response: DHS confirms that the rule does not modify or remove automatic extension of the authorized period of stay and employment authorization for F-1 students who are beneficiaries of timely filed H-1B cap-subject petitions. Eligible F-1 students will continue to be granted automatic extension of the authorized period of stay and employment authorization through April 1 of the relevant fiscal year or until the H-1B petition's validity start date, whichever is earlier.

Comments: A commenter recommended clarification on the impact of the proposed rule in specific situations, including students who receive a Form I-20 for 3 years and a Form I-94 valid for 3 years, but graduate in 1.5 years. The commenter asked if these students need to apply for extension of their I-94 end stay when they apply for post-completion OPT, since the student would still be within their Form I-94 3-year timeframe. Alternatively, the commenter asked if these students wanted to apply for a STEM OPT, would they need to apply for a Form I-94 EOS before or concurrently with the STEM OPT extension.

Response: In such cases, students will be able to continue pursuing their full course of study. If the I-20 says 3 years, their admission period on the I-94 will be 3 years plus the 30-day departure period. Before the I-94 expiration date, they will need to file for an EOS. They will also need to apply for EAD for OPT or STEM OPT simultaneously with the EOS. The EOS is only valid until the date of their employment authorization. Aliens who need additional time to complete their current course of study, including requests for post-completion OPT, STEM OPT, or academic training, or would like to start a new course of study or exchange visitor program must file for an EOS with USCIS. This EOS will be for an admission period up to the new program end date, or OPT end date, listed on the Form I-20 or DS-2019, or successor form, with the maximum period of 4-years.

4. OPT Regulatory Language

Comments: A commenter stated that the proposed regulatory text at 8 CFR 214.2(f)(5)(i) only mentions OPT. The commenter noted that this may be an oversight and requested confirmation that transfers and change of level cases would also be mentioned in the regulations should the rule be finalized.

Response: DHS agrees with the commenter and has updated the regulatory text to clarify a continuing F-

1 student may be granted additional time to complete their program of study as described in new 8 CFR 214.2(f)(7) and (f)(8)(iv), begin a new program of study, as described in new 8 CFR 214.2(f)(5)(ii)(D) and (f)(7), or following the completion of studies to engage in post-completion OPT and STEM OPT, as described in new 8 CFR 214.2(f)(5)(i)(D).

5. Leave of Absence

Comments: Some commenters worried about instances where students might need a leave of absence, including needing to leave for medical, personal, or family reasons, or for mandatory military duty in the student's home country. Commenters sought clarification on how the rule would apply to students needing to take a leave of absence and return to resume their program and some expressed concern about the student needing to complete the EOS process with a possible denial. One commenter reported that, under the prior rules, students who needed this temporary leave of absence would depart the United States but could then return under a new SEVIS record at the same degree level to resume their studies. The commenter was unclear on the applicability of the new limitation relating to completion of a degree at the same educational level on this population.

Response: An F-1 student may take a temporary absence of five months or less and return using his or her previously created SEVIS record and Form I-20, endorsed by the DSO for reentry. See 8 CFR 214.2(f)(4), which is unchanged in this rulemaking. Prior to ceasing participation in a full course of study, the student must inform his or her DSO and the DSO must terminate the student's SEVIS record for the reason of Authorized Early Withdrawal. Prior to the student seeking reentry, the DSO must submit a correction request in SEVIS to return the student's SEVIS record back to active status. The SEVIS record must be in Active status prior to the student requesting reentry into the United States. A DSO can submit a request to change an F-1 student's SEVIS record to Active up to 60 days in advance of the student's return from a temporary absence. If an F-1 student is absent from the United States for more than five months, except in cases where a student is studying abroad, the student will need to seek admission in initial status, which includes but is not limited to, obtaining a new Form I-20 and will result in a new determination of the student's authorized period of stay.

Further, this final rule provides that if the student is unable to complete his or

her program of study by the end date indicated on his or her Form I-20 due to compelling academic reasons, documented illness or medical condition and/or circumstances beyond the student's control, the student may apply for an EOS from USCIS. See new 8 CFR 214.2(f)(7). The student should carefully consider the timing of his or her extension request but in any case, USCIS must receive the request for extension prior to the program end date noted on the Form I-20.

K. J Nonimmigrants

1. General Impacts on all J-1 Programs

Comments: Commenters expressed significant concerns about the rule's impact on J-1 nonimmigrants, their dependents, and on the exchange program categories. Commenters cautioned that the rigidity of the rule could threaten institutional knowledge and research outcomes in various industries, including public health, medical treatment, and scientific advancement more broadly, as they rely on experienced, stable research personnel and staff in J-1 status. Relatedly, a commenter warned about the loss of federal return on investment, explaining that many research projects are funded by federal agencies, such as the NSF and NIH, and such projects could be interrupted by the proposed rule, directly threatening the integrity of publicly funded research and the return on taxpayer investment. Commenters stated that the rule imposes time limitations on J-1 categories and requires exchange visitors to undergo a delayed and costly extension process through USCIS, removing the flexibility currently inherent in the exchange visitor program and resulting in financial and administrative burdens to sponsors, students, host families, and schools. Similarly, another commenter further noted that the new costs and processing requirements would impose a disproportionate financial burden and hinder a sponsor's ability to manage extensions efficiently under existing DoS regulations.

Specifically, commenters warned that EOS delays or denials could render extension decisions ineffective, create legal uncertainty, interrupt students' ability to remain enrolled, disrupt research, healthcare systems, educational progression, and discourage participation in U.S. programs thereby reducing overall participation in J-1 programs. Some noted that these programs often require more than four

years to complete,²⁰⁵ meaning multiple EOS applications would be necessary. An NGO reported that USCIS already has a record backlog of more than 11 million pending cases and a processing time of up to 18 months; therefore, USCIS will not be able to successfully manage the additional filings through the elimination of the DoS process. The NGO noted this would greatly impact the exchange model by no longer being able to support J-1 students' goal of extending their stay, fulfilling their academic aspirations, or submitting a dual application with the intention to study at two different universities for a year-long exchange experience.

In addition, commenters voiced concerns relating to SEVIS and its administrative challenges. Specifically, a commenter stated that the proposed rule would create confusion in the system upon which sponsors and government officials rely for tracking J-1 program details. The commenter stated that currently, each exchange visitor has a single end date tracked through SEVIS, but with the proposed changes, the J-1 nonimmigrants would have a DS-2019 end date, and a Form I-94 end date, which might be different. The commenter also noted that this may cause a dependent family member to have a Form I-94 record with yet another end date, making it more challenging for J programs to track the status of these nonimmigrants, which could potentially lead to inadvertent lapses in compliance. Similarly, another commenter warned that an EOS application would not provide a meaningful additional checkpoint and might even weaken the existing provisions in SEVIS by giving program participants unneeded and unmonitored time after program completion.

Response: DHS appreciates these concerns about all the changes that will have to be made to comply with this final rule. DHS recognizes this rule may result in adjustments by stakeholders, administrative costs, and time, but the enhanced national security and program integrity outweigh these burdens. SEVIS is being updated to handle these

²⁰⁵ Some commenters stated that the National Center for Education Statistics reports that the median time for completing a bachelor's degree is 4.3 years, and the National Science Foundation reports a median of 5.7 years for completing a Ph.D. Others added that the National Center for Education Statistics calculates the median time to complete a Ph.D. program as 7.3 years. Commenters referenced National Center for Education Statistics, *Fast facts: Time to degree*, U.S. Dep't of Educ., <https://nces.ed.gov/fastfacts/display.asp?id=569>; National Science Foundation, National Center for Science and Engineering Statistics, *Doctorate recipients from U.S. universities: 2023 (Survey of Earned Doctorates)* (2024), <https://nces.nsf.gov/surveys/earned-doctorates/2023#data>.

changes. For example, the I-94 date will now be visible in SEVIS so that DSOs and ROs will be able to flag the need for an EOS and inform the participants. However, dependents will be expected to track their own need for an EOS if, for some reason, the dates on the principal's I-94 does not match that of the dependents. The I-94s will always include the 30-day departure period afforded F and J nonimmigrants; therefore, there should be no new unmonitored time that hasn't existed previously. If the principals finish their programs early, SEVIS will be updated to reflect that change and the family will have 30 days to depart after the completion of the program.

The D/S framework generally lacks predetermined points in time for USCIS or CBP immigration officers to directly evaluate whether F, J, and I nonimmigrants are maintaining their status and poses a challenge to DHS's ability to effectively monitor and oversee these categories of nonimmigrants. DHS believes that 4-year maximum admission periods will provide more frequent direct check-in points for nonimmigrants and align the educational structure of the programs for their intended purposes. In sum, DHS believes these measures are necessary to protect the integrity of these nonimmigrant programs due to heightened concerns related to fraud, abuse, and national security.

In addition, DHS does not believe that the rule will cause educational or employment disruptions for exchange visitors, schools, sponsors, or any other stakeholders because the rule allows J-1 nonimmigrants to continue employment and training activities, consistent with the exchange program, while a properly filed extension request is pending, for up to 240 days beyond a J-1 nonimmigrant's expiration of the authorized period of admission. DHS notes that the 240-day rule is the same requirement for most other nonimmigrants, including members of many other professions (e.g., H-1B, L-1, O-1, etc.). DHS also notes that USCIS generally recommends that nonimmigrants apply for EOS within the six months²⁰⁶ preceding the expiration of their current stay and the 240 only starts tolling after the expiration of their current stay.

DHS acknowledges that a J-1 nonimmigrant will not be able to continue employment if the EOS application is still pending after 240 days. However, the J-1 nonimmigrant

will be able to remain in the United States in a period of authorized stay while the EOS request remains pending. While this could result in administrative costs and time to adjust for changes, DHS believes the enhanced national security and program integrity outweigh these burdens. Furthermore, as discussed previously, J-1 nonimmigrants may be able to seek expedited adjudication through USCIS in certain instances.²⁰⁷ Given these options, DHS disagrees that a fixed period of admission and the requirement to file an EOS application is unduly burdensome such that this rule will discourage J-1 exchange visitors from participating in these programs.

2. Duplicative Processes and Regulatory Authority Conflicts

Comments: Multiple commenters expressed concern that the proposed rule would create a duplicative process for J-1 exchange visitors seeking extensions, writing that DoS already has effective processes in place for J-1 extensions. The commenters stated that DoS currently has sole authority when it comes to approving program extensions for all J-1 program categories and the proposed rule, if finalized, would complicate this authority by requiring participants to file a separate EOS application with USCIS. A commenter requested clarification about how the DoS will coordinate with DHS to minimize contradictory timelines between visa issuance, I-20/DS-2019 validity, and EOS approval.

Commenters stated that the existing D/S framework for J-1 nonimmigrants includes strict limitations, making this rule unnecessary. On that same note, commenters emphasized that J-1 exchange visitors are carefully monitored, with DSOs and ROs regularly reporting information including address changes, academic progress, and current employment details to DHS and to DoS. A commenter also noted that J-1 programs currently have defined maximum program lengths, category change restrictions, and additional safeguards such as the 2-year home residency requirement and repeat participation bars that effectively discourage extended stays. A DSO noted that DoS regulations are sufficient to accomplish DHS's goals, as the J-1 program contains 14 different categories of which many already have regulatory time limits in place under 22 CFR 62.20(i)(3), rendering this rule duplicative and unnecessary.

Response: DHS disagrees with the commenter that this rule creates duplicative processes that are not necessary. Notably, the DoS regulations for J-1 nonimmigrants to extend their programs are distinct from the requirements for USCIS to adjudicate their EOS. The program period refers to the official duration of the academic or training program in which the nonimmigrant is enrolled (e.g., the start and end dates of a degree or course); the period of stay is the length of time the nonimmigrant is authorized to remain in the United States, which may include time before, during, and after the program period, as permitted by their visa status.

While an RO's recommendation and DoS approval of program extension may be one factor in favor of an EOS, an immigration officer also reviews factors relating to an alien's immigration status, including any criminal records and grounds of removability that may be triggered based on criminal background checks. ROs are not immigration officers and lack the statutory and regulatory authority to grant EOS. The EOS process under this rule would give immigration officers a mechanism to make this evaluation at reasonably frequent intervals. DHS expects this change to deter and prevent fraud.

To begin the EOS process, a J-1 nonimmigrant will first have to obtain a recommendation from ROs, and approval from DoS where applicable, under the DoS regulations. DHS has specified in the rule that the EOS may be granted subject to the DoS regulations on the extension of the program, contingent upon DoS' approval of the extension of the program itself. *See* new 8 CFR 214.2(j)(1)(iv)(C) (“[s]ubject to the restrictions in the regulations at 22 CFR part 62, extensions of stay may be granted for a period up to the length of the program, as listed on the Form DS-2019, or successor form, not to exceed 4-years, unless the J-1 exchange visitor is otherwise restricted by regulations at 22 CFR part 62.”). Specifically, DoS regulations provide that the ROs may extend a J-1 exchange visitor's participation in the Exchange Visitor Program up to the limit of the permissible period of participation authorized for the alien's specific program category. *See* 22 CFR 62.43. The RO then issues a duly executed Form DS-2019 reflecting the extension and provides a notification copy of the form to the DoS. *See* 22 CFR 62.43(a)-(b). Extensions beyond the maximum program duration are allowed in some program categories for exceptional or unusual circumstances, with approval

²⁰⁶ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

²⁰⁷ *See Expedite Requests*, *supra* note 167.

from DoS. To obtain approval for such extensions, the RO must submit an electronic request that justifies the petition and provides supporting documentation to the DoS on behalf of the participant. *See* 22 CFR 62.43(c). Thereafter, under the requirements of this new rule, a J-1 nonimmigrant would need to apply for EOS with USCIS. If DoS denies the extension of the exchange visitor program, the nonimmigrant has no basis on which to file an EOS with USCIS. USCIS would deny the petition because there is no valid underlying program.

In sum, DoS and DHS processes and systems are necessarily different due to the unique responsibilities of the two departments. The processes established in this rule provide DHS with mechanisms to deter and prevent fraud, and therefore, are necessary to implement. Under the D/S framework, there are no background checks required unless the nonimmigrant applies for a change of status to a different nonimmigrant status, or another benefit with USCIS. This has created situations where nonimmigrants in D/S can be present for long periods in the United States without undergoing U.S. government review in the form of an EOS application, including accompanying background checks, or subsequent visa application or inspection at a POE, because program extensions under the D/S framework can be acquired through application to a DSO or RO. Recognizing and addressing this vulnerability is a key part of this rule's national security goals and is vital to increase the U.S. government's oversight and monitoring of these aliens.

3. Impacts to U.S. Foreign Relations and Intellectual Exchange

Comments: Commenters stated that a "one-size-fits-all" admission period limit could deter nonimmigrants from participating in cultural and educational exchange programs. Commenters stated the proposed rule would negatively affect U.S. interests and reduce exchange programs that build goodwill and mutual understanding. Commenters asserted that the proposed changes to the J-1 program conflict with the United States' objective of strengthening its economic and intellectual capital by discouraging international participation and by imposing artificial limits on scholars' stays, signaling a retreat from the nation's commitment to mutual understanding and knowledge sharing.

A commenter recommended that DHS reconsider the proposed modification to the J-1 visa provisions and maintain the recent policy changes that have

supported the program's success. The commenter explained that historically the J-1 visa has facilitated cultural and educational exchange, and that the removal of the 2-year home-country physical-presence requirement for J-1 visa holders from 34 countries, including China, India, and South Korea, represented a significant step toward strengthening international collaboration and improved the United States' ability to retain global talent. The commenter wrote that reinstating or altering this requirement could deter prospective exchange visitors, particularly those from countries recently removed from the DoS Skills List and further asserted that such changes could reduce the competitiveness of U.S. institutions in attracting top-tier international scholars and researchers.

Response: DHS appreciates these concerns. However, DHS does not intend for the rule to result in a significant decline in foreign student participation in J-1 programs nor a significant reduction in talent, technological innovation, or economic benefits associated with foreign nationals. DHS asserts that the United States will continue to attract talented foreign exchange students, scholars, researchers, and physicians because U.S. institutions offer a high-quality education. For further discussion on this issue regarding participation in J-1 programs, *see General Impacts on all J-1 Programs*, Sec. IV.K.1 above.

DHS also notes that the proposed rule changes how J-1s are admitted and how they extend their stay, but it does not affect the two-year home residency requirement. If a J-1 is subject to INA 212(e), they must still fulfill or obtain a waiver for that requirement before certain immigration benefits are available, regardless of the new admission procedures under this rule.

4. Grace Period for J-1 Nonimmigrant Classification

Comments: A couple of commenters stated that the J-1 grace periods should be maintained or extended. Furthermore, a commenter expressed that the J-1 grace period should be increased to 60 days. Another commenter expressed concern about the applicability and eligibility requirements of the 30-day grace period under the proposed rule, and requested clarification on what would happen to J-1 nonimmigrants who do not complete their academic objectives.

Response: DHS has considered the effects of the rule on J-1 nonimmigrant physicians, teachers, and other exchange visitor program categories.

DHS does not believe that this rule will discourage J-1 exchange visitors from participating in exchange programs. DHS disagrees that the 30-day grace period is an insufficient grace period for J-1 nonimmigrants and declines to increase the period to 60 days. In fact, the regulations prior to this rule provided a 30-day period for departure and this rule does not change that. *See* 8 CFR 214.2(j)(1)(ii) (2025). J-1 nonimmigrants who are unable to complete their programs on time and need additional time to complete their academic objectives may file for EOS to USCIS, which will adjudicate the EOS. In addition, DHS notes that as long as J-1 nonimmigrants submit an EOS prior to the expiration of the I-94, which includes the 30-day grace period, their extension request will be considered timely filed, and the J-1 nonimmigrants will be able to continue their J-1 authorized activities in accordance with the requirements outlined in new 8 CFR 214.2(j)(vii). Allowed activities are also discussed in section IV.K.1 above.

5. J-2 Dependents

Comments: Commenters expressed concern regarding the requirement that J-2 dependents also need to apply for an extension. A commenter stated that the proposed rule is not clear on how the admission of J-1 dependents will be impacted if this rule is finalized. The commenter requested clarification about whether dependent admissions are automatically tied to the approval of the principal's visa approval.

Response: The authorized period of initial admission for a J-2 spouse and unmarried children under the age of 21 cannot exceed the period of authorized admission of the principal J-1 exchange visitor. Likewise, EOS for J-2 dependents cannot exceed the authorized admission period of the principal J-1 exchange visitor. *See* new 8 CFR 214.2(j)(1)(ii)(B) and new 8 CFR 214.2(j)(1)(iv)(E). A J-2 dependent's EOS application may either be included on the J-1 nonimmigrant's EOS application, or the J-2 nonimmigrants must file their own EOS. On the application for EOS, the J-2 nonimmigrants must prove that they are maintaining lawful status and have not engaged in unauthorized employment. Furthermore, if the J-1 nonimmigrant's EOS request is denied, the J-2 nonimmigrants' EOS will also be denied.

6. Specific J–1 Programs

a. Medical Training, Healthcare Programs, and Healthcare Workers

Comments: Commenters stated the rule would significantly disrupt medical training and the clinical coverage that J–1 physicians provide across the United States. Commenters also pointed to the shortage of healthcare workers in the United States in various fields and raised concerns on the potential impacts of the rule to the U.S. healthcare system, including decreasing participation of physicians in the J–1 program. Many commenters emphasized that international physicians are essential to the U.S. healthcare system with one citing to statistics from a J–1 sponsor.²⁰⁸

Specifically, commenters stated that international medical graduates (IMGs) constitute approximately 25 percent of the current physician workforce and play a vital role in addressing these shortages. Commenters also noted that approximately 17,000 J–1 physicians currently provide essential patient care across more than 770 teaching hospitals in 49 states, the District of Columbia, and Puerto Rico, and that more than 4,000 J–1 physicians enter U.S. residency and fellowship programs each year. Commenters mentioned that IMGs, including practitioners and trainees, represent large numbers particularly in the specialty fields, such as nephrology, endocrinology, psychiatry, psychology, geriatrics, infectious diseases, Alzheimer's and cancer research, epidemiology, biomedical sciences, and clinical research. A commenter wrote that infectious disease physician care is especially important especially for HIV research/care, and that almost a third of infectious disease physicians come from other countries, including those on J–1 visas.

In addition, some commenters added that J–1 physicians disproportionately serve in primary care specialties experiencing the most severe shortages, including internal medicine, pediatrics, and family medicine. An individual who identified as a physician, citing the ECFMG, noted that this rule would impact over 15,000 J–1 physicians in residency programs nationwide, three out of four of whom are J–1 residents in a primary care specialty (Internal Medicine, Family Medicine or Pediatrics), with greater concentrations in hospitals and communities experiencing shortages. Similarly, a commenter expressed concern that the proposed rule, if finalized, would have

a devastating impact on the health care of children, the training of the future pediatric subspecialty physician workforce, and future scientific research in the field. Another commenter stated that the proposed rule could cause a nursing shortage as foreign students play a vital role in caring for U.S. citizens. Another commenter noted that the rule poses a threat to preparedness for future pandemics and health crises.

Additionally, commenters stated that J–1 physicians do not displace U.S. graduates but rather fill residency positions that would otherwise remain vacant. On that same note, commenters stated that foreign physicians frequently work in rural and underserved communities where healthcare access is already limited and bring valuable multilingual skills and cultural competence to care teams. In a joint submission, a program sponsor and a healthcare provider explained that in hard-to-staff regions, shortages form the basis for Health Professional Shortage Areas (HPSA) and Medically Underserved Areas (MUA) designations, and that many of these communities, particularly in rural areas, are unable to fill positions with American medical graduates. The same commenters emphasized that the current J–1 waiver program acknowledges this problem by allowing each state a limited number of waivers to address severe workforce shortages and warned that any disruption to existing training pathways would further exacerbate critical subspecialty shortages, including pediatric nephrology, neurology, endocrinology, infectious disease, and child/adolescent psychiatry. Along these lines, some commenters added that because some communities often cannot fill positions with American medical graduates, the Conrad 30 program and other J–1 waiver programs that direct physicians to underserved areas after completing their training are essential for addressing physician shortages in rural and underserved communities. A commenter also added that J–1 physicians predominantly train and serve in hospitals located in HPSA and in regions identified as medium to high-vulnerability by the CDC's Social Vulnerability Index. In sum, commenters warned that the proposed rule would make it more difficult for foreign physicians to study and provide care in rural and underserved communities, potentially worsening the projected physician shortage, resulting in reduced access to care, longer wait times, and increased costs, and undermining patient care across the United States.

The commenters opined that these issues will arise due to the various requirements of the new rule. With respect to EOS requirements, commenters expressed concern about the potential for delays in processing EOS applications, which could prevent physicians from beginning or continuing their training on time. A commenter remarked that navigating extension applications during clinical rotations would create dangerous interruptions in patient care continuity and disrupt the training pipeline. Another commenter noted that current USCIS processing times for EOS range from 6 to 19 months, far longer than the 3- to 4-month window between Match Day and residency start, which could cause disruptions during the Match cycle. The commenter added that there is not currently an option to expedite or “premium process” an EOS application, and even if there were, such an option would be cost-prohibitive for J–1 physicians who are only paid a stipend.

Commenters also noted the timeline constraints for filing EOS, stating that J–1 physicians currently must apply for continuation of sponsorship annually to ensure compliance with regulatory requirements and that IMGs are currently in accredited, monitored, and intensely regimented training programs. They cautioned that the proposed EOS requirement would incentivize program sponsors to issue DS–2019s for longer periods to reduce costs, potentially decreasing sponsor checkpoints for status maintenance—an outcome contrary to the rule's stated policy goals. Relatedly, commenters also stated that the proposed rule and the imposed timelines would destabilize graduate medical education programs across the United States. They explained that residency and fellowship training operate on precise annual cycles, with contracts issued just months in advance of the July start date. Commenters reasoned that residency and fellowship contracts are typically issued only a few months before the academic year begins on July 1, creating what they described as “an impossible timeline” for compliance. Commenters added that this would occur annually, potentially preventing thousands of J–1 physicians from continuing their training programs on time, further straining an already stressed healthcare system. Another commenter stated that even brief disruptions to J–1 status could force hospitals to stop treating patients mid program, jeopardizing continuity of care in hospitals and clinics.

Further underscoring the length of medical training, many commenters stated that the proposed four-year limit

²⁰⁸ A commenter referenced Intealth, *J–1 Visa Sponsorship, 2024; Essential to U.S. Health Care* (Feb. 7, 2025), https://www.intealth.org/pdfs/J-1_US_Infographic.pdf.

is incompatible with many medical training pathways, which routinely extend beyond this proposed timeframe; completing a fellowship in addition to a residency could take five to seven years. Specifically, commenters stated that the fixed admission periods in the proposed rule would not allow J-1 physicians to complete their standard residency programs that lead to certification in specialties that require longer training periods. Multiple commenters also stated that the proposed rule would make fellowship trainings nearly impossible for many J-1 physicians, and that preventing clinicians from pursuing lateral training weakens cross-functional literacy on care teams. Commenters raised particular concern for medical specialty and subspecialty training programs, which can last from one to 7 years depending on the specialty. Commenters noted that while most residency programs require a minimum of 3 years of training, some specialties require as many as 7 years, which would directly conflict with the proposed 4-year limit. Commenters remarked that cardiologists and other medical specialists typically train for 3 years and then a 3-year fellowship and therefore, they would be disincentivized to continue training with uncertainty for an extension. Along those lines, a commenter pointed that certain neurology training pathways, especially child neurology programs, often exceed the proposed four-year limit, and thus, the rule would inhibit completion of neurological medical training, exacerbating the current shortage of neurologists. Similarly, a commenter stated that most physicians seek subspecialty training beyond their 4 years of residency training, including most medical and surgical specialties. Another commenter wrote that the proposed four-year limitation fundamentally misaligns with the structure of medical education, which typically requires six to eight years to complete residency and fellowship training. A professional association further stated that this is particularly significant as recent survey data indicates that 93 percent of adult neurology residents and 56 percent of child neurology residents report plans to pursue fellowship training.

Lastly, several commenters noted that the proposed rule would impact J-1 physicians who have already met the maximum period of admission for J-1s but have not yet completed their training and therefore are not eligible for the H-1B lottery.

Response: DHS agrees that J-1 health professionals provide an important

service to the United States and has carefully considered the effects of the rule on J-1 nonimmigrant physicians and the U.S. healthcare system. However, DHS does not believe that this rule will discourage J-1 exchange visitors from participating in medical training in the United States or make the program cost-prohibitive.

First, DHS acknowledges the concerns regarding delays in EOS adjudications and potential disruptions while the EOS application is pending. However, DHS notes that the rule allows J-1 nonimmigrants who have timely filed for EOS (which USCIS generally recommends that applicants file within six months preceding the expiration of their current stay²⁰⁹) to continue employment and training activities, consistent with the exchange program, for up to 240 days beyond the expiration of their authorized period of admission. Secondly, as discussed previously in section IV.G.2.a. above, an applicant may request that USCIS expedite the adjudication of an application, including for an EOS, that is under USCIS jurisdiction.²¹⁰ DHS will continue to explore expanding premium processing for Form I-539 for the affected populations, including J-1 physicians. With respect to the commenter's concern that premium processing would be cost prohibitive for J-1 physicians who pay a stipend, DHS recognizes that aliens have varied ability to pay fees associated with applications, petitions, and other requests. DHS notes that there is no requirement to request premium processing, and there is no cost to the alien associated with an expedite request. Therefore, DHS is not making a change responsive to this comment.

However, DHS and DoS have made operational changes that will avoid the need for those professions (e.g., alien physicians, professors, or research scholars) on a yearly contract from needing to apply for EOS every year. The DS-2019 will be filled out in more detail, and the free text field (question number 4) will not only list the name of the program but will now also list the full dates of the program. Question number 3 will continue to list the contract end dates. DHS (CBP and USCIS) will utilize the dates in question number 4 to determine the maximum duration of the J-1 nonimmigrant's stay up to 4 years subject to restrictions at 22 CFR part 62. No changes to the regulatory text or form are required to

²⁰⁹ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

²¹⁰ See *Expedite Requests*, *supra* note 167.

make this change. It will be accomplished through training. DHS believes this rule is necessary to improve monitoring of this population and support the integrity of the country's immigration system. As with F nonimmigrants, setting the length of the J nonimmigrant's specific program and requiring EOS extensions thereafter will establish a mechanism for immigration officers to vet these nonimmigrants at defined periods and determine whether the J-1 nonimmigrants are complying with the conditions of their classification. Specifically, requiring J-1 nonimmigrants to request an EOS will improve consistency of terms of admissions between nonimmigrant categories, enable stronger oversight by government officers who will review the nonimmigrant's requests, enhance the government's ability to effectively enforce the statutory inadmissibility grounds related to unlawful presence, and deter aliens and entities from engaging in fraud, abuse, espionage and other criminal activities within these nonimmigrant programs. While the rule may have some impact in USCIS processing times, such is the burden of robust enforcement of the law, and DHS believes that the benefits of increased contact with the relevant populations of nonimmigrants outweigh processing time considerations. In sum, these proposed changes would provide the government with additional protections and mechanisms to exercise the oversight necessary to vigorously enforce our nation's immigration laws and protect the integrity of the immigration system.

Comments: Commenters stated that the proposed rule is unnecessary for the J-1 physician program because it is already subject to strict requirements and regulated by DoS and non-governmental entities, such as the ECFMG, ACGME, and monitored in SEVIS. Commenters added that physician trainees are unlike other J-1 categories because training occurs in structured, accredited, and already heavily monitored programs, including accreditation oversight, continuous federal tracking and reporting, ongoing national and institutional oversight, and annual compliance renewals. On that note, commenters emphasized that J-1 physicians are among the most vetted visa holders.

Specifically, commenters explained that J-1 physicians must earn the ECFMG Certification and undergo national security vetting, identity checks, and fraud-prevention screening before obtaining their J-1 visa. Some commenters added that the proposed

rule would only introduce a duplicative review of J-1 physicians, given that the J-1 sponsor, ACGME accredited programs, and DS-2019 monitoring already provide significant oversight for J-1 physicians. A commenter mentioned that DHS should recognize J-1 sponsorship by a non-governmental organization as sufficient evidence of compliance to eliminate duplicative DHS adjudication and administrative burden. Commenters also added that the rule would not improve compliance but instead increase the risk of disruptions to training and patient care in the healthcare system.

Response: DHS acknowledges the commenters' concerns. However, DHS disagrees that the current system provides sufficient oversight over the J-1 physicians and that recognizing the work of J-1 sponsors would be an effective mechanism to prevent fraud and abuse of the nation's immigration system. Generally, DHS does not have the authority to delegate its immigration responsibilities to non-government organizations, even where J-1 is concerned. Furthermore, permitting non-government organizations to conduct national security and fraud prevention undermines the Federal Government's responsibility to ensure the national security of the United States meets certain standards.

As explained earlier at length, *see General Impacts on all J-1 Programs*, sec. IV.K.1, DoS and DHS processes and systems are necessarily different due to the unique responsibilities of the two departments. The processes established in this rule provide DHS with mechanisms to deter and prevent fraud, and therefore, are necessary to implement. Recognizing and addressing the vulnerability in the D/S framework is a key part of this rule's national security goals and is vital to increase the U.S. government's oversight and monitoring of these aliens.

Comments: Commenters recommended that DHS create exceptions, preserve the D/S system, or alternatively lengthen the period of admission to be longer than 4 years for J-1 physicians without requiring repeated USCIS filings, to avoid any disruptions in their training and employment. Some commenters in particular sought exceptions for certain J-1 physicians, such as physicians completing their accredited medical training programs and medical residents and fellows in ACGME-accredited program. Specifically, with respect to lengthening the admission period, many commenters recommended that the period of admission align with the full length of their approved training,

residency, or fellowship program, as documented on the Form DS-2019, or with the DoS recognized length of U.S. medical training, such as 7 years for physicians, to avoid mid-program EOS applications and ensure uninterrupted medical education and patient care. Another commenter stated that full program length admissions should include an additional 6-month period to accommodate for medical exams, personal leave, and other aspects of graduate medical education. One recommended a longer transition period for J-1 physicians to accommodate July start dates, licensure, and credentialing. A commenter specifically suggested a 120-day departure period for health-sciences graduates to allow sufficient time for licensure scheduling and relocation to clinical positions or residencies. Another commenter recommended that DHS revise the rule for longer admission periods to allow second master's program opportunities in healthcare fields.

Several commenters suggested that DHS adopt a more targeted approach by establishing enhanced SEVIS analytics to identify overstay patterns, create streamlined renewal processes, and develop bilateral agreements with key partner countries for expedited processing. Similarly, a commenter recommended implementing enhanced SEVIS reporting requirements for medical schools and teaching hospitals, reasoning that this targeted approach would maintain oversight capabilities while protecting the integrity of medical training programs essential to American healthcare delivery.

Some commenters also recommended that DHS streamline COS and EOS adjudications for J-1 physicians, and medical physicist/other healthcare professionals, such as waiving biometric requirements and interviews for EOS filings to reduce administrative burden. One commenter also added EOS expedited adjudications for J-1 physicians pursuing a subspecialty. A commenter called for a clear, streamlined mechanism for program-based extensions that avoids unnecessary delays and ensures uninterrupted training and patient care if DHS moves forward with the rule.

Relatedly, other recommendations included changes to provisions relating to the 240-day rule in the context of pending EOS applications. Some commenters requested that DHS allow J-1 physicians to continue their employment activities beyond 240 days or the entire period that the EOS is pending. Separately, an organization requested that DHS include specific provisions for J-1 physicians to enable

them to change programs with the appropriately endorsed Form DS-2019, during the pendency of an EOS application. The organization also provided the following proposed amendment: "J-1 nonimmigrants who are employment authorized with a specific employer incident to status continue to be authorized for such employment, or any employment authorized by their designated J-1 sponsor on Form DS-2019, for up to 240 days under the existing regulatory provisions at 8 CFR 274a.12(b)(20), if their status expires while their timely filed EOS application is pending." The commenter also requested that DHS modify Form M-274, Employer Handbook, to reflect the procedures relating to automatic extensions of work authorization for J-1 physicians.

Lastly, a university program noted that if DHS proceeds with the rule, any changes to the J-1 program must include robust protections, including automatic extensions; expedited adjudication; clear safe-harbors; explicit exemption of clinical training programs from fixed-end-date requirements; sufficient notice and transition periods for training programs; and consultation with medical education stakeholders.

Response: DHS took these comments into consideration and is sensitive to commenter's concerns that with the time it takes to process extensions at USCIS, the rule might have an impact on the ability of J-1 physicians to provide healthcare in the United States. However, DHS declines to carve out an exemption for J-1 physicians. As discussed above, in *General Impacts on all J-1 Programs*, sec. IV.K.1, J-1 nonimmigrants may request that USCIS expedite the adjudication of an application, including for an EOS, that is under USCIS jurisdiction.²¹¹ With respect to allowing J-1 physicians to continue employment beyond the 240 days while a timely filed EOS is pending, DHS notes that the 240-day rule is the same requirement for most other nonimmigrants, including members of many other professions (e.g., H-1B, L-1, O-1, etc.). On that note, this rule will create consistency by aligning the requirements with other nonimmigrant classifications. And similar to those other visa categories, USCIS generally recommends that applicants apply for EOS within the six months²¹² preceding the expiration of

²¹¹ See *Expedite Requests*, *supra* note 167.

²¹² With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

their currently authorized period of stay.

The goals of the rule, described above, extend to all J-1 nonimmigrants, including J-1 physicians. DHS also noted instances of national security risks in the context of J-1 nonimmigrants.²¹³ Because these instances occur in a variety of programs and educational levels, DHS does not believe that it would be appropriate to only apply a fixed period of admission for undergraduate students and not for other students and programs. For further discussion on the purpose and need for this rule, see secs. II.B. and III.C.

Lastly, regarding SEVIS enhancement, DHS notes that SEVIS is being updated as a result of this rule. DHS will continue to work with different agency components to ensure that all information related to SEVIS records is accurate and up to date. DHS agency components are modifying interfaces to make sure that all relevant data related to the regulation is available not only to DHS components, but to DoS as well.

b. J-1 Research Scholars and Academic Programs

Comments: Commenters expressed concern about the negative impact this rule would have on professor and research scholar programs and academic training programs, including potentially disrupting collaborative research in various fields. Commenters noted that requiring exchange visitors in these programs to apply for program extensions through DHS could jeopardize grant-funded projects, as continuity of personnel is critical for meeting project timelines and deliverables. Commenters indicated that postdoctoral programs at research institutions would be especially impacted, some noting that domestic postdoctoral scientists typically favor higher-paid positions outside academia, but highly qualified international postdoctoral scientists are critical to advancing research, as many of them take positions in academic settings. Commenter noted that J-1 scholars often extend short-term research stays, and requiring USCIS approval for each renewal could delay or disrupt research advancements.

Citing data from 2023, one commenter noted that Ph.D. degrees in Biological Sciences take an average of 5.8 years to complete. Additionally, the commenter noted that nonimmigrant visa holders made up 43 percent of doctoral students in science, engineering, and health, indicating that a substantial population

would be impacted by the rule.²¹⁴ Relatedly, several UI/UX designers indicated that the rule would impact design projects, as product cycles—from initial user research, wireframing, prototyping, to usability testing and final rollout—could easily span more than four years and foreign students in multi-stage design-related STEM programs would be required to reapply for status during critical project milestones, causing interruptions.

A university stated that the rule will increase demand from universities for H-1B and other visas/status changes, as exchange visitors would not be able to complete their allowed five years without applying for an EOS. The university stated that the burden of payment of the EOS application fee and uncertainty of approval for current J-1 exchange visitors would likely be dismissed in favor of a more stable status. The university predicted that intended researchers and post-docs may bypass the J-1 visa completely and opt to apply for H-1B or another visa for entry to the United States.

Some commenters requested changes to the rule for J-1 nonimmigrants, including an exemption or a longer admission period for J-1 research scholars, short-term scholars, and professor categories, stating that these J-1 nonimmigrants participate in programs that run up to 5 years. Commenters explained that under this rule, these J-1 nonimmigrants would be required to request an EOS for the remaining year, which could lead to unforeseen troubles for the participants and require DHS to move quickly in processing these extensions. Similarly, another commenter asked that DHS specifically ensure that doctoral students are exempt from any fixed date policies, stating that the current D/S framework provides the necessary flexibility, efficiency, and stability for clinical and biomedical research training programs. Other commenters requested that DHS provide continuation of employment for J-1 researchers while timely EOS or related adjudications are pending.

On the other hand, some commenters stated that J nonimmigrants should be

admitted for only the specific program of assignment that they are involved in. The commenters noted that this period of admission should not exceed one year, ideally 6–12 months.

Response: DHS appreciates the contributions of J-1 researcher scholars and reiterates that this rule does not prevent participation in J-1 exchange programs but rather sets a fixed period of admission with the opportunity to apply to extend one's stay, if required. As discussed previously in this section on J nonimmigrants, DHS does not expect that the rule will discourage or lower J-1 participation or have a significant impact on J exchange visitor programs. Alternatives to U.S.-based exchange visitor programs may be more difficult to find in other countries, providing less of an incentive for nonimmigrants to choose an alternative. Changing to a different visa category has always been an option and will continue to be an option; however, an alien and his or her employer will need to weigh the costs and uncertainty of approval in those categories against the costs and approvability of an EOS.

Furthermore, as mentioned previously, DHS declines to adopt the suggestion that certain populations of students or exchange visitors, such as research scholars, be exempt from the fixed period of admission. As explained in the NPRM, DHS has identified troubling instances of J-1 nonimmigrants abusing the D/S framework and engaging in fraud and espionage. Therefore, DHS does not intend to exempt any visa classification from the fixed admission period framework.

c. Summer Work Travel, Intern, Trainee, and Camp Counselor Programs

Comments: Commenters expressed concerns about the impact of the proposed rule on the J-1 Summer Work Travel (SWT), camp counselor, intern, trainee, and other short term training programs, which DoS has already imposed time limitations. With respect to SWT, commenters stated that SWT is governed by 22 CFR 62.32, which limits participation to a maximum of 4 months during the student's academic summer break, with modest extensions. An NGO noted that SWT and camp counselor programs typically issue DS-2019 Forms that already cover the maximum duration for their categories; therefore, the rule will primarily impact the Au Pair, Intern, and Trainee categories. The NGO also noted that these categories already have a regulatory-mandated maximum duration, making indefinite extensions under the current D/S framework impossible. Commentators

²¹⁴ The commenter referenced National Center for Science and Engineering Statistics, *Survey of Earned Doctorates 2024* (Aug. 2025), Tbl 21, <https://nces.nsf.gov/surveys/earned-doctorates/2024#data>; see also National Center for Science and Engineering Statistics, *Graduate Enrollment and Postdoctoral Appointments in Science, Engineering, and Health Rise, Driven Largely by Increases in the Number of Women and Temporary Visa Holders* (Jan. 21, 2025), Tbl 1, <https://nces.nsf.gov/pubs/nsf25316#:-:text=Between%202022%20and%202023%2C%20the,Table%20%E2%80%8B1.>

²¹³ See 90 FR at 42079 (Aug. 28, 2025).

urged DHS to recognize the unique structure of short-term summer categories such as Camp Counselors and SWT and allow program date and sponsor adjustments.

Relatedly, commenters also highlighted concerns about the Camp Counselor program, which limits the admission period to 4 months with no extensions. See 22 CFR 62.30. One commenter noted that 32,000 international counselors participated in camps across the United States, indicating that the population impacted by the proposed rule is significant.²¹⁵ Another commenter requested that DHS clarify whether camp counselor sponsors may still issue an updated DS-2019 to accommodate “in-season adjustments” within the 4-month term, so long as the counselor’s overall program length does not exceed regulatory limits.

Other commenters expressed similar concerns about the J-1 Intern and Trainee programs which currently permit 12 months for interns and 18 months for trainees (22 CFR 62.22). Similarly, commenters expressed concerns about the impact of the proposed rule on the J-1 Secondary School Student Program (SSSP), which is regulated by 22 CFR 62.25. The commenters stated that the proposed rule, if finalized, would create financial burdens, reduce flexibility, and increase delays for EOS applications for SSSP participants. A professional association cited the J-1 SSSP as an example, noting that nearly 20,000 students participated in SSSP in 2024 under 22 CFR 62.25. The SSSP allows participants who enroll for one academic semester to extend to a full academic year through a streamlined, SEVIS-based process that does not require USCIS involvement. The professional association stated that the proposed rule would eliminate this flexibility by requiring a full USCIS extension filing, including a \$420 fee, potential biometrics, and lengthy adjudication.

Response: DHS acknowledges that these changes may result in additional costs and time for some nonimmigrants. However, DHS and DoS have made operational changes that will avoid the need for those J-1 visitors on annual agreements from needing to apply for EOS after every renewal. Sponsors will fill out the Form DS-2019 in more detail, and the free text field (field 4) will not only list the name of the

program but will now also list the expected completion date of the full length of the program. Field 3 will continue to list the program end date, which aligns with the end date of the current agreement. DHS (CBP and USCIS) will utilize the dates in Field 4 to determine the maximum duration of the J-1 nonimmigrant’s stay up to 4 years subject to restrictions at 22 CFR part 22. No changes to the regulatory text or form are required to make this change. It will be accomplished through training.

DHS recognizes in-season adjustments and other desired changes to program duration may take place for some J-1 visitors who are admitted for a short duration, such as camp counselors, interns, trainees, and students in SSSP. If these visitors would like to remain in the United States under a J-1 visa for longer than their initial AUD, they will need to file an application for an EOS. Sponsors cannot make these adjustments. As discussed in this preamble and in the NPRM, DHS believes that any burdens and costs to certain J nonimmigrant visitors is outweighed by the benefits of this rule, which creates a mechanism for DHS to increase vetting, reduce overstays, and determine whether nonimmigrants are complying with the conditions of their nonimmigrant classification. The requirements imposed by this final rule provide the U.S. government more opportunities to review a nonimmigrant’s records, admissibility, and any possible indicators of fraud, abuse, or national security concerns. Furthermore, fixed admission periods and filing an EOS application with USCIS are requirements for most other nonimmigrants who wish to enter or remain in the United States. DHS believes that the EOS requirement will allow DHS to vet nonimmigrants periodically to prevent and reduce issues of fraud, abuse, and national security threats.

d. Teacher Programs

Comments: Commenters stated the proposed rule is not aligned with academic calendars and could force teachers to stop working mid-year if their extension applications are still pending after the 240-day period. In that regard, a commenter stated that J-1 exchange teachers should remain authorized until adjudication occurs, even if this process exceeds 240 days. Furthermore, a commenter noted that the 30-day grace period is insufficient for teachers to complete end-of-semester responsibilities such as grading, classroom closure, and travel preparations.

Another commenter noted that J-1 teachers typically serve in areas where there are teacher shortages and the proposed rule would further disrupt areas that are already struggling to retain teachers. The same commenter noted that the J-1 teaching population is a small part of the overall J-1 population, but its impact is outsized.²¹⁶

A DSO stated the final rule should explicitly exempt J-1 exchange teachers from duplicative adjudications, reasoning that the DoS framework already provides layered safeguards through vetting, monitoring, incident reporting, and capped participation. Incorporating this exemption directly into the regulatory text would preserve DHS resources, prevent classroom disruption, and maintain robust security for a population already subject to intensive oversight.

Response: DHS appreciates this concern and all the changes that will have to be made to comply with this final rule. However, DHS declines to allow nonimmigrants presently in the United States to continue under the D/S framework because this would undermine the purpose of this rule: to effectively enforce compliance with the statutory inadmissibility grounds related to unlawful presence and to mitigate the risks found in the D/S framework. DHS believes these measures are necessary to protect the integrity of these nonimmigrant programs. DHS does not believe there will be significant educational disruptions for students, schools, or any other groups, as the rule will allow employment and training activities, consistent with the exchange program, to continue while a properly filed extension request (which USCIS generally recommends that applicants file within the six months²¹⁷ preceding the expiration of their stay) is pending for up to 240 days following the expiration of the applicant’s currently authorized period of stay. Moreover, as described above in *General Impacts on all J-1 Programs*, sec. IV.K.1 above, J-1 nonimmigrants may request that USCIS expedite the adjudication of an application, including for an EOS, that is under USCIS jurisdiction.²¹⁸ DHS has determined that the fixed admission periods for up to 4 years would provide more frequent direct check-in-points for nonimmigrants due to heightened concerns related to fraud, abuse, and national security threats. As noted

²¹⁶ The commenter referenced *Facts and Figures 2015–2024*, *supra* note 215.

²¹⁷ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

²¹⁸ See *Expedite Requests*, *supra* note 167.

²¹⁵ The commenter referenced DoS, *Facts and Figures 2015–2024* (July 24, 2025), BridgeUSA, <https://j1visa.state.gov/facts-and-figures-2015-2024/>.

elsewhere in the rule, DHS believes that the rule will provide more clarity and consistency, as the fixed period and EOS requirements are consistent with how other nonimmigrant categories are admitted.

Comments: Two academic groups submitted a joint comment stating that the current J-1 visa qualifications create a gap in the system by allowing participation for au pairs and K-12 language teachers but not for early-education teachers who provide language instruction. The two academic groups noted that children who begin learning a second language between birth and seven years old demonstrate advanced cognitive skills and stated that excluding early education teachers from the program is illogical given the nationwide shortage of educators. They asserted that early-education programs across the country are closing due to inadequate staffing and suggested expanding the J-1 eligibility to include early-education teachers to help address this shortage that has become a problem that permeates throughout American society. The commenters provided publications in support of their statements.

Response: Early childhood educators are not included in the teacher regulations. Early childhood educator is a broad term that encompasses preschools, daycare centers, pre-K, Head Start and kindergartens or early elementary support roles. This does not meet the definition of “teacher” except in the one circumstance outlined in the teacher regs for immersion programs 62.24(f)(6) “. . . teach at the pre-kindergarten level only in a language immersion program offered as regular course of study by an accredited primary school.”

DHS does not have authority to expand eligibility of J-1 programs because DoS has that authority. Therefore, comments related to expanding the J-1 eligibility to include early-education teachers are outside the scope of this rule.

e. Au Pair Program

Comments: Commenters stated that the proposed rule would negatively impact J-1 au pairs and American families who rely on them for childcare. A commenter noted that roughly 70 percent of au pair participants extend their program length after the first year, most commonly for 12 additional months. An au pair agency stated the au pair program extension process should be exempt from the proposed ruling because au pairs are limited to a maximum stay of two years, never have J-2 dependents, and are monitored by

their host families and by representatives of the sponsoring agency. A commenter stated that requiring USCIS EOS applications would more than double the cost from \$367 to over \$800 due to additional filing fees, biometrics, and processing charges and, in many cases, host families would be required to pay these costs, raising the price of participation in an au pair program for working and middle-class families.

Separately, a commenter provided recommendations for the au pair program as follows: that DHS should consider the Bureau of Educational and Cultural Affairs’ (ECA’s) extension approval transmitted via SEVIS as sufficient for the EOS (no separate Form I-539 application); that if a separate Form I-539 application is required, DHS should commit to a 30-day adjudication period for au pairs to preserve continuity for U.S. families; that DHS should confirm the DoS authority to issue a DS-2019 for the maximum period of 2 years so that au pairs can receive a 2-year J-1 visa, subject to ECA’s current 1-year review process to determine program eligibility for the second year; that DHS should exempt the au pair program administered by ECA from the scope of the final rule.

Response: DHS acknowledges the additional cost to nonimmigrant au pairs because of the EOS filing process. Because the cost of an EOS request is small, relative to the overall cost of participation, DHS does not expect this rule to be cost prohibitive. The final rule will impose incremental costs on all J visas, including nonimmigrant au pairs, but will in turn protect the integrity of the J program by having immigration officers evaluate and assess the appropriate length of stay for these nonimmigrants. DHS anticipates that J-1 au pairs will continue to participate in the program and the benefits to American families utilizing the au pair program will continue in the long run.

DHS disagrees that using ECA as the oversight process for the J-1 au pair program would be an effective mechanism to prevent fraud and abuse of the nation’s immigration system. Generally, DHS does not have the authority to delegate its immigration responsibilities to other departments, even where the au pair program is concerned. As previously mentioned, DoS and DHS processes and systems are necessarily different due to the unique responsibilities of the two departments. The processes established in this rule provide DHS with mechanisms to deter and prevent fraud related to DHS’s immigration enforcement responsibilities, and therefore, is

necessary to implement. Furthermore, after reviewing the comment, DoS has informed DHS that it does not intend to permit sponsors to issue a DS-2019 beyond the existing 1-year maximum. The initial process for obtaining an extension of the 1-year maximum continues to be the same as always. The host families will need to utilize the current DoS process to obtain permission to extend the program. However, now the au pair will need to apply for an extension with USCIS or travel abroad and be readmitted for the new period by CBP after DoS approves the program extension and issues a new DS-2019. The new DS-2019 will be submitted to USCIS along with the EOS application.

L. Comments To Enhance SEVIS and Agency Communication

Comments: Several commenters expressed concern that the current SEVIS system is unprepared to implement initiatives in the proposed rule and that necessary modifications to the system may not be possible. Specifically, commenters raised concerns about the SEVIS system citing a history of outages, technical failures, and overall, the system is unreliable, inaccurate, and may be missing data from other systems. Furthermore, commenters raised concerns about the SEVIS systems ability and readiness, its need for technical updates, reliability and capacity to handle additional processing requirements, and the risk of errors. A commenter stated that significant technical updates would need to be made to SEVIS and pointed to existing problems with Computer Linked Application Information Management System (CLAIMS) failing to update information from USCIS to SEVIS as an example that would need to be improved. Commenters noted that information flows between USCIS and SEVIS regarding EOS requests, status changes, and employment authorizations often fail to transfer correctly, adversely affecting students’ and exchange visitors’ program status. Commenters also cited the need for costly redesigns, software integrations, and new protocols to ensure data accuracy.

Commenters recommended system improvements in SEVIS, such as upgrading fraud prevention measures with real-time tracking and data integration, biometric integration, targeted investigations for high-risk cases real-time, and improvements of the data flow between other government systems and SEVIS. Another commenter stated that meaningful implementation of the capability to track fixed

admission end dates, support dynamic program transitions, or capture the academic and employment metadata in SEVIS would require redesigns and new interagency protocols to ensure data accuracy and suggested it would result in greater delays, reduced accountability, and raise the risk of unintentional status violations.

Many commenters proposed improvements to the SEVIS system with regard to extensions. One commenter cited to DHS's website²¹⁹ to indicate the SEVIS system currently only allows one-year extensions at a time and stated that would need to be remedied but did not state why. One commenter suggested SEVIS functionality should be extended to connect to a school's certification of the Form I-17 and an alert be triggered when a program extension is entered for a student beyond the stated time to completion, while another commenter proposed changing the regulations so that SEVIS actions related to extensions, change-of-program, change-of-level, transfers and other functions require SEVP adjudication similar to how correction requests are currently handled in the SEVIS system. Another commenter recommended allowing additional functionality to DSOs to upload any evidence for extensions into a SEVIS location that could be adjudicated by or accessible to DHS as needed, while another commenter suggested ICE could increase the number of agents it has monitoring SEVIS or alter the system as needed to adjust for the increase in active records.

Based on the updates needed in the SEVIS system due to the rule, several commenters emphasized that the time it could take to implement such updates could result in disruption for universities and foreign students. One commenter stated that because DHS is proposing to include a provision whereby DHS may delay or suspend implementation of the proposal due to technical issues, imposing the rule nationwide is premature and unworkable as it would create confusion and arbitrary outcomes for students and schools. Another commenter remarked that training requirements for adjudicating officers, university staff, and federal workers on possible system updates to SEVIS as well as updates to the I-539 and instructions would create implementation challenges that DHS has not adequately addressed.

In addition, several commenters raised concerns with respect to how I-94 data collection could affect SEVIS data, including inputting I-94 Arrival Record data incorrectly into the SEVIS system or the absence of the data entirely. Specifically, one commenter cited to a report to Congress²²⁰ and voiced concern that travel data collected in ADIS could result in a person having multiple active and inactive records in SEVIS resulting in difficulty to determine if a person is in valid status. A commenter proposed enhancing the SEVIS system by strengthening data integrity through ensuring data like the I-94 Arrival Record is inputted into SEVIS correctly to avoid discrepancies and including a field for DSOs to report potential or suspected fraudulent activity. A couple of commenters recommended safeguards against errors, including instituting a visible I-94 expiration field in each SEVIS record that could be accessed by a designated sponsor, batch alerts for upcoming expirations, and a direct communication channel with CBP for schools and sponsors to fix I-94 entries quickly and prevent avoidable violations. A commenter recommended that SEVIS should be updated to include the Form I-94 "Admit Until Date," and USCIS and CBP procedures should be updated so status end date data can be inputted and maintained accurately. The commenter stated that CBP would likely need to increase staffing to accommodate the increased workload.

Relatedly, some commenters expressed concerns regarding data transfer between different agencies and their systems and how agencies and systems would work together to ensure a smooth transition. Commenters expressed concern over data fragmentation due to moving from automatic updates under SEVIS to manual USCIS adjudications, stating that the rule does not enhance the government's goals for security and efficiency, but instead creates bureaucracy, wastes tax-payer money, decreases efficiency, and increases the amount of visa paperwork for the government, visa sponsors, and universities. In that regard, commenters suggested improving data flow between different government systems and ensuring accuracy in SEVIS rather than requiring students to undergo lengthy extension processes. Another commenter urged increasing surveillance or adding reporting requirements in SEVIS while implementing a better system of

communication between CBP, SEVIS, and USCIS in lieu of upending the current system.

Several commenters proposed other alternative recommendations and solutions in lieu of the proposed rule. Some commenters suggested allowing SEVP-certified schools to extend admission in SEVIS for students in good academic standing; creating standards-based continuations tied to SEVIS verification to avoid mass EOS filings; automatically approving extensions certified by Principal DSOs or ROs unless flagged for review; accepting DSO certification as the primary evidence for eligibility while limiting the number of times a DSO can create a program extension before the student has to apply to USCIS for an extension; and having SEVIS issue RFEs regarding EOS applications that warrant priority review. Another commenter recommended requiring schools to upload supporting documentation when extending I-20s in SEVIS in a similar way to uploading a I-983 training plan for F-1 students in STEM OPT and utilizing the data reported in SEVIS to identify students at risk of overstay in place of eliminating D/S. Separately, a commenter proposed expedited processing for EOS so that students can get decisions quickly; approving extensions in multi-year increments; and providing a 30-day grace period after an extension denial so a student can depart in an orderly fashion. Another alternative proposal to the rule included deploying an AI system with predictive analytics capabilities and integration with security databases for comprehensive threat assessment coupled with improved stakeholder communication to include real time compliance alerts to school officials and a mobile application with real time status updates and compliance reminders for students. That same commenter proposed streamlining information management systems through the creation of unified portals for immigration status updates to eliminate duplicate reporting requirements. Lastly, another commenter recommended all educational institutions hosting students and exchange visitors utilize E-Verify because this would remove potential employment avenues for workers without authorization.

Response: DHS appreciates the commenters' proposals for SEVIS improvements, and these comments offer valuable information for any future enhancements. But DHS believes that the provisions in the rule can be implemented in SEVIS and are sufficient and adequate to provide the

²¹⁹ DHS, *Extending the F-1 Form I-20* (last updated May 19, 2025), <https://studyinthestates.dhs.gov/sevis-help-hub/student-records/manage-program-dates-registration-and-course-load/extending-the-f-1>.

²²⁰ *Entry/Exit Overstay Report Fiscal Year 2024*, supra note 123.

additional protections and mechanisms needed to exercise oversight and enhance the integrity of these nonimmigrant programs. DHS seeks to address vulnerabilities in the current program, which have resulted in fraud, abuse, and national security threats, and it is for these reasons that DHS is making these specific changes in this rule.

Notably, DHS has been working with different agency components to ensure that all information related to SEVIS records is accurate and up to date. DHS has conducted a thorough review of all government system functionalities to document the modifications necessary to ensure the system's stability and compliance with the regulations and to address the commenters' concerns. DHS has been actively engaged in identifying, updating and planning the changes needed to implement this rule, including form updates, training, and the shifting of resources to accommodate this rule. DHS agency components are modifying interfaces to make sure that all relevant data related to the regulation is available. As further system modifications for SEVIS are implemented, SEVIS users will be updated via Broadcast Messages and Release Planning Guides once the changes have occurred. If a discrepancy in SEVIS data occurs, DHS should be notified through the SEVP Response Center immediately so that the necessary steps can be taken to correct the discrepancy and ensure the accuracy of the students' SEVIS record.

DHS acknowledges that the changes and updates in SEVIS could increase departmental responsibilities and resource needs. At this time, however, DHS believes the current resource allocations for SEVIS operations and maintenance are sufficient and will continue to work with partner agencies to maintain data accuracy and reliability. Moreover, DHS will continue to ensure that all relevant data, including accurate I-94 information, is available. The changes in SEVIS will provide schools and programs with tools to identify and manage students and exchange visitors needing extensions of stay. To be clear, the rule does not transfer tracking responsibilities from SEVIS to USCIS or CBP; SEVIS remains the primary system for tracking F and J nonimmigrants. USCIS will take on a greater role in adjudicating EOS and vetting compliance, and CBP will continue to vet arriving nonimmigrants utilizing the information in SEVIS. The information CBP utilizes to inspect if the alien is admissible, is the same information that is contained in SEVIS as part of the

student's record. When CBP inspects a student who traveled outside of the United States, CBP may issue a new I-94 reflecting the completion date of the studies/program plus 30 days; or in the case of an alien who meets the requirements of 22 CFR 41.112(d) (automatic visa revalidation), CBP will update the I-94 record to reflect the completion date of studies plus 30 days. CBP is not expected to increase workload due to nonimmigrants choosing to travel, as the inspection of returning F and J nonimmigrants is part of the current CBP inspectional workload and as nonimmigrants may not want to incur travel costs associated with this option.

DHS recognizes that ROs and DSOs play an integral role in the management of nonimmigrant students and exchange visitors. For this reason, DHS has anticipated the need for school and sponsor officials to see data pertaining to nonimmigrants' period of lawful admission. SEVIS will be modified to display the AUD associated with a Form I-94 on SEVIS records. Additionally, the system will provide school and sponsor officials with tools to aid in the management of nonimmigrant periods of lawful admission, including specific alert lists of nonimmigrants with upcoming AUD expirations. *CBP.gov* has guidance for correcting the I-94.²²¹

While DSOs play a key role in managing nonimmigrant students, DHS declines to allow DSOs, ROs, and SEVP-certified schools to adjudicate extensions of stay (as opposed to extension of programs, which they will continue to do). DHS maintains that USCIS officers are best positioned to determine eligibility for status extensions, as they have the necessary training, background checks, and security clearances before being authorized to adjudicate EOS applications. Only immigration officers can adjudicate EOS applications and make legal determinations about status and admissibility.

Lastly, with respect to E-Verify, DHS considered but ultimately decided not to require all educational institutions hosting students and exchange visitors to use E-Verify in this rule. DHS believes that the provisions of this rule are sufficient to accomplish the intended goals of the rule. Furthermore, it is outside the scope of this rulemaking to incorporate the implementation of E-Verify.

Comments: A commenter expressed concern about Form I-94 data integration with SEVIS, explaining

²²¹ CBP, *I-94 Official website—Help*, <https://i94.cbp.dhs.gov/help> (last visited Feb. 19, 2026).

DSOs and AROs would need real-time visibility to accurate information since compliance would depend on Form I-94 end dates. Commenters questioned the quality of data, explaining that SEVIS is document-centric while the ADIS is person-centric, creating challenges in data gathering. They warned that if only SEVIS is consulted for compliance data, and if status changes are not properly reflected in the system, incomplete or incorrect data might be considered in decision-making.

Response: DHS clarifies that the I-94 end date derives from the SEVIS Form I-20 plus the 30-day departure period. The I-94 will transition from “D/S” to a fixed end date. SEVIS notifies CBP of any changes to the student's status. The connection between ADIS/I-94 and SEVIS supports near real-time data transmission and ensures consistency across traveler status and student program status.

Comments: Commenters stated that USCIS currently has over 11 million pending applications²²² with delays reaching up to 18 months.²²³ Regarding the new EOS requirements in the rule, one commenter stated that it would not make sense for USCIS to take on more work when it cannot handle its current caseload.²²⁴ One commenter noted that there are already extensive delays from USCIS for I-17 updates, OPT applications, and more, and the proposed rule would only increase wait times. Specifically, one commenter added that there would be an “avalanche” of new filings, and, even if there were 500,000 new filings, there could be \$200 million in extra costs annually due to staff and overhead. Another stated that the proposed rule would require approximately 2,400 additional adjudication officers to handle 1.2 million annual extension applications, and with training, infrastructure, and quality assurance, the costs would likely approach \$2.3 billion over ten years.

Response: While the rule may increase USCIS processing times, DHS believes the benefits of increased oversight outweigh these concerns.

²²² Commenters referenced Rahman, B. and Goodling, D., *US Immigration Backlog Hits All-Time High*, Newsweek (July 8, 2025), <https://www.newsweek.com/us-immigration-backlog-hits-all-time-high-2095846>; National Association of Foreign Student Advisers, *Duration of Status Explainer*, *supra* note 136.

²²³ Commenters referenced *Duration of Status Explainer*, *supra* note 136.

²²⁴ The commenter referenced Kanno-Youngs, Z. and Aleaziz, H., *ICE Set to Vastly Expand Its Reach with New Funds*, New York Times (July 12, 2025), <https://www.nytimes.com/2025/07/12/us/politics/ice-expansion-concerns.html>.

Requiring EOS applications will improve consistency across nonimmigrant categories, strengthen oversight, and enhance enforcement of immigration laws, including statutory inadmissibility grounds related to unlawful presence. USCIS will continue to monitor its resource allocations and make adjustments as appropriate.

M. Addressing Change of Status and Program Duration

1. Changing Classifications

Comments: Commenters also requested clearer guidance or explanations about the proposed processes. Commenters said that the proposed rule does not explain or address how time spent in a different nonimmigrant status, before changing to F or J nonimmigrant status, would be treated or impacted by the proposed rule. A commenter also asked how time enrolled in F–1 status would impact a nonimmigrant student's options if they spent time in F status for a portion of their academic program but then moved to a different status before completion of their program. An example was given where an undergraduate student beginning a bachelor's degree as a freshman in H–4 status then later changing to F–1 status during their junior year, and posed the questions, “are they immediately eligible to change major or transfer schools since it is not their first year of the academic program or are they subject to the restriction since it is their first year in F–1 status? How does time enrolled in F–1 or J–1 status impact a student's options if they are only in F/J status for a portion of their academic program and they are in a different status by the time they graduate?” The commenter also stated that the proposed rule does not address if or how the Form I–515A admission process would change.

Response: DHS appreciates the commenters' concerns and notes that if an individual was previously in the United States under another nonimmigrant classification (e.g., B–2 visitor, H–4 dependent) and then changes status to F or J, the individual may be admitted for up to the length of their program listed on the Form I–20 or Form DS–2019, or successor form, not to exceed a period of 4 years plus 30 days for departure. If the individual is an F–1 student at any level below the graduate degree level, unless an exception is authorized by SEVP for extenuating circumstances, the individual is eligible to change major or transfer schools only after they have completed their first academic year of a program of study in F–1 status at the

school that initially issued their Form I–20 or successor form. An F–1 student's program of study is considered to begin on the program start date listed on their Form I–20, even if the student has been continuously enrolled under another visa classification. If they change from F or J to another status before completing their program, just as under the D/S system, the universities, program sponsors, and, in the case of J–1s, DoS will need to decide whether the nonimmigrant can continue in the program based on the new status acquired. For example, if an F–1 or J–1 nonimmigrant converts to an H–1B, all F–1 or J–1 activities must cease. However, if they convert to a legal permanent resident based on marriage to a U.S. citizen, studies at a university can continue, but specific DoS sponsored programs may need to cease because of their specific cultural exchange requirements. Just as is the current practice, these cases will be decided on an individual basis given very specific and individualized facts. DHS does not anticipate a change in the issuance and processing of the Form I–515A, “Notice to Student or Exchange Visitor”. Currently, CBP has the discretion to issue Form I–515A and temporarily admit a F, M, J nonimmigrant if the nonimmigrant is missing documentation to establish eligibility for admission under section 101(a)(15) of the INA. If a Form I–515A has been issued, SEVP will continue to work with CBP to verify the student or exchange visitor eligibility for full admission, which is the period necessary to complete the course of study indicated on the Form I–20, or successor form, not to exceed a period of 4 years, plus 30 days.

2. Transfer Processes, SEVIS Records, and Campus Reassignments

Comments: Commenters noted that the proposed rule did not adequately address the transfer-in and transfer-out processes that students and exchange visitors must follow when moving between institutions and request clarification on how transfers between campuses within the same institution would be handled. Commenters are particularly concerned about when campuses operate under different SEVIS school codes despite sharing the same governance structure. Specifically, commenters reported student athletes can transfer during an allotted time during the winter and spring period if in good academic standing but international students would not be able to transfer and compete like their domestic counterparts if this rule is implemented. Commenters questioned

whether student movement between campuses would constitute a disallowed “program change” and sought guidance on SEVIS code considerations, state-line moves, I–20 updates, reporting timelines, and EOS requirements.

Several questions were raised about SEVP and SEVIS records, including whether students could depart the United States and return with a new SEVIS identification to pursue a program at a lateral or lower educational level, whether students with foreign master's degrees would be barred from obtaining one in the United States, and whether the limits on lateral and reverse matriculation were lifetime limits. Commenters also expressed concern about the reference to transfer procedures for change of education level procedures, noting that the SEVIS processes for transferring records between schools and updating records with education level changes are fundamentally different.

One commenter remarked that the concept of an “educational objective” covering majors, programs, and degree levels is new to DHS and expressed concern about implementation challenges if SEVIS systems cannot accommodate these changes. Another commenter stated the need for a clear definition of “repeated changes” to facilitate appropriate advising and consistent application of the rule by DSOs, suggesting it be defined as a specific number of changes within a specific timeframe. Additionally, commenters requested clarification on existing provisions that make F–1 students ineligible to change programs or transfer schools when not pursuing a full course of study, as well as whether a single term of academic probation would render a student ineligible for an extension.

Response: DHS outlines the transfer procedures in new 8 CFR 214.2(f)(8)(ii), which largely remains consistent with existing processes and the proposal in the NPRM. Changes were made to the proposed language for clarity. DHS does not consider movements between campuses, that is, between instructional sites listed under a singular Form I–17 petition, to constitute a transfer or change in educational objective for the purposes of this rule. Transfers between campuses on the same Form I–17 will be reclassified as campus reassignments.

Within SEVIS, DHS plans to introduce functionality that will allow students to be reassigned from one campus to another within a certified Form I–17. However, this functionality will not permit reassignments between schools with separate Forms I–17. As these modifications are implemented,

SEVIS users will be updated, as needed, via Broadcast Messages and Release Planning Guides once the changes have occurred.

These provisions are intended to address concerns regarding students repeatedly enrolling in the same program of study to maintain F–1 status. DHS does not believe these provisions impose lifetime restrictions or outright prohibitions. Instead, they provide DHS officials with the discretion to determine that an F–1 student is not maintaining status or is ineligible for admission in F–1 status if the student enrolls in a program at the same or lower educational level without a valid cause.

DHS recognizes commenters' concerns about international student athletes transferring. The primary purpose of an international student athlete is to successfully complete one's academic program. Student athletes are subject to the same rules that govern all F–1 students. Flexibility does remain within the updated transfer process once an F–1 student in good standing has completed one academic year of a program of study at the school that issued their I–20. Undergraduate students seeking to transfer to another school or change their educational objectives during their first year of study still retain flexibility in having their cases reviewed by DHS, which may then authorize the change in educational objective or school transfer if an exception is warranted.

DHS disagrees with the concept that using educational objectives to address the type of school, program of study, and degree levels are new. Federal regulations, 8 CFR 214.2(f)(6), require students to make progress towards a completion of their "educational or professional" objective, which DHS has always interpreted to be the program information, including school location, major, and educational level, on the student's Form I–20.

Regarding implementation challenges in SEVIS, DHS has identified the necessary changes that will be needed to accommodate the provisions of this rule. For up to two years from the effective date of this rule, DHS may suspend the implementation of new 8 CFR 214.2(f)(5)(ii)(A) through (C), in its discretion, if it determines that implementation is infeasible for any reason.

Under new 8 CFR 214.2(f)(7)(i)(C)(2)(i), an EOS may be granted under certain situations, but delays including, but not limited to, those caused by academic probation or suspension or a student's repeated inability or unwillingness to complete

his or her course of study are not acceptable reasons for a program extension.

3. Classification of Instructional Programs (CIP) Code Updates and Graduate Program Changes

Comments: Commenters expressed significant concern about how updates to CIP codes would be handled under the proposed restrictions. They questioned whether non-substantive CIP updates would trigger a barred "program change," require an EOS filing, or jeopardize a student's legal status. One commenter described a scenario where an institutional CIP code update would require DSOs to receive permission from SEVP for all bachelor's students and require master's and Ph.D. students to depart the United States and reapply for admission with updated I–20 forms, characterizing this as unnecessarily burdensome.

Commenters suggested alternative approaches, recommending that DHS focus on specific CIP codes in sensitive knowledge areas rather than imposing blanket restrictions. They argued that graduate studies are typically highly specialized, making drastic program changes unlikely, and that measures could be implemented to review significant changes at the graduate level. Commenters warned that the proposal would unnecessarily prohibit minor shifts in focus for non-sensitive areas and noted that existing measures, such as National Security Presidential Memorandum-33, already protect sensitive knowledge from foreign government interference.

Response: DHS developed SEVIS to accommodate the designation of a program of study by identifying its corresponding CIP code on Form I–20. DSOs must select the appropriate CIP code associated with the student's major. If the curriculum aligns with more than one CIP code, the CIP code that most closely matches the program's content should be selected.

If a school updates a CIP code to a currently approved program of study on the school's Form I–17, DHS will collaborate with the university to update the records of all affected students. DHS does not consider such updates to constitute a change in educational objectives. Furthermore, DHS believes that restrictions on changes at the graduate level support the goals of National Security Presidential Memorandum-33, which aims to protect U.S. research from foreign exploitation.

4. Recommendations and Alternatives

Comments: Commenters presented various recommendations such as continue D/S "as is" to setting limits on transfers and programmatic changes or DHS does not move forward with implementing the restriction as proposed. Commenters suggested DHS find a balance between concerns about student educational progress and the legitimate need of certain F–1 students to complete additional courses of study, implement "reasonable" limits on academic changes such as one transfer within the United States, one change of major, and one change of degree level rather than strict prohibitions, and DHS to provide more flexibility for students to change educational programs if the program is listed on an institution's I–17 and advance notice is provided to SEVP for monitoring purposes.

Commenters suggested that DHS require all school transfers or changes in educational programs at the same or lower level be reviewed by SEVP or permit graduate students to change majors or concentrations with DSO approval. Commenters also suggested allowing transfers for specific reasons similar to reduced course load or economic hardship eligibility criteria, limiting the number of transfers per academic level, permitting reduced course loads and transfers for students who discover they have been placed in the wrong level, requiring minimum enrollment periods before transfer eligibility, and exempting ordinary in-program progress and same-degree level transfers from EOS requirements when DSOs certify continued full-time study.

Commenters proposed numerical limitations on lateral or reverse matriculations, such as allowing students to change majors once within a degree level, setting a lifetime limit of completing two programs at each educational level, allowing one extra lateral and reverse matriculation for each student, or implementing the proposed 2020 approach for numerical limits.

Others suggested specific exceptions for educational pathways, such as adopting clear carve-outs for recognized bona fide pathways backed by market practice or licensure, including JD to LL.M. specialization and executive or professional Master of Business Administration (MBA) programs. Finally, one commenter suggested prohibiting CPT and OPT authorization for students pursuing a second degree at the same level rather than an outright prohibition on second degrees.

Response: DHS appreciates commenters' suggestions on alternative

limits to academic changes; however, DHS believes that these restrictions ensure that foreign students studying in the United States are bona fide and pursuing legitimate academic goals. If DHS determines later on these provisions are infeasible, DHS will delay or suspend these provisions by publication of a notice on the **Federal Register** and an announcement on SEVP's website at <https://www.studyinthestates.dhs.gov> (or successor uniform resource locator).

DHS appreciates various recommendations provided by commenters regarding proposed restrictions on school transfers and changes in educational objectives for F-1 students. The intent of these restrictions is to address concerns related to fraud, abuse, and national security risks, including "pay-to-stay" schemes and misrepresentation of academic intent. These measures are designed to ensure that F-1 students maintain genuine academic progress and do not use repeated transfers or program changes to unduly extend their stay in the United States.

DHS recognizes the importance of supporting legitimate educational pathways and acknowledges the need for flexibility in certain circumstances, such as recognized bona fide educational tracks, graduate program specializations, and market-driven licensure requirements. DHS will provide updated guidance to clarify the application of these restrictions, particularly for graduate programs and specialized educational pathways.

Regarding the proposal to prohibit CPT and OPT authorization for students pursuing a second degree at the same educational level, DHS does not believe this approach will help mitigate potential abuse this rule seeks to prevent. F-1 students are already permitted 12 months of OPT at each educational level.

Comments: Commenters called for DHS to look at alternatives previously recommended by the GAO. A commenter noted that GAO had never called for ending D/S to manage the risk of fraud.²²⁵ Commenters noted a GAO report²²⁶ which found redundancies between USCIS adjudications and SEVIS and recommended enhanced training for DSOs. One commenter also looked to GAO reports²²⁷ in conjunction with the NAFSA

conference in May 2025²²⁸ to recommend training for DSOs and ARO; formalizing training between DHS and DoS; sending out email blasts or biannual webinars; and revitalizing the SEVIS II project.²²⁹ Another commenter called for targeted enforcement for sensitive fields due to a 2022 report from GAO which called for tweaks to SEVIS due to tech risks.

Response: DHS acknowledges that GAO has not recommended ending D/S as a means to manage fraud risk and has provided other alternatives, as discussed by commenters. DHS always takes GAO's recommendations to heart and has, over the years, considered their recommendations and implemented many of their suggestions whether directly in the SEVIS system or through policy. However, in addition to all of those changes, DHS has also chosen to address concerns about fraud, abuse, and national security for F, J, and I nonimmigrants with this final rule for the reasons articulated herein.

Comments: Commenters called for DHS to strengthen SEVIS enforcement and compliance audits at schools. One commenter called for D/S to stay in place for Ph.D. and long-duration programs, but for DHS to apply fixed terms to short-term programs or high-risk categories. On the other hand, another commenter proposed enhanced vetting for students beginning a Ph.D. in a sensitive field, who are funded by the federal government, or who are applying for post-graduation work authorization. The commenter proffered that this would "ensur[e] a thorough review that prevents technological theft, without harming the educational process." Another called for an automatic screening process once a DSO submits an extension or program transfer request in SEVIS, and for administrative agencies to review if there is a suspicious or irregular request, such as frequent extensions or uncommon program transfers.

Commenters also called for the government to use its resources on alternatives focused on alleviating risk factors. One commenter called for "a risk-based, data-driven approach—using SEVIS analytics to flag outlier patterns (e.g., abnormal same-level program hopping, excessive language-training tenure, late terminations, unusually low completion rates)—[which] would

direct site visits, out-of-cycle reviews, and sanctions to the small minority of institutions that generate most compliance concerns. Graduated remedies, such as mandatory corrective action plans, temporary limits on issuing new I-20/DS-2019s, DSO/RO retraining, and, where warranted, withdrawal of certification, would fix the problem at its source." Another commenter called for "implementing algorithmic risk assessment tools that flag unusual pattern deviations, mandatory biennial compliance certifications for institutions, and streamlined digital extension processes for legitimate program extensions." A commenter recommended establishing a "risk-stratified monitoring system" that would enhance certainty for students at institutions with strong compliance record, implement blockchain-based continuous verification systems like the e-Residency program in Estonia, and create streamlined pathways that automatically update based on a program's accreditation and an individual's academic progress.

Other commenters suggested automatic extensions for high performer students who meet GPA and progress benchmarks. One commenter also looked to an alternative that would focus specifically on fields of study where students in non-sensitive fields would keep the same D/S framework, while critical STEM research fields would have mandated, "enhanced" check-ins with their university DSOs.

One commenter called for a solution where admission would align with "school-approved I-20 or DS-2019 extension[s] so that people are not forced into travel or separate DHS filings solely because a project timeline shifted." The commenter further advocated for guaranteed processing times, "[r]outine timing adjustments for bona fide cases [which] should carry low or no fees and receive deference to prior approvals when the underlying eligibility has not changed," and standardizing grace periods and travel flexibility to avoid travel during exam windows, field seasons, or newsroom deadlines.

Several commenters opined on the creation of certain pathways or programs for students or schools. Commenters supported creating a streamlined lawful permanent resident pathway for graduates in fields where there is a critical shortage, including in STEM. Another called for expedited processing tracks for STEM fields and critical areas identified by the Department of Labor. One commenter called for "trusted institution"

²²⁵ The commenter referenced GAO-19-297, *supra* note 73 and GAO 23-106114, *supra* note 83.

²²⁶ Commenters referenced GAO-19-297, *supra* note 73.

²²⁷ Commenters referenced GAO-19-297, *supra* note 73; GAO 23-106114, *supra* note 83.

²²⁸ The commenter referenced sessions offered at this NAFSA conference. No written source was cited.

²²⁹ The commenter referenced ICE, *IT Program Assessment ICE- Student & Exchange Visitor Information System II (SEVIS II) Program* (2010), <https://www.dhs.gov/xlibrary/assets/mgmt/itpa-ice-sevisii2010.pdf>.

pathways for universities who have a history of excellent compliance.

For research specifically, one commenter called for the government to create formal partnerships with major research funding agencies, and the formation of a “Research Excellence Track” for students which would have advanced vetting protocols for sensitive fields. For STEM research, one commenter advocated for a new program that would allow D/S for STEM fields that exceeded four years, “create digital-first extension processes to reduce administrative burden, and develop outcome-based metrics focusing on program completion rather than arbitrary time limits.” Commenters also called for reciprocal agreements with partner countries so that researchers could travel across borders to enhance the position of the United States in academia.

Some commenters also proposed solutions for more targeted issues. One commenter called for a solution that would focus specifically on countries that had high overstay rates. Another commenter called for a limit to the number of program extensions, such as one or two times, before a student would be required to apply to USCIS. A commenter advocated for a regional approach where there would be “enhanced data sharing between SEVIS, state workforce agencies, and regional economic development organizations.” A commenter also looked to financial issues and promoted a plan where credits from recent work authorization fees would be applied to EOS requests, fees would be reduced due to hardship and would be tied to graduate assistant stipends, and EOS and work authorization fees would be combined so that individuals are not charged twice for related benefits.

Response: DHS thanks the commenters for all of the suggestions and possible solutions to the national security and fraud issues raised in the NPRM. Though none of them could replace a federal immigration officer periodically reviewing whether a nonimmigrant is maintaining status, DHS has taken note of these suggestions for possible enhancements in the future. The existing D/S framework allows F and J nonimmigrants to remain in the United States for as long as they maintain their status, without a fixed end date. DHS found this system vulnerable to abuse, difficult to monitor, and challenging for enforcement, as it does not require regular review of status or timely updates to records. While SEVIS and school officials (DSOs/ROs) play a key role in monitoring compliance, DHS determined that

relying exclusively on these mechanisms does not provide adequate federal oversight or control. There are limitations in data accuracy, reporting timeliness, and the ability to detect long-term overstays or status violations.

Proposals to allow longer initial stays or more flexible extensions were considered but rejected because they would not sufficiently address concerns about program integrity, national security, and the ability to prevent overstays. DHS considered increasing enforcement of existing rules without changing the underlying structure. However, this approach was deemed insufficient due to resource constraints and the inherent limitations of the D/S model, which lacks clear triggers for enforcement action. DHS concluded that clear, finite periods of authorized stay are necessary for effective management.

DHS determined that alternatives such as maintaining D/S, relying solely on SEVIS/school oversight, allowing more flexibility, or increasing enforcement without rule change are insufficient because they do not adequately address concerns about compliance, national security, and program integrity. The rule aims to establish clear, enforceable limits to improve oversight and reduce abuse.

N. I Nonimmigrants

1. Support

Comments: A commenter endorsed the proposed changes regarding I nonimmigrants, stating that clearer definitions and stricter documentation requirements would ensure that I nonimmigrants are engaged in legitimate journalistic activities. I visa reform is necessary to prevent misuse of the visa category according to this commenter.

Response: DHS agrees that the finalized changes to the I nonimmigrant classification are necessary to prevent misuse and ensure that I nonimmigrants are engaged in legitimate journalistic activities.

2. Purpose and Need

Comments: Commenters stated that the NPRM did not cite any evidence that I-nonimmigrants pose a risk to national security and assert that the government did not provide other reasons or interests to support this change for I-nonimmigrants. Another commenter stated the only reason DHS gives for asserting that the term is appropriate is that it mirrors the automatic extension provided to I visa-holders whose current visa would otherwise expire because they intend to change mediums or employers. The commenter adds that it

is illogical to think that the 240-day time intended for the government to determine whether an applicant is eligible for a visa is also enough time for the applicant to complete the activities the visa is intended to support. Citing 85 FR 27646, the commenter adds that the proposal is also inconsistent with the Department’s previous view that visa terms of less than a year, coupled with the specter of non-renewal, can amount to “hostile measures targeting a free press” because of their disruptive effect on journalists’ work.

Response: With respect to I nonimmigrant visas, DHS recognizes the lack of public data cited in the proposed rule regarding fraud and overstays specific to I nonimmigrants. DHS notes that internal exit data show that the vast majority of I nonimmigrants stay for less than 240 days.²³⁰ Therefore, for the I visa, this is an appropriate maximum timeframe. However, DHS disagrees with the general premise of these comments. The vulnerabilities generally associated with the D/S admission are not unique to F and J nonimmigrant classifications, and the lack of public data for the I nonimmigrant classification does not mean that the vulnerabilities are absent for that classification. As explained in the preamble of the NPRM and in this final rule, one of the goals of this proposed rule is to strengthen vetting and information collection and help immigration officers ensure that the I nonimmigrants are, and will be, engaged in activities that are permissible under INA 101(a)(15)(I), and do not pose national security issues (in addition to the F and J nonimmigrant classifications). As previously mentioned, DHS believes that admitting aliens temporarily in the United States for a fixed period will encourage aliens to maintain lawful status and prevent or reduce instances in which nonimmigrants unlawfully remain in the United States after their activities or assignments end. Through the EOS process, this rule takes both a proactive approach to prevent violations as well as a reactive approach to detect any ongoing violations.

3. Concerns and Practical Challenges of the 240-Day Limit

Comments: Several commenters strongly opposed the proposed 240-day admission period for I visa holders. A commenter thought the 240 days was arbitrary compared to the new length of

²³⁰ DHS data shows that 94.6 percent of I’s with confirmed exit data stay less than 240 days. Based on DHS’s analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

stay for students, which was based on the duration of a course of study. Other commenters stated that the proposed timeframe is inadequate for foreign journalists to effectively perform their duties. Commenters emphasized that foreign correspondents typically receive assignments in the United States lasting 3-to-5 years, and that the 3-to-4-year time frame allows I nonimmigrants to develop expertise, build source relationships, and gain cultural understanding necessary for quality reporting. Commenters reported a 240-day timeframe, therefore, is inadequate for covering long-term journalistic projects and events, including presidential election cycles, congressional sessions, extended sports seasons, investigative reporting, and ongoing coverage of evolving current events. Commenters noted that the proposed time period would create uncertainty, disrupt international travel, increase the risk of coverage interruption, and impair journalists' ability to develop deep knowledge and trusted networks. Commenters stated the proposed period of admission is not enough time for the applicant to complete the activities the visa is intended to support.

Other commenters noted that fixed admission periods introduce uncertainty that will discourage participation in the United States. Commenters also stated there is a lack of evidence demonstrating a security risk, overstays, or misuse of the I visa under the D/S framework and, instead, there is strong oversight of I visa holders, with visas being linked to a named journalist and their employer. It was stated this oversight is stronger than when the I visa was first introduced.

Commenters stated that the proposed rule would create substantial administrative burdens for foreign journalists and their employers. The commenters described concerns about the frequency of extension requests, repetitive documentation requirements, and risks associated with serial filings. One commenter estimated that more frequent I visa renewals would increase operational and travel costs by approximately 700 percent over a 5-year period, creating what they characterized as an unreasonable financial burden.²³¹ Additionally, another commenter noted that it is currently taking USCIS Service Center Operations more than 6.5 months to adjudicate 80 percent of EOS requests.²³² A commenter stated if an

employer is not ready to immediately file an EOS, the lengthy processing times at USCIS could still result in a gap in work authorization, even with the automatic extension.

Similarly, commenters highlighted numerous practical difficulties that the 240-day period would create for foreign journalists and their families. The commenters described that the 240-day period was too short to secure standard 12-month housing leases, arrange health insurance, develop professional resources, and obtain press credentials at institutions like the U.S. Capitol, and that it would create complications for obtaining and maintaining driver's licenses tied to visa status, disruptions to children's education, obstacles for accompanying spouses seeking employment, and overall instability to family members and dependents. One commenter noted that the proposed changes, if finalized, would limit the ability of international news organizations to recruit highly qualified journalists for assignment to the United States as many experienced journalists may be unable or unwilling to accept such a major change for a short period of time with no guarantee of extension. One commenter noted that, according to the Pew Research Center (2024), over 63 percent of Americans say foreign news coverage is important for democracy.²³³ Another commenter expressed concern that the rule would weaken the ability of foreign correspondence to work in the United States, causing harm to the operations of international broadcasters and limiting international audience's from accessing independent reporting about the United States.

Commenters also expressed concern that requiring frequent visa renewals would increase reliance on foreign intelligence, which they described as potentially politically motivated or inaccurate, leading to wrongful visa denials. They said the proposal to require thousands of experienced international journalists to submit and receive approval for visas is unrealistic, noting that the existing visa process already suffers from faulty foreign intelligence and incorrect automated flags that significantly delay applications.

A commenter proposed a two-year period of admission for I nonimmigrants, either universally or by reciprocity, noting the existence of a reciprocity-based two-year admission framework for treaty investors (E-2).

Response: DHS welcomes foreign journalists and is confident that the

changes made by this rule balance journalistic needs with DHS's need for regularly determined points for verifying that a journalist maintains his or her status. As noted in the proposed rule, admitting I nonimmigrants for D/S affords them different treatment from most other nonimmigrants who are admitted for a specified period of time. As explained in the NPRM, DHS is adopting an established timeframe to which I nonimmigrants are already accustomed if they switch employers while on assignment in the United States.²³⁴ While the commenters assert that the 240-day time frame is challenging and insufficient for many foreign correspondents to complete their assignments, DHS notes that internal exit data show that the vast majority of I nonimmigrants stay for less than 240 days.²³⁵ Of those few I nonimmigrants who seek to complete longer assignments, they may apply for extensions as needed, to remain beyond 240 days (90 days for those presenting passports from the PRC, except for Hong Kong SAR or Macau SAR passport holders). For those who are assigned to a foreign news bureau's U.S. office for extended periods, other visas, such as the L-1 visa for managers and specialists, may be appropriate so long as the eligibility requirements for that category are met for that particular alien.

Once an I nonimmigrant has timely filed an EOS, he or she may continue to work for the same employer for up to 240 days under 8 CFR 274a.12(b)(20) while the EOS is pending and is not required to leave the United States while the EOS is pending. As such, nonimmigrants will have their initial admission period, which is up to 90 or 240 days, and another 90 or 240 days if they timely file an EOS with USCIS and maintain lawful status (with the 90 days being applied to those presenting passports from the PRC, except for Hong Kong SAR or Macau SAR passport holders). *See* new 8 CFR 214.2(i)(5)(iii) and 8 CFR 274a.12(b)(20). DHS also notes, however, that should the journalist choose to travel outside the United States, he or she may be admitted by CBP, if admissible, for a period of time necessary to complete the planned activities or assignments consistent with the I classification, up to a 240-day period (or 90-day period for those presenting passports from the PRC, other than a Hong Kong SAR

²³⁴ *See* 90 FR at 42086 (Aug. 28, 2025).

²³⁵ DHS data shows that 94.6 percent of I's with confirmed exit data stay less than 240 days. Based on DHS's analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

²³¹ The commenter did not provide a source.

²³² The commenter referenced USCIS, *Case Processing Times*, <https://egov.uscis.gov/processing-times/>.

²³³ The commenter did not elaborate on their citation to the Pew Research Center.

passport or Macau SAR passport) in that manner. DHS does not expect that the maximum 90- or 240-day admission period will deter or discourage foreign correspondents from coming to work in the United States. If an EOS application remains pending at the end of this 90- or 240-day period, the I nonimmigrant alien, whose status has expired, may remain in the United States, but not work, so long as the EOS application is pending, he or she has timely filed a subsequent EOS request to remain beyond the period requested in the preceding request, and he or she does not otherwise violate the terms of his or her authorized period of stay. *See* new 8 CFR 214.2(i)(5)(i)(C) and new 8 CFR 214.2(i)(5)(iii)(B). The I nonimmigrant alien, however, must cease working until their initial EOS application is approved. *See* new 8 CFR 214.2(i)(5)(i)(C). USCIS will deny the EOS application if the alien did not cease working after the 240-day period and before the EOS request was approved. *See* new 8 CFR 214.2(i)(5)(i)(C).

DHS recognizes this rule could increase the need for I nonimmigrants to file EOS requests and may increase USCIS processing times. But, as outlined in other sections herein, such as Secs. III.C.4 and IV.G.1.c.(1), DHS believes the benefits of increased DHS contact with these nonimmigrants outweigh these burdens and processing time considerations. USCIS is fee funded and can make adjustments as appropriate. DHS also notes allowing an I nonimmigrant to continue working while both his or her initial and second EOS applications are still pending may be problematic, especially if the initial I extension request is denied, because that would mean that someone who was ineligible as an I nonimmigrant was able to continue working beyond the period when his or her initial EOS request is pending because of the adjudication timeframes and the nonimmigrant's ability to continue filing EOS requests.

4. International Impacts and Reciprocity

Comments: Commenters stated that the shortening of the visa term and the conditioning of extensions on DHS review of “the content that the foreign information media representative is covering in the United States” raises concerns about lack of justification and the creation of instability within the international journalistic community. Commenters also stated that the proposed rule could undermine whether accurate information about the United States is both delivered to international audiences through foreign journalists and communicated in audiences' own

language. Commenters stated that the proposed rule could create an information vacuum that could be filled with narratives from rival nations and adversaries. A commenter stated that the proposed rule could skew reporting by limiting stories reported by foreign journalists to large cities, such as New York City or Los Angeles, and thus ignore reporting on the realities of rural and small towns in America.

Another commenter stated that journalists play important roles during major events such as elections, the Olympic games, or national emergencies. One commenter specifically noted that the proposed regulation could undermine transparency during the U.S. congressional elections in 2026 and presidential election in 2028. According to the commenter, if foreign correspondents cannot reliably maintain their assignments, election transparency suffers. The commenter said this risk is especially acute when independent verification from international outlets is needed to counter misinformation.

Commenters mentioned that international investors, policymakers, and business leaders rely on accurate foreign press coverage of U.S. markets and government policy. Commenters stated that foreign media coverage builds confidence and supports investment flows to the United States, contributes to the country's global identity, and extends the reach of American companies and interests. They explained that by spending years, not months, on the ground, journalists gain the deep knowledge, trusted networks, and contextual immersion needed to explain America to global audiences. Another commenter explained that foreign journalists can give Americans insights into other countries. Commenters remarked that the United States has long benefited from hosting robust foreign media coverage, which enhances transparency, reinforces American values, and encourages foreign investment and tourism.

Commenters also note that foreign correspondents contribute to mutual understanding and exchange and that foreign correspondents and their families contribute economically to the United States by paying rent, purchasing goods, traveling domestically, and enrolling children in extracurricular activities. Commenters also remarked that foreign bureaus create jobs for U.S. citizens and permanent residents, including editors, producers, researchers, translators, and technical staff.

A commenter noted that many overseas desks in the United States are responsible for covering the whole hemisphere including Canada, Latin America, and the Caribbean. Another commenter noted that the proposed rule would prevent journalists from staying in the United States for a substantial period of time, hampering their ability to develop or deploy journalists with specific expertise to the U.S. Commenters stated that the United States has always stood for openness, freedom of expression, and a strong, independent press. They expressed concern that restricting international media access would risk undermining that legacy because it emulates countries where press freedom is near extinct. A commenter wrote that reducing press freedom could harm the U.S. economy because of the correlation between press freedom and systemic security of a country's banks. Another wrote that it could harm investigative journalism and cultural coverage of the United States. Commenters expressed concern that curtailing foreign media would risk replacing coverage with narratives from rival nations and offshore sources. Another commenter wrote that authoritarian systems use visas to silence criticism and dissent.

A large U.S. media outlet and several other commenters raised concerns that the proposed rule is likely to prompt foreign governments to reciprocate with their own visa restrictions. The commenters stated that the United States admits foreign journalists on “a basis of reciprocity” (*see* 8 U.S.C. 1101(a)(15)(I)), and that should other nations respond by shortening visa periods, American journalists would find themselves under closer scrutiny by foreign agencies as they face repeated visa renewals. According to these commenters, they also become more susceptible to arbitrary visa denials or denials driven by a foreign government's unhappiness with critical coverage, and other nations cannot be expected to disregard what the United States is doing and quietly accept the inconveniences being visited upon their own journalists working here. Commenters cited specific examples²³⁶ where restrictive U.S. visa policies had previously triggered retaliatory measures by authoritarian governments, including visa denials and expulsions of

²³⁶ *See, e.g.,* Grevy Gotfredsen, S., *Entry Denied*, Colum. J. Rev. (Apr. 10, 2025), https://www.cjr.org/the_media_today/entry-denied-us-border-customs-device-unlock-search-journalists-detain.php (noting 55 instances of journalists stopped at the border since 2017, including instances where reporters were questioned by border authorities over their work).

U.S. journalists in countries like China and Russia. They warned that imposing burdensome visa procedures on foreign journalists would likely provoke similar responses, potentially endangering the safety and work of American media professionals overseas.

Other commenters also referenced the language in 8 U.S.C. 1101(a)(15)(I) and remarked that DHS previously resolved to shorten the stays available to Chinese journalists because of China's use of short visa terms to suppress independent journalism in the PRC. Commenters urged DHS to focus on the operational realities and mutual benefits of a robust foreign media presence, rather than relying on visa reciprocity as the primary justification for admission periods. These commenters also stated that if a reciprocity-based framework is considered, it should be applied in a manner that does not disadvantage media organizations. A commenter stated that the proposed rule undermines the principle of journalistic reciprocity, whereby countries rely on foreign reports to cover global affairs. One commenter addressed the 90-day admission limit for Chinese nationals, arguing it raises equal protection questions under the Fifth Amendment's Due Process clause, noting that courts have previously reversed nationality-based policies due to the policies lacking sufficient justification.

Commenters expressed that changes to the I nonimmigrant provisions would have a potential chilling effect on U.S. and foreign media correspondents or organizations, or the flow or quality of information disseminated.

Response: DHS does not expect that the rule will deter or discourage foreign correspondents from coming to work in the United States and does not anticipate that foreign media organizations or governments will react to the rule with reciprocal, retaliatory actions against U.S. news correspondents or interests. Furthermore, DHS does not have data, and cannot draw on any relevant historical precedence, to quantify or monetize the rule's potential chilling effect on U.S. and foreign media correspondents or organizations or the flow or quality of information disseminated. Accordingly, DHS has not modified the discussion of impacts on I nonimmigrants in this final rule. As mentioned throughout the rule, I nonimmigrants will be able to apply for EOS should their work last longer than the initial admission period. In addition, this rule does not raise an equal protection issue for I nonimmigrants as requiring a fixed period of time of stay in the United

States is not only applicable to all I nonimmigrants, but also to the vast majority of other nonimmigrants who are in the United States. The rule also does not target Chinese nationals as DHS is not changing the 90-day admission limitation for certain Chinese nationals but merely removing the Secretary's flexibility to change this limitation through **Federal Register** notice. See Sec. IV.P.2.e of this rule below for further discussion.

5. Challenges for Freelance and Self-Employed Journalists

Comments: A commenter highlighted challenges for freelance and self-employed journalists, including bloggers, remarking that the proposed rule lacked clarity on how such individuals could establish the home office requirement while simultaneously demonstrating affiliation with a foreign media organization operating abroad. A commenter stated that additional fees and compliance costs for extensions of status (\$555 per application including biometrics) will push smaller outlets and freelance reporters out of the market. This disadvantages independent media and leaves coverage dominated by the largest corporate outlets—shrinking the diversity of viewpoints available.

Commenters stated that requiring a journalist to be a representative of a foreign media organization will disproportionately harm independent journalists from repressive countries like Iran, Venezuela, and Russia, who are unlikely to have a formal relationship with a media organization in their home country and more likely to face repression if expelled from the United States.

Response: DHS does not believe that the rule will have an impact on freelance and self-employed journalists, including bloggers because I visa applicants have always had to demonstrate that the foreign media organization that the alien represents has a home office in a foreign country and that the home office will continue to operate in the foreign country while the alien is in the United States. This is not a new concept based on this rule. Even prior to this rule, for purpose of the I visa application, the DoS Foreign Affairs Manual (FAM) has provided that self-employed information media representatives must have a home office in another country and that freelance information media workers must have a contract with an organization that has a home office abroad.²³⁷

²³⁷ See 9 FAM 402.11–11, *Self-employed and Freelance Media Representatives*, <https://fam.state.gov/FAM/09FAM/09FAM040211.html> (last updated Sept. 22, 2021).

The FAM clarifies that if the home office abroad will cease to function or greatly limit its operations after the applicant is in the United States, the applicant would not qualify for the I visa, as the applicant would not be able to demonstrate the required ties to an organization that has a home office abroad.²³⁸ While there may be procedural administrative differences between agencies, this DHS rule does not deviate from how DoS interprets and applies the I visa classification requirements for self-employed and freelance media representatives, including bloggers, as outlined in the FAM.²³⁹ As explained in the preamble, this rule has adopted USCIS and DoS' historical interpretation of a foreign media organization. The rule clarifies the long-standing practice that the alien be a representative of a media organization with a home office in a foreign country by codifying what is considered a foreign media organization when seeking qualification as an I nonimmigrant.²⁴⁰ For additional information on DHS response to general deterrence, burden, and cost issues please see the complete Final Regulatory Impact Analysis available in the docket for this rulemaking.

6. Requests for Alternative I Nonimmigrant Admission and Extension Periods

Comments: To combat concerns and challenges noted in this rule for I nonimmigrants, commenters suggested several alternative admission and extension periods for DHS to consider. Commenters requested that DHS maintain the current D/S framework for I visa holders or, at minimum, provide a fixed admission period of multiple years. One commenter suggested, as an alternative, that I nonimmigrants be vetted more thoroughly before arriving in the United States, with their visa being revoked if later found to be posing a legitimate threat to national security. A commenter recommended that short-term event-based journalists could be distinguished from bureau correspondents, thereby allowing

fam.state.gov/FAM/09FAM/09FAM040211.html (last updated Sept. 22, 2021).

²³⁸ See 9 FAM 402.11–6, *Home Office Abroad Required*, <https://fam.state.gov/FAM/09FAM/09FAM040211.html> (last updated Sept. 22, 2021).

²³⁹ See 9 FAM 402.11–10, *New Media—Blogging and Other Electronic Media Platforms* (last updated Sept. 22, 2021) and 9 FAM 402.11–11, *supra* note 237.

²⁴⁰ See generally USCIS Policy Manual, Vol. 2, Part K, Chap. 2, *Eligibility*, <https://www.uscis.gov/policy-manual/volume-2-part-k-chapter-2> (last visited Feb. 4, 2026); see also 22 CFR 41.52; 9 FAM 402.11–3(a)(1), <https://fam.state.gov/FAM/09FAM/09FAM040211.html> (last updated Sept. 22, 2021).

different admission periods. Two other commenters stated there should be 2-year admission periods for bureau correspondents. Multiple commenters requested that DHS adopt a 2-year initial admission period for I visa nonimmigrants and their dependents. These commenters also requested that opportunities for extensions of stay be available in 2-year increments, and that DHS provide clarification on the granting of multiple extensions without an overall maximum length, subject to continued eligibility and compliance with I-classification requirements.

Another set of commenters specifically requested a 4-year fixed admission period with the possibility to extend for up to 1 year, for I nonimmigrants and their dependents. Furthermore, one commenter suggested that DHS offer two distinct admission durations for I visas: 240 days for short-term assignments, with extensions available; and 4 years for correspondents and long-term missions, with extensions available. Other commenters requested that DHS, in coordination with the DoS, authorize I nonimmigrant admission with a validity period of up to 5 years where permitted by reciprocity schedules, consistent with INA 101(a)(15)(I) and existing reciprocity practices for other nonimmigrant categories. A commenter stated that this would reduce consular backlogs while maintaining regular DHS checks and oversight.

A commenter recommended that I-visa admissions should be limited to 6-to-12-month periods, with no opportunities for automatic renewal. The commenter also stated that any extensions should require justification and full vetting of the individual. Another commenter recommended DHS implement expedited journalist-specific extensions with decisions issued within 30 days. The same commenter also suggested capping fees for media representatives to ensure access regardless of the media outlet size. Additionally, the commenter sought measures to protect journalists from retaliatory denials with transparent criteria for the extension decisions.

Response: DHS acknowledges commenters' concerns about the rule's potential impact on I nonimmigrants but does not expect that the rule will adversely impact I visa holders or applicants, nor domestic and foreign media organizations, in the manner suggested by commenters. This rule is being issued, among other reasons, to align the treatment of affected I nonimmigrants with the vast majority of nonimmigrant classifications, who are admitted for a fixed time period. DHS

declines to adopt the commenter limitation noted above, as well as the expansion suggestions to increase the length of I admission or a cap on fees. Adopting the limitation and expansion suggestions would be rigid, not based on available data, and could potentially allow more than the period of time necessary to complete the planned activities or assignments consistent with the I classification, not to exceed 240 days, except for those aliens as described in paragraph (i)(3)(ii) whose admission may not exceed 90 days.²⁴¹ As explained elsewhere in this rule, DHS will not adopt the alternative admission or extension durations for I nonimmigrants as the vast majority of I visa holders stay for less than 240 days.²⁴² Those who need to stay for several years may consider other visa categories that may better align with their job requirements if they meet that category's eligibility requirements and their jobs also include management of the foreign media organization's U.S. bureau or if they are specializing on one type of news story such as the U.S. election cycle. DHS is reviewing the possibility for adding EOS to premium processing, but for now, nonimmigrants can request expedited review as discussed elsewhere in this rule.

7. Suggestions From Foreign Media Organizations and International Stakeholders

Comments: A commenter provided several suggestions for DHS pertaining to the rule and I nonimmigrants, including (1) giving full consideration to public comments by Japanese foreign media organizations and the Japan National Tourism Organization (JNTO), (2) considering recommendations to ensure a stable and predictable residence in the United States for Japanese media representatives, (3) granting dependent family members I visa classification on the same terms and conditions as the principal applicant, and (4) establishing channels of communication with DoS to follow up on these considerations.

Response: As an initial matter, DHS has carefully reviewed and considered all public comments received for this rule, whether from individuals or entities, including the recommendations from the Embassy of Japan and other organizations listed within the comment. DHS has communicated with DoS on this rulemaking and will continue to communicate with them, as

needed or deemed appropriate, to ensure effective implementation of the rule. While DHS appreciates different approaches and recommendations for the I nonimmigrant classification, DHS believes that the 240-day period is not only sufficient to cover most assignments²⁴³ but is also an appropriate interval for the U.S. government to ensure that the alien remains eligible as an I nonimmigrant for the reasons explained above and throughout this preamble. Given the countless number of foreign media organizations from all over the world, DHS is unable to accommodate the requests of specific entities seeking longer admission periods for specific nationals from certain foreign media organizations. DHS also notes that dependents of the principal I nonimmigrant classification will, if admissible, receive the same admission period as the principal; this has always been the case. Extensions of stay for I dependents will not exceed the authorized admission period of the principal I representative of foreign information media.

O. CBP Operational and Training Burdens

1. Concerns About Increased Responsibilities and System Complexity

Comments: Commenters raised concerns about the increased responsibilities placed on CBP, including the need for system upgrades and officer training, and the potential for operational inefficiencies under the proposed rule. Many commenters stated that the rule could cause confusion for CBP officers as it provided no clear explanation about how CBP and/or the alien would decide applicable scenarios. Other commenters stated the rule does not sufficiently address training needs for CBP officers, which they said could potentially overwhelm ports and divert attention from genuine security threats.

A commenter remarked that the proposed rule would materially alter CBP's role by requiring officers to assign fixed expiration dates based on a review of the student's program information, institutional accreditation, OPT or STEM OPT end dates, and, in some cases, country-specific factors. A commenter noted technical issues, inaccuracies, and delays with Form I-94 systems, stating that more decision-making and varying admissions end dates for F and J nonimmigrants would increase the impact of technical issues and delays if schools, program sponsors,

²⁴¹ See new 8 CFR 214.2(i)(3)(i) and (ii).

²⁴² DHS's analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

²⁴³ DHS data, *supra* note 174.

and nonimmigrants themselves are unclear about their admissions end date. Commenters stated that adding this complexity to CBP decisions would lengthen inspection times, introduce inconsistencies and errors, and likely increase the number of nonimmigrants who must visit CBP Deferred Inspection offices. One commenter with 20 years of experience as an ARO and DSO stated that the proposed rule could exacerbate inconsistencies as more individualized decision-making is required for each nonimmigrant. A different commenter stated that CBP is not trained or prepared to assume these adjudicatory responsibilities and that erroneous decisions could have severe consequences for foreign students' ability to study or pursue a career in the United States.

Similarly, another commenter said that DHS has not adequately assessed the negative impacts of the proposed rule on CBP. They recommended that DHS consider less burdensome alternatives and transparently address the costs CBP would incur to implement and uphold the proposed regulatory changes. Specifically, a commenter noted that the proposal does not address the impact on EOS adjudication procedures at ports of entry.

Response: DHS appreciates commenters' concerns about training of CBP officers. DHS is committed to conducting all necessary trainings across its components in order to implement this rule. DHS is also updating computer processing systems to address the elimination of D/S. CBP has prepared training to give officers the information necessary to implement the changes for the fixed period of admission for F and J nonimmigrants. This will complement the existing training on the processing of these individuals.

Presently, CBP provides training for all Officers and Agents on non-immigrant classes of admission and on various visa categories at their respective basic training academy. CBP Officers who are involved with inspecting applicants for admission at a POE receive additional and continual training on the various classes of admission based on the different visa categories and to correctly enter the class of admission into the primary processing system.

The rule states that F and J nonimmigrants will be admitted until the completion date provided by the DSO/ARO in SEVIS, not to exceed four years, plus a departure period of 30 days. The rule further states that I nonimmigrants may be admitted for up to 240 days (except for an I

nonimmigrant submitting a passport from the PRC, except Hong Kong SAR and Macau SAR, who can be admitted for up to 90 days) or until the activities or assignments consistent with the I classification are completed, whichever are shorter. Other nonimmigrant classes of admission have variable expiration dates, such as H-1B and L-1, where there is a petition expiration date which on subsequent admission is less than the maximum period of admission. CBP officers are well versed in assigning fixed periods of admissions and doing so in the F, J, and I categories should pose no problems.

2. Clarification on Extension Process and CBP Discretion

Comments: A commenter stated that the explanation of the extension process as it pertains to international travel is vague, noting a lack of clarity regarding whether students and exchange visitors could extend their status by traveling internationally and then re-entering the United States. A commenter requested additional guidance on whether F and J nonimmigrants would be permitted to extend their status expiration date through international travel after the transition period. While another commenter stated the rule does not clarify if travel and re-entry would be an alternative to filing an EOS, so this ambiguity creates uncertainty for students, institutions, and adjudicating officers.

Commenters also expressed concern about granting discretion to CBP to determine admission periods while an EOS is pending, reasoning that this could create room for inter-agency miscommunication that might negatively impact nonimmigrants' status upon reentry. Commenters stated that such inter-agency gaps could result in premature admission expirations or erroneous abandonment or cancellation of EOS applications, potentially creating additional financial burdens and status concerns for nonimmigrants.

Response: POE extensions with CBP and EOS applications with USCIS are both available to aliens, and it will be the choice of each alien to decide if it is more convenient to travel abroad or to apply for EOS through USCIS. DHS believes both the NPRM and the final rule have explained these two options thoroughly, but to reiterate, both are distinct methods of obtaining a new AUD and new I-94. It is ultimately the alien's choice as to which method to choose.

If an EOS application is filed with USCIS, the F, J, or I nonimmigrant must timely file and demonstrate their eligibility for the EOS. USCIS will

determine if it will extend the student's or visitor's stay based on the evidence available at the time of adjudication of a timely filed EOS application. The eligibility requirements are designed to help ensure that those applying for EOS are bona fide students, exchange visitors, or media representatives as required by statute, which include maintaining the proper amount of coursework, not working for other employers while not authorized to work by either DoS or USCIS, and not committing any crimes while in the United States. A denial of EOS will require the alien to leave the country immediately. If approved, USCIS will issue the student a paper Form I-94. That paper I-94 becomes the student's new legal document showing their extension.

If an F, J, or I nonimmigrant chooses to travel abroad, then CBP will make this decision after the nonimmigrant applies for admission with CBP at a POE, and the I-94 will be available electronically. Elsewhere in this rule DHS discusses the implications of traveling abroad while an EOS is pending with USCIS. Please see the discussion in the EOS section in IV.G.5 above. The rule is intended to provide flexibility while ensuring oversight and compliance with immigration laws.

Regardless of whether the nonimmigrant seeks an extension via an EOS with USCIS or at a POE with CBP, the nonimmigrant is entitled to an adjudication or determination of their request and both USCIS and CBP will have the same discretion and will look at the same factors for determining eligibility. They will also both use the program end date that is listed on the paperwork presented to the immigration officer to determine the AUD. And, because CBP and USCIS systems, along with DoS and SEVIS, are coordinated, there should be no miscommunication between government agencies.

3. Automatic Extension of Visa Validity at POE for Contiguous Travel: Concerns About Changing "Shall" to "May" and Automatic Revalidation

Comments: Multiple commenters stated opposition to changing the language from "shall" to "may" in the visa revalidation provisions, remarking that this change would introduce uncertainty, undermine reliance interests of students and schools, and undermine a long-standing benefit for nonimmigrants returning from brief contiguous travel. Commenters expressed concerns about various provisions related to automatic extension of visa validity at POEs for contiguous travel. A commenter

specifically expressed opposition to the requirements proposed in the NPRM for F and J nonimmigrants seeking admission, including after travel abroad, and to the NPRM's proposal to update the cross-reference and clarify the standards for admission in the automatic extension visa validity provisions that cover F and J nonimmigrants applying at a POE after an absence not exceeding 30 days solely in a contiguous territory or adjacent islands.

Commenters stated that clarification regarding automatic revalidation of visas would be helpful for advising students and scholars who might need to travel when the final rule is published. Another commenter noted that the automatic revalidation of visas interplay should be clarified so as to not harm pending EOS applications.

Commenters stated that DHS should maintain the predictability of the "30-day rule" for short-term travel to contiguous territories and adjacent islands and that DHS did not provide adequate justification for removing this benefit. Commenters stated that F and J nonimmigrants have historically been able to travel to neighboring countries for periods under 30 days without renewing their visa stamps, whether for personal reasons during approved breaks or for academic or professional reasons. A commenter stated that CBP should be re-evaluating a new admission window at each entry, thereby allowing a valid alternative that allows maintenance of status by existing DoS and CBP verification procedures, rather than costly and lengthy USCIS petitions. Another commenter stated that a better approach is to maintain the "shall" standard, while clarifying that discretion applies only when a status violation or inadmissibility ground is found.

Response: DHS appreciates the concerns but maintains that the change from "shall" to "may" is appropriate. This change in the admission language relating to extension of visa validity removes ambiguity, clarifying that CBP always maintains discretion to determine whether to admit an alien and for the period of admission. See new 8 CFR 214.1(b). CBP officers must always assess admissibility and compliance with status on a case-by-case basis and cannot be required to admit or readmit an individual who is inadmissible or otherwise ineligible for the requested classification.

DHS recognizes commenters' concerns that moving from "shall" to "may" could be perceived as reducing predictability or undermining reliance interests. However, even under prior

language, admission and readmission have always been subject to inspection and admissibility determinations under the INA. CBP has always retained the discretion to deny admission where a ground of inadmissibility or other ineligibility applies. The revised language more accurately reflects this longstanding legal framework and does not, by itself, change the substantive eligibility criteria for automatic revalidation. Likewise, this rule does not require F or J nonimmigrants to file an EOS solely because they undertook a brief trip that would otherwise qualify for automatic revalidation under DoS regulations, nor does it alter the basic structure of relying on DoS and CBP verification procedures at the POE.

DHS appreciates the suggestions to maintain a mandatory "shall" standard and to limit CBP discretion only to cases involving status violations or grounds of inadmissibility. DHS declines to adopt these recommendations because they are inconsistent with the statutory requirement that each applicant for admission be subject to inspection and found admissible, and because DHS must preserve the ability of CBP officers to address fraud, abuse, or national security concerns at the time of entry or reentry. DHS also declines to create a separate, DHS-only revalidation regime that would supplant DoS existing framework.

DHS recognizes that F and J nonimmigrants, as well as schools and program sponsors, have long relied on DoS's automatic revalidation framework for short-term travel to contiguous territories and adjacent islands, including trips of 30 days or less, and that predictability in this area is important for planning personal, academic, and professional travel. This rule does not change the underlying DoS regulation governing automatic revalidation, and DHS is not eliminating the ability of F, J, and M nonimmigrants to seek readmission after brief contiguous territory travel consistent with 22 CFR 41.112(d), nor is DHS creating new numerical or calendar day limits beyond those already reflected in existing DoS and CBP practice. Instead of having to get a new visa, CBP may admit the nonimmigrant, whose visa validity is automatically extended by operation of DoS regulations. See 22 CFR 41.112(d). DHS does not believe it is necessary to require a nonimmigrant to obtain a new visa under these circumstances.

Several commenters asked how automatic revalidation would interact with pending EOS applications and expressed concern that short-term travel could inadvertently harm a pending

EOS. As discussed elsewhere in this preamble, under new 8 CFR 214.1(c)(8), if an F or J nonimmigrant timely files an EOS request and departs the United States while that EOS is pending, USCIS will not consider the EOS request abandoned if, upon return, the previously authorized period of admission has not expired and the individual seeks admission for the balance of the previously authorized period. If the individual instead departs and seeks admission with an updated Form I-20 or DS-2019 reflecting a program end date beyond the previously authorized period of admission, the EOS request may be deemed abandoned. Importantly, USCIS will not consider corresponding employment authorization applications abandoned solely due to such travel. These provisions apply regardless of whether the individual seeks readmission with the benefit of DoS's automatic revalidation rules or with a new visa and are intended to mitigate the risk that brief necessary travel, including to contiguous territories, will unfairly disrupt an appropriately filed EOS.

Finally, DHS agrees that clear guidance regarding the interplay of automatic revalidation, fixed admission periods, and pending EOS applications is important for students, exchange visitors, and schools. DHS will continue to evaluate the need for additional public guidance or updates to existing resources to help DSO's and RO's advise F and J nonimmigrants who may need to travel while maintaining status or while an EOS is pending.

P. Legal Authority, Background, and Purpose

1. Legal Authority

a. Proposed Rule Exceeds Statutory Authority and Congressional Intent

Comments: Many commenters expressed concerns about DHS's statutory and legal authority to implement the proposed rule, stating that the proposed rule does not align with congressional intent and the intent of the INA. DHS does not have a clear Congressional mandate or authority to implement the rule changes, DHS has exceeded its delegated authority, the proposed rule is arbitrary and capricious, and legally unsound. One commenter expanded on that stating that the policy is a violation of personal freedoms. Several commenters stated that DHS is not authorized to arbitrarily redefine terms or determine an arbitrary length of admission, and this proposed rule is an overreach. A commenter stated that the proposed rule cited statutory authority that confers the

power to administer and enforce upon the U.S. Attorney General rather than DHS, as such, neither DHS nor ICE have authority to change the program, citing 8 U.S.C. 1103(a)(1) (2024), 8 U.S.C. 1372(a)(1) (2024), and 8 U.S.C. 1372(a)(1) (2024). Another commenter remarked that the discretion given to immigration officers by the proposed rule violates the checks and balances established by *Marbury v. Madison*, 5 U.S. 137 (1803). A commenter, while expressing opposition to the proposed restrictions on changes in educational objectives, remarked that blanket bans are arbitrary and have been struck down in court, such as in *Judulang v. Holder*, 565 U.S. 42 (2011). A commenter stated that the proposed rule is vulnerable to judicial reversal, citing *Batalla Vidal v. Wolf*, 501 F.Supp.3d 117 (2020), as an example of a court striking down similar immigration regulations. Similarly, a commenter stated that courts have repeatedly struck down agency rules that attempt to override statutory design without Congressional authorization, citing *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000), and argued that this rule risks being struck down as well.

Response: DHS addresses the comments regarding the Secretary's legal authority in the legal authority discussion of the proposed rule.²⁴⁴ The legal basis for this final rule is grounded in the Secretary of Homeland Security's broad authority to administer and enforce the nation's immigration laws. Section 102 of the Homeland Security Act of 2002 (HSA) (Pub. L. 107–296, 116 Stat. 2135), 6 U.S.C. 112, and section 103(a)(1) and (3) of the INA, 8 U.S.C. 1103(a)(1), (3), charge the Secretary with the administration and enforcement of the immigration and naturalization laws of the United States. Notably, HSA transferred certain authorities and responsibilities from the Attorney General to the Secretary of Homeland Security, as the Act established DHS and reassigned functions related to immigration and other areas to the Secretary of Homeland Security. Section 214(a) of the INA, 8 U.S.C. 1184(a), gives the Secretary the authority to prescribe, by regulation, the time and conditions of admission of any alien as a nonimmigrant, including F, J, and I nonimmigrant aliens. *See also* 6 U.S.C. 271(a)(3), (b) (describing certain USCIS functions and authorities, including USCIS' authority to establish national immigration services policies and priorities and adjudicate benefits applications) and 6 U.S.C. 252(a)(4) (describing ICE's authority to collect

information relating to foreign students and exchange program participants and to use such information to carry out its enforcement functions). Further, Section 402(4) of the HSA, 6 U.S.C. 202(4), expressly authorizes the Secretary, consistent with 6 U.S.C. 236 (the DoS's statutory authority concerning visa issuance and refusal), to establish and administer rules governing the granting of visas or other forms of permission to enter the United States to individuals who are not U.S. citizens or lawful permanent residents.

DHS rejects the characterization of this rule as government overreach and a violation of personal freedoms. DHS has authority to change the time and conditions related to nonimmigrants, provided that it adequately explains the basis for these changes and follows the appropriate processes as it has done in the proposed rule. *See FCC v. Fox Television Stations, Inc.*, 556 U.S. 502 (2009). DHS is within its powers to promulgate this rule and the legal authorities for this change. DHS disagrees with the commenters that assert that the rule does not align with the intent of the INA and that the administrative burdens are counter to the intent of the INA to provide an academic exchange. DHS disagrees with the commenter that the rule disrupts the checks and balances of *Marbury v. Madison* because nothing in the rule prevents a noncitizen from seeking judicial review of an immigration officer's final action. Furthermore, *Judulang v. Holder* and *Batalla Vidal v. Wolf* are distinguishable and inapplicable here. As further discussed below, DHS also disagrees that this rule is arbitrary and capricious or legally unsound.

b. Rationale for D/S Framework and Congressional Intent

Comments: Several commenters discussed the rationale behind the adoption of the D/S framework and that it was introduced to save resources, reduce administrative burdens, allow for schools to monitor students effectively, accommodate the variable timelines of academic and research programs, and increase efficiency whereas DHS has failed to demonstrate why the proposed rule is necessary, reasonable, or constituent with statutory objectives. Several commenters noted that SEVIS was specifically established through the IIRIRA and expanded under the USA PATRIOT Act following the September 11, 2001, attacks to provide statutory tools for real-time information, continuous reporting, and continuous monitoring about foreign students and scholars, which is an existing tool for

oversight and monitoring. Another commenter reported SEVIS already allows DHS to prevent and identify fraud and abuse of F and J nonimmigrants through its collection and delivery of information to DHS. The commenter further stated DHS could request information and documents not submitted in SEVIS from institutions, who are required to retain information during the student's enrollment and for three years after. Several commenters noted that the creation of SEVP and SEVIS by Congress did not indicate any intention to replace the D/S program and that SEVIS already allows the ongoing tracking of nonimmigrant students. A commenter said the proposed rule represents “a gross and purposeful misrepresentation of the intent behind student visas.

Another commenter stated that biometric collection and interview requirements exceed regulatory authority without specific Congressional authorization, particularly given significant liberty interests and discriminatory potential. The commenter stated the rule transforms cooperative educational relationships into enforcement mechanisms, abandoning successful academic immigration governance.

Response: DHS disagrees with commenters who assert that Congress, in creating SEVP and SEVIS, did not specifically mention a disapproval of the D/S framework and therefore, it should not be eliminated. As noted in the proposed rule, in response to the events of September 11, 2001, the Patriot Act mandated a full implementation and expansion of foreign student monitoring.²⁴⁵ Additionally, a Homeland Security Presidential Directive titled, Combating Terrorism Through Immigration Policies, directed that a program be developed to track the status of foreign students and also mandated that the government develop guidelines that may include limited duration of student status.²⁴⁶ Further, the 9/11 Commission, created through an act of Congress, also expressed concern in the need to track foreign students and implement more controls on student visas.²⁴⁷ Based on these mandates and statutory authorities, including 8 U.S.C. 1372, SEVP formed SEVIS to address national security needs. The regulatory changes in this rule further address and take into consideration previous mandates as

²⁴⁵ *See Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)*, Public Law 107–56, Section 416.

²⁴⁶ *See* HSPD–2, *supra* note 17.

²⁴⁷ *The 9/11 Commission report*, *supra* note 18.

²⁴⁴ *See* 90 FR at 42074 (Aug. 28, 2025).

well as laws passed by Congress to equip our nation with better means to detect and combat fraud, abuse, and noncompliance associated with nonimmigrant students. DHS acknowledges that the agency possesses statutory tools to ensure continuous reporting for foreign students and concluded that this final rule is necessary to provide additional tools to ensure the integrity of nonimmigrant student programs, including fraud detection and national security protections.

DHS also disagrees with the commenter who asserts that the proposed rule was “a gross and purposeful misrepresentation of the intent behind student visas.” The rule does not change the intent behind student visas. The main purpose of the rule is to effectively enforce compliance with the statutory inadmissibility grounds related to unlawful presence and to mitigate the risks found in the D/S framework. The change to a fixed period of stay does not impact a nonimmigrant student’s ability to pursue and complete an education in the United States.

DHS recognizes the importance of safeguarding individual liberty interests and is committed to upholding privacy and civil rights protections. The authority to collect biometrics and conduct interviews is grounded in existing statutory and regulatory provisions, including those enacted by Congress to ensure the integrity of the U.S. immigration system.²⁴⁸ These measures are intended to enhance identity verification, prevent fraud, and protect national security, while maintaining procedural fairness. DHS is committed to minimizing any adverse consequences and will continue to work with educational institutions to support their vital role in international education.

c. Statutory Basis, Academic Program Regulation, and Congressional Intent

Comments: Commenters argued that the proposed rule introduces constraints lacking statutory basis and contradicts decades of regulatory practice, stating INA Section 101(a)(15)(F) defines F–1 students as bona fide nonimmigrants pursuing a full course of study, and it does not restrict students from pursuing multiple degrees at the same level. A commenter stated that when the Immigration and Naturalization Service adopted D/S in 1979, it was introduced

to save resources and allow for schools to monitor students effectively. One commenter noted that congress has not imposed fixed admission terms instead authorizing admissions “for the purpose” of pursuing a course of study, cultural exchange or media activity and that since Congress spoke in broad terms, agencies should not narrow access through restrictive rulemaking without clear statutory intent (*see INS v. Cardoza-Fonseca*, 480 U.S. 421 (1987), emphasizing that deference is limited where Congress has expressed intent). Several commenters noted that while INA section 214(a) provides DHS the broad discretion to determine stays, extensions of admissions, along with the “time and conditions of admission,” it does not support removing the longstanding D/S framework without clear congressional directive.²⁴⁹ One commenter expanded on that suggesting that the proposed rule imposes duplicative requirements on already well-regulated groups and instead, focusing on higher-risk categories would be consistent with statutory intent. Commenters reasoned that Congress did not authorize DHS to regulate the specifics of academic programs pursued by F–1 students, concluding that decisions regarding changes in degree programs should remain within the academic discretion of students and their schools. Several commenters stated the congressional intent in creating the F–1, J–1, and I visa categories was to promote academic, educational, journalistic, and cultural exchange and the proposed rule undermines that intent.

Response: As for the commenters who asserted that this final rule introduces a constraint that lacks a statutory basis, Section 101(a)(15)(F) of the INA, 8 U.S.C. 1101(a)(15)(F) does not explicitly authorize students to pursue multiple degrees at the same level under the same admission period. Students can change their educational objectives after their first year of study if they pursue a degree below the graduate level. DHS balanced the interests of the students against preventing fraud and abuse and has determined this approach provides flexibility for students while still upholding the goals of the rule change in preventing fraud and abuse. DHS has seen situations where students exploit the F–1 visa system to stay in the United States for the longest duration possible. DHS has identified students who change their major numerous times without demonstrating a legitimate academic need. Some of these students will

concurrently participate in unauthorized paid labor. DHS believes this type of fraud and abuse will be curtailed with restrictions on changes in degrees. For F nonimmigrants wishing to remain beyond their authorized period of admission, they will need to apply for an EOS or to depart and reenter the United States through other lawful means.

DHS disagrees with the comment that this rule is regulating the specifics of the academic programs pursued by F–1 students. DHS in this rule is clarifying the time requirements and conditions for admission to ensure aliens’ purpose in seeking admission as nonimmigrants remains consistent, while eliminating fraud, abuse, and noncompliance with the statutory requirements. This includes maintaining status in accordance with the original basis on which their admission to the United States was authorized. This rule does not direct schools in how they offer courses of study, operate their classrooms, or academic programs.

DHS agrees with the comment that the November 22, 1978, final rule²⁵⁰ that amended the regulations to admit F–1 students for a D/S, was designed to permit more efficient use of resources.²⁵¹ However, DHS also notes that the legacy INS subsequently amended admission periods for F–1 students which at times included elimination of the D/S framework. Specifically, on January 23, 1981, D/S was eliminated for all nonimmigrant students.²⁵² As noted in the final rule, the implementation of the D/S framework served to ease administrative workload for the legacy INS and educational institutions but resulted “in questionable control over foreign students and has contributed to problems in record keeping.”²⁵³ With the proposed rule, DHS is revisiting again and amending the regulations regarding the D/S framework to address and deter fraud, exploitation, and abuse in connection with the D/S framework.

DHS disagrees with the commenters who assert that DHS already has the statutory tools to ensure compliance and that Congress, in creating SEVP and SEVIS, did not specifically mention a disapproval of the D/S framework and therefore, it should not be eliminated. DHS notes that any EOS application will be adjudicated by USCIS and USCIS will continue to monitor its resource allocations and make adjustments as appropriate.

²⁴⁸ See HSA (Pub. L. 107–296, 116 Stat. 2135); 6 U.S.C. 112; 6 U.S.C. 202; INA sec. 103, 8 U.S.C. 1103; INA sec. 235, 8 U.S.C. 1225; 8 CFR 103.2(b)(9); 8 CFR 103.16; 8 CFR 235.3(b); and 8 CFR 264.1.

²⁴⁹ A commenter referenced *Util. Air Regulatory Grp. v. EPA*, 573 U.S. 302 (2014).

²⁵⁰ See 43 FR 54618 (Nov. 22, 1978).

²⁵¹ See 43 FR 32306 (July 26, 1978).

²⁵² See 46 FR 7267 (Jan. 23, 1981).

²⁵³ *Id.*

DHS appreciates commenters' concerns regarding statutory authority, congressional intent, and the longstanding use of the D/S framework for F-1, J-1, and I nonimmigrants. DHS respectfully disagrees that the rule exceeds statutory authority or undermines congressional intent for the reasons outlined in sec. IV.P.1.a above, titled *Proposed Rule Exceeds Statutory Authority and Congressional Intent*, and within the Legal Authority section in sec. III.A While Congress has authorized admission "for the purpose" of pursuing a course of study, cultural exchange, or media activity, it has not mandated the D/S framework or prohibited DHS from adopting fixed admission periods. The D/S framework is a regulatory construct, not a statutory requirement.

DHS recognizes the historical reliance on D/S, and it has carefully considered the impact of this rule. DHS has included provisions within the rule to minimize disruption and maintain flexibility for bona fide students, exchange visitors, and media representatives. DHS maintains the periodic review of nonimmigrant status imposed by this rule through fixed periods of admission and EOS processes is appropriate to ensure compliance with U.S. immigration laws, deter fraud and abuse, and to protect program integrity.

DHS also notes that the rule does not impose duplicative requirements but rather aligns the oversight of F, J, and I nonimmigrants with other nonimmigrant categories that are subject to fixed admission periods and periodic review. DHS believes this approach is consistent with its statutory authority and consistent with the goals of this rulemaking.

d. Chevron, Major Questions Doctrine, and Legislative History

Comments: Several commenters mentioned *Chevron U.S.A. Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984) in that Congress has not mandated the elimination of the D/S framework and the legislative history suggests Congress contemplated flexible admission periods tied to program completion. While one commenter cited *West Virginia v. EPA*, arguing that federal agencies lack authority to decide major questions with significant economic and political impact without clear congressional authorization, and claimed the proposed rule would fall under this major questions doctrine due to its substantial financial impact. One commenter wrote that no judicial decision has questioned the statutory basis for D/S admissions and that *Matter of Yamazato*, 25 I&N Dec. 581 (BIA

2011) (*sic*) acknowledged D/S as an established framework serving legitimate administrative purpose.

Response: DHS disagrees that this rule implicates the major questions doctrine. The U.S. Supreme Court has made clear that the major questions doctrine is reserved for extraordinary cases involving "agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted."²⁵⁴ This is not such an extraordinary case in which Congressional intent is unclear. Here, DHS is acting within its statutory authority to provide clear guidelines and a fixed time period for a specific class of nonimmigrant admission to the United States, including the ability to request to extend their stay. Additionally, this change is limited in scope, and the impact is not comparable to other government actions that courts determined implicate the major questions doctrine.²⁵⁵

DHS notes that the comment invoking *Chevron, U.S. Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984) is moot because *Chevron* was overruled by *Loper Bright Enterprises v. Raimondo*, 603 U.S. 396 (2024). Additionally, the commenter argues that legislative history demonstrates implicit Congressional approval of a D/S framework; however, the commenter did not include any specific legislative history it relied on. DHS believes the changes are consistent with Congressional intent and have reviewed the legislative history in preparation for this rulemaking. DHS could not identify the case mentioned by commenter of *Matter of Yamazato* and is therefore unable to respond to that particular comment.

2. Legal Concerns Under the APA and Due Process

a. Comment Period Is Insufficient and Lacks Advance Notice

Comments: Commenters expressed concerns that the comment period was insufficient and that the rule lacked appropriate advance notice. Many commenters emphasized that the 30-day (*sic*) comment period was inadequate for a rule of such complexity and significance, and some said it violates the requirements in the APA. Many commenters requested an extension of the comment period to a minimum of 60

²⁵⁴ See *W. Virginia v. EPA*, 597 U.S. 697, 724, (2022).

²⁵⁵ See *Id.* (restructuring the American energy market by shifting electricity generation away from coal and toward cleaner energy sources); *Dep't of Education v. Brown*, 600 U.S. 551 (2023) (cancelling hundreds of billions of dollars in federal student loan debt).

days, with some suggesting 90 or 120 days would be more appropriate. Some of the reasons for this additional time, referenced by commenters, include the rule's complexity, impact, controversial nature, and change to longstanding policy; the longer comment period for SEVIS and USCIS forms, which suggested to the commenter that the more substantial proposed rule warranted at least the same duration; the publication of the NPRM while institutions and communities beginning their academic years, which commenters said was one of the busiest times of year for higher institutions; and Executive Orders 12866 and 14219. Commenters said E.O. 12866 directs agencies to provide at least 60 days for public comment on significant regulatory actions, and some commenters reported E.O. 14219 instructs that "[a]gencies shall continue to follow the processes set out in [E.O.] 12866 for submitting regulations for review by OIRA." Commenters noted DHS's acknowledgement in the NPRM that this proposed rule is a "significant regulatory action" that is "economically significant" under E.O. 12866. One commenter generally expressed concern that the proposed rule is excessively complex, making meaningful engagement and comprehension difficult.

Commenters emphasized that the 30-day period did not allow sufficient time to gather necessary data, including for Freedom of Information Act requests, analyze the rule's effects, and consult with specialists. Commenters stated that meaningful public comments required time to collect accurate information on student program completion timelines, extension needs, and transfer statistics, as well as to assess administrative, financial, and operational impacts. One commenter expressed concern that the short public comment period gave the impression that DHS was trying to avoid transparency and public scrutiny by rushing the rulemaking process. Additionally, commenters stated that the timing of the rule's publication at the beginning of the academic year was particularly problematic for higher education institutions, as it coincided with one of their busiest periods when they were managing new student arrivals and fulfilling federal reporting requirements.

Finally, commenters noted the lack of advance notice about the rule, pointing out that it was absent from the Unified Agenda until September 4, 2025, one week after its publication, despite the Regulatory Flexibility Act (RFA) requiring agencies to publish

semiannual regulatory agendas describing planned regulatory actions.

Response: The APA does not mandate a specific minimum duration for public comments, and DHS fully complied with the legal requirements for providing notice to seek input from the general public in accordance with the APA.²⁵⁶ DHS recognizes this is a significant rule and that E.O. 12866 encourages agencies to provide “not less than 60 days” for public comment on significant regulatory actions, but E.O. 12866 does not impose this as a binding requirement. Here, DHS provided a 32-day comment period, which balances the need for stakeholder input with the urgency of implementing the rule. DHS received robust public participation, as is evidenced by the nearly 22,000 public comments received addressing a wide range of issues including technical, economic, and operational impacts. This demonstrates stakeholders were able to analyze the rule and provide thoughtful feedback within the allowed timeframe. Furthermore, comments on the information collection described in the Paperwork Reduction Act (PRA) section were due by October 27, 2025—61 days after publication. DHS strongly rejects the assertion that the 32-day comment period was intended to avoid transparency or public scrutiny and that the timing of the proposed rule was problematic given the start of the academic year. DHS received numerous detailed comments from stakeholders including higher education institutions and students. DHS remains committed to an open and transparent rulemaking process and has carefully reviewed all comments received to ensure that stakeholder concerns are fully considered.

DHS acknowledges that some commenters requested an extension of the comment period to 60, 90, or even 120 days due to the timing, complexity, and significance of the rule, however, the commenters generally did not explain what additional issues they would raise during a longer comment period. The volume of comments—as well as their breadth—reflects an ample consideration of issues during the comment period. DHS acknowledges that some commenters expressed challenges related to gathering data, consulting specialists, and engaging with other stakeholders. DHS notes that many commenters were able to provide detailed, evidence-based feedback including potential impacts, proposed alternatives, and specific concerns regarding implementation. As previously mentioned, given the volume

of detailed comments, the 32-day comment period on the NPRM and 61-day comment period on the PRA was sufficient for meaningful public input and DHS appreciates the feedback it received. DHS acknowledges the comparison made by commenters between the 61-day comment period for SEVIS and USCIS form changes and the 32-day period for this rule. However, DHS notes that the PRA requires a 60-day comment period for information collection requests related to forms.

While some commenters noted that the rulemaking appeared in the Unified Agenda shortly after the NPRM published, DHS complied with applicable requirements under the RFA, particularly 5 U.S.C. 602(d). The NPRM was published in the **Federal Register** ensuring public access, transparency, and that the comment period provided sufficient opportunity for stakeholders to respond. DHS complied with applicable requirements under the RFA and E.O. 12866.

b. Administrative Procedure Act Concerns

Comments: Commenters argued the proposed rule violates the APA by being arbitrary and capricious, citing *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983), which requires agencies to provide reasoned explanations connecting facts to policy choices. Commenters stated the NPRM failed to meet this standard by overstating security benefits while understating economic costs, ignoring successful existing oversight approaches, and proposing solutions insufficiently targeted to the identified problems. Commenters claimed the proposed rule would create arbitrary categories, disproportionate burdens, and categorical restrictions on all visa holders to address limited abuses. A commenter said that DHS’s “suspected in-country overstay” data is an upper-bound proxy that can overcount actual violations, with recent DHS reports showing suspected F/M/J in-country overstay at approximately 2.45 percent in FY 2024, which they characterized as far from a systemic crisis. Commenters said the rule fails to consider less restrictive alternatives, such as tiered caps by degree level, longer caps, graduated oversight for extended-stay students, enhanced institutional accountability, technology-based monitoring, and risk-based screening. A commenter opined that failure to evaluate these alternative regulatory models could expose the final rule to legal vulnerability under the APA.

Some commenters suggested stakeholder engagement to identify

evidence-based targeted solutions, ensure compliance and preserve flexibility. One commenter noted that E.O. 12866 also directs each agency to “explore and, where appropriate, use consensual mechanisms for developing regulation, including negotiated rulemaking.”

One commenter raised concerns about potential regulatory takings, stating that foreign students have substantial financial investments in U.S. education that could be rendered worthless by arbitrary rule changes. The commenter cited *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393 (1922), to argue that government action constitutes a taking when it goes “too far” in restricting property rights.

Commenters noted the rule revives a rule which was withdrawn in 2021 without addressing prior objections or providing new justification, despite overwhelming opposition to the previous proposal.

Response: DHS disagrees that the rulemaking is arbitrary and capricious. The NPRM details the need for changes to the F, J, and I classifications, specifically to alleviate fraud and abuse, enhance national security, improve program integrity and oversight, reduce overstays, and provide clarity for stakeholders regarding authorized period of stay and extension processes. The rule is reasonably related to the objective advanced and is not arbitrary or capricious.

DHS acknowledges concerns about whether the proposed solution is appropriate. Replacing D/S with a fixed admission period is necessary to increase oversight, deter fraud, and address national security risks. The 2024 CBP Entry Exit Overstay Report shows that student and exchange visitors, excluding those from Canada and Mexico, had a suspected in-country overstay rate of 2.84 percent in FY 2023, which is more than double the general suspected overstay rate, further justifying the need for more effective monitoring.²⁵⁷ Fixed admission periods provide clear end dates, facilitate identification and deterrence of overstays, and ensure nonimmigrants who remain beyond their authorized period begin accruing unlawful presence.

DHS recognizes the alternatives posed by commenters and has considered alternatives to the requirements adopted in this final rule. DHS determined the selected approach is appropriate to address program integrity and national security concerns. While the proposed

²⁵⁶ See 5 U.S.C. 553.

²⁵⁷ See *Entry/Exit Overstay Report, FY 2024*, *supra* note 123.

rule does not adopt measures such as tiered caps, extended durations, or technology-based monitoring, DHS believes the rule strikes an appropriate balance between flexibility for students and the need for oversight. DHS appreciates the suggestions for stakeholder engagement and will continue to consider public input in the rulemaking process, consistent with E.O. 12866 and the APA.

The *Pennsylvania Coal Co. v. Mahon*, cited by the commenter, does not apply here. That case involved a regulatory taking of property rights. The constitution does not provide property rights to higher education. Additionally, this final rule does not take away any nonimmigrant's current visa. As explained elsewhere in this rule, the transition rules provide adequate notice and extensive lead time for nonimmigrants with a current F, J, or I visa to complete their work in the United States. The final rule also permits F, J, and I nonimmigrants to apply for an EOS, if they choose to pursue that route.

DHS acknowledges the publication of a similar NPRM in 2020, the significant public feedback received on that NPRM, and the withdrawal of that NPRM in 2021. Since then, DHS has reviewed current policy, executive orders, and operational needs, and has updated its justifications in this rulemaking. The current proposal is tailored to address vulnerabilities in the immigration system, protect program integrity, and enhance oversight, while balancing the interests of stakeholders.

c. Change in Position and Reliance Interests

Comments: Commenters stated that DHS failed to consider the significant reliance interests of students, scholars, universities, and sponsors who have depended on the D/S framework for decades, with some commenters citing *DHS v. Regents of the University of California*, 140 S. Ct. 1891 (2020). Commenters wrote that universities and students have structured programs, admissions, finances, and research around D/S, and one described the NPRM's discussion of alternatives to preserve these interests as cursory relative to the scale of disruption the rule would cause. Several commenters said the proposed rule marks a significant change from long established regulatory practices and due to that change, DHS must provide a reasoned explanation for its decision when departing from longstanding policy and account for reliance interests noting that the shift is broad and does not show that D/S is failing and that the reliance

interests of current F–1s, Js, employers, schools that planned budgets and staffing under a D/S framework were not fully addressed.

Response: DHS recognizes that students, their families, and educational institutions have structured their academic, professional, and personal plans based on the longstanding D/S policy. DHS has carefully considered the reliance interests of F, J, and I visa holders, as well as those universities, sponsors, and employers who have structured programs and operations around the D/S framework. While DHS recognizes that some may prefer the D/S model, and this rule represents a change from longstanding practice, DHS has provided a reasoned explanation for this policy shift, consistent with Supreme Court precedent.

DHS has considered alternatives, including a 2-year admission period and maintaining the status quo, but determined that the fixed periods established in this rule best balance oversight with the structure of post-secondary education, exchange visitors, and foreign media. DHS evaluated less restrictive alternatives and stakeholder suggestions but concluded that the fixed-period approach is the most effective and appropriate solution to enhance oversight, program integrity, and national security.

The rule provides adequate notice and a transition period to minimize disruption, allowing affected individuals to complete their work or apply for an EOS, which is similar to other nonimmigrant categories, and clear guidance for students and school officials. These measures are intended to provide affected individuals and institutions with sufficient time and flexibility to adjust to the new requirements. DHS believes this approach balances reliance interests with the need to address vulnerabilities in the current system.

d. Due Process Concerns

Comments: Several commenters expressed procedural concerns that the proposed rule would violate principles of due process. Commenters cited *Mathews v. Eldridge*, 424 U.S. 319 (1976), to argue that foreign students possess constitutionally protected procedural due process rights and that the risk of erroneous deprivation of an interested individual while safeguards are weak. Commenters also cited *Landon v. Plasencia*, 459 U.S. 21 (1982), to argue that foreign students have constitutionally protected procedural due process rights associated with their immigration status. Several commenters expressed concern at the serious risk of

losing lawful status without meaningful procedural safeguards or an opportunity to contest the decision or seek reconsideration. Several commenters noted that USCIS denials are discretionary and offer no right to appeal, increasing uncertainty and risk of being in an unlawful status, arbitrary decisions, and forced departures if USCIS delays processing. A commenter stated that the elimination of the ability to appeal extensions not only has implications for students' lives, but also poses issues related to procedural fairness, the APA, and due process. Several commenters wrote that the proposed rule would limit academic mobility without procedural safeguards and deprive students of due process and equal protection including deprivation of life, liberty, and property under the Fifth Amendment, as well as their freedom to pursue education. One commenter stated the I-visa restrictions targeting the PRC lacks narrow tailoring and would be a nationality-based distinction that lacks compelling evidence. Another commenter noted that while noncitizens lack an absolute right to enter or remain in the U.S., the fixed admissions combined with restrictions on pursuing additional degrees raise due process and equal protection concerns also noting that in *Yick Wo. v. Hopkins*, 118 U.S. 356 (1886), the Supreme Court recognized that discriminatory enforcement against noncitizens violated equal protection and *Plyler v. Doe* (1982) confirmed that noncitizens in the U.S. cannot be denied public education. One commenter stated that the proposed 2-year cap for nationals of countries with high overstay rates or limited diplomatic cooperation creates a nationality-based classification raising equal protection concerns under *Yick Wo. v. Hopkins*. Another commenter noted that the rule treats F, J and I visa holders differently than comparable nonimmigrant categories such as H–1B or L–1 workers and that this differential treatment lacks a compelling government interest and disproportionately harms students, researchers, and journalists engaged in lawful activities raising equal protection concerns. Referencing due process issues, several commenters described fundamental rights that could be harmed under the proposed rule that could deprive an individual of life, liberty, or property. Several commenters noted that currently D/S lawful presence is tied to lawful behavior offering stability and predictability whereas a fixed time period would expose compliant individuals to premature removal violating the

principle that the government action must be fair, rational, and consistent with due process. One commenter noted the approach that presuming all foreign students are potential security risks constitutes collective punishment and vague references to “national security” is not a legally sufficient basis for imposing sweeping burdens that will harm stakeholders undermining fairness and due process.

Response: DHS appreciates commentors’ concerns regarding the rule’s impact on substantive and procedural due process rights. There is no federal constitutional right to higher education or practical training opportunities. Additionally, in the event an F, J, or I nonimmigrant decides to extend their related program activities, such as education or the engagement in authorized post completion practical training beyond 4-years, there is a process to apply for an EOS. DHS understands that applications are time sensitive. However, DHS does not believe that additional safeguards are needed in this rule and disagrees with the commenter’s assertion that USCIS decisions are arbitrary. In the event that there is a denial of extension, USCIS has in place a process to reopen or reconsider the denial. This rule does not change that process.

Furthermore, DHS disagrees with the commenter that the “elimination” of appeals of extensions denials raises issues of procedural fairness, the APA, and due process. The regulations that existed prior to the implementation of this final rule,²⁵⁸ provided that the denial of an extension or amendment of stay request may not be appealed. This is not a new concept, and the same standards have been applicable for EOS applications in most of the other nonimmigrant categories.

DHS also disagrees with comments about a 2-year cap for nationals of countries with high overstay rates or limited diplomatic cooperation, as this is not part of the proposed rule or the final rule. Further, as it relates to I fixed admission period relating to the PRC, the changes in this rule are consistent with 8 CFR 214.2(i)(1)(ii) (2025), in which the implementing published rulemakings explained the rationale as to why passport holders of the PRC (other than a Hong Kong SAR or a Macau SAR passport) were admitted for a fixed period of stay.²⁵⁹

With specific time caps and additional program requirements, immigration authorities will have an

effective mechanism to implement appropriate oversight to reduce fraud and abuse. The rule change sets clear and defined expectations for program of study completion for the universities and nonimmigrant students. Nonimmigrant students will be able to rely on a definitive end date and be able to plan accordingly to complete the program within the timeframe or apply for an extension of status. DHS disagrees with the comment that imposing fixed-term limits on F nonimmigrant students, as well as J or I visa holders, will treat such classifications differently than other nonimmigrant categories such as H-1B or L-1 workers or disproportionately harm them. In fact, the rule harmonizes the F, J, and I classifications with the H-1B and L-1 classification as both the H-1B and L-1 classifications have fixed-term limits. *See generally* 8 CFR 214.2(h); 8 CFR 214.2(l). Moreover, a definitive end date will reduce potential fraud and abuse as discussed within this final rule. For F nonimmigrant students, DHS believes any reliance by the nonimmigrant student on interests such as economic freedom and familial relationships is misplaced. Under the rule, the express language presented to applicants throughout the process of applying for admission to the United States will clearly delineate a conclusive time limit on the nonimmigrant student’s ability to remain in the United States at the conclusion of their program of study or authorized post-completion practical training. DHS also notes that visa applications can be denied for a variety of reasons, such as if a nonimmigrant student is unable to establish familial ties in their home country or assets or lacks a specific intent to return to their home country upon the conclusion of their program of study.²⁶⁰ DHS interests and policy concerns, to include national security and the prevention of visa abuse, outweigh any reliance interests by the nonimmigrant. Increased oversight and stricter compliance will reduce national security risks and deter utilization of visas for purposes other than education as well as reduce the number of nonimmigrant overstays.

Regarding the comments on substantive due process, the proposed changes are sufficiently related to DHS’s objective of preventing fraud, abuse, and noncompliance of applicable statutory requirements because they ensure that F, J, and I nonimmigrants do not remain in the United States indefinitely. DHS

disagrees with the assertion the U.S. does not have a compelling interest in establishing specific conditions for nonimmigrants based on their intended purpose for entering the U.S. such as H-1B or L-1 compared to F, J, and I applicants for admission. DHS has a compelling government interest to obtain timely and accurate information about the activities these aliens have engaged in and plan to engage in during their temporary stay in the United States.

As to the comments asserting that the final rule interferes with constitutionally protected rights, such as equal protection, due process and the right to pursue higher education, the Department disagrees that the cases the commenter cited support these assertions. *Yick Wo. v. Hopkins* is inapplicable and distinguishable here because that case dealt with general regulation of local commerce and the Court held that the government’s enforcement policy was intended to drive out Chinese-owned small businesses. This final rule regulates certain nonimmigrant aliens specifically and they are intended to strengthen the integrity of the nonimmigrant classifications while enhancing national security. Similarly, the constitution does not provide a right to a higher education and *Plyler v. Doe* is distinguishable and inapplicable in this context because that case involved immigrant students who had been denied a free public education in violation of the equal protection clause.²⁶¹ DHS considered the proposed regulation in light of *Mathews v. Eldridge*, 424 U.S. 319 (1976), which discusses in part the balance of an individual’s due process rights regarding a property interest and the risk of erroneous deprivation against the government’s interests. Congress gave DHS the authority to regulate the time and conditions of admission of any F, J, and I nonimmigrants to accomplish the purposes identified in the statutory visa immigrant categories. Assuming that *Mathews v. Eldridge* even applies in this case, the governmental interest to prevent and reduce issues of fraud, abuse, and national security threats outweighs any individual interest in a potentially indefinite entry.

e. Equal Protection Concerns

Comments: Describing equal protection concerns, many commenters expressed opposition to the proposed

²⁵⁸ See 8 CFR 214.1(c)(7) (2025).

²⁵⁹ See generally 85 FR 27645 (May 11, 2020); 87 FR 61959 (Oct. 13, 2022).

²⁶⁰ See USCIS Policy Manual, Vol. 2, Part F, Chap. 2—*Eligibility Requirements*, <https://www.uscis.gov/policy-manual/volume-2-part-f-chapter-2> (last visited Feb. 4, 2026).

²⁶¹ See *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 35 (1973) (holding that public education is not a fundamental right protected by the constitution).

rule. For example, a commenter stated that Federal actions must comply with equal protection principles, writing that categorical restrictions on program changes would harm students following the proposed rule by limiting academic mobility without providing individualized findings on immigration status. A commenter noted that courts have long recognized that the federal government is also subject to equal protection principles under the Fifth Amendment's Due Process Clause as established in *Bolling v. Sharpe*, 347 U.S. 497 (1954). Several commenters raised equal protection concerns about the differential treatment of graduate and undergraduate students in the proposed rule creating arbitrary classifications and lacking any legitimate government purpose, and about the arbitrary burdens imposed on F, J, and I categories of nonimmigrants without trying to individualize risks. One commenter expressed concern that the 4-year fixed admission period could violate equal protection principles by "treating identical student conduct (maintaining lawful status) differently based solely on program duration." Several commenters noted the disparate impact of the proposed rule on protected classes, including indirect gender discrimination in educational access, socioeconomic barriers created by the financial impact of multiple extension applications, and religious or cultural barriers for students from countries with different academic calendars or cultural obligations disproportionately burdened by fixed-period requirements. A commenter stated that the 90-day admission limit for Chinese nationals creates questions of equal protection under the Due Process Clause of the Fifth Amendment. The commenter remarked that in the past courts reversed policies where classifications were based on nationality without sufficient justification. Another commenter stated that students from certain countries may face disproportionate burdens due to adjudication backlogs or discriminatory scrutiny, raising Equal Protection Clause concerns under the Fifth Amendment, and cited to *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995).

Response: DHS appreciates the feedback and clarifies that the rule is designed to comply with federal law, including equal protection principles, by applying its provisions uniformly to all nonimmigrants in F, J, and I status, without regard to gender, religion, socioeconomic status, or cultural background. Further, the rule provides various mechanisms of changing

educational objectives and transferring to SEVP-certified schools, so long as the nonimmigrant meets various requirements (such as maintaining status, completing an academic year—absent extenuating circumstances, and not being on academic probation or suspension). These provisions are designed to support academic mobility while maintaining compliance with immigration laws.

DHS disagrees with the commenters that state that the rule's distinction between graduate and undergraduate students would violate principles of equal protection. Congress gave DHS the authority to set appropriate conditions on nonimmigrants to accomplish the purposes identified in the statutory nonimmigrant visa categories. The F-1 student classification, as defined by INA sec. 101(a)(15)(F), encompasses aliens seeking to enter the United States as a bona fide student to pursue a course of study at, including but not limited to, colleges, universities, academic high schools, or elementary schools. DHS recognizes that bona fide students, upon or nearing completion of their initial course of study, may reasonably elect to pursue higher levels of education. Conversely, movement within the same education level after completion of a program raises significant concerns over whether an F-1 nonimmigrant intends to simply prolong their stay in the United States. DHS believes that F-1 students with legitimate academic goals will be able to foresee their academic trajectory before or during the school application process, especially on the graduate level where students should already know their goal for attending graduate school. This rule allows a graduate student to apply to a program with two concurrent degrees, such as a J.D./M.B.A., but does not allow a graduate student to change direction mid-stream or to seek a second degree at the same level after entering a program. Years of experience have shown DHS that, of F-1 students who seek a degree at the same or lower level after entering an academic program, a significant number do so to prolong their stay in the United States.

The rule therefore serves DHS's legitimate purpose in setting conditions to accommodate bona fide students who come to the United States temporarily to pursue and ultimately complete a full course of study, while restricting aliens seeking to improperly rely on the F-1 student classification in order to remain in the United States indefinitely or for nefarious reasons. Even if the commenters were correct that the rule has a disparate impact on students at different levels of study, DHS finds it

would not violate the Fifth Amendment's equal protection guarantee because the rule does not involve a suspect classification or burden any fundamental right.²⁶²

DHS disagrees with the commenters that state that the proposed rule's imposition of a 4-year maximum admission period for F-1 nonimmigrants violates equal protection principles. The proposed rule applies the same calculation of authorized stay to all F-1 nonimmigrants.

DHS recognizes the importance of ensuring that the rule does not create unintended disparate impacts on protected classes. The rule's provisions are carefully tailored to achieve legitimate government objectives, such as preventing visa abuse and ensuring compliance with immigration laws, while minimizing burdens on nonimmigrants. For example, the rule provides automatic extensions of stay and employment authorization for up to 240 days while applications are pending, reducing the financial burden associated with filing multiple extension applications. The rule also includes grace periods and flexibility for program changes and extensions of stay to accommodate nonimmigrants facing extenuating circumstances, while also allowing extensions of stay for compelling academic or medical reasons or circumstances beyond the student's control. These various provisions ensure that the rule is applied fairly and equitably.

In addition, DHS does not believe that this rule raises an equal protection issue, nor that it targets Chinese nationals or any other particular groups. Indeed, section 101(a)(15)(I) of the INA establishing the I nonimmigrant classification for representatives of foreign information media requires that such a visa or status be provided "upon a basis of reciprocity." Further, section 214(a)(1) of the INA provides the Secretary of Homeland Security (Secretary) broad authority to administer and enforce the immigration and naturalization laws of the United States and prescribe regulations specifying the period of admission, as well as any conditions, for the admission of nonimmigrants to the

²⁶² See *Heller v. Doe*, 509 U.S. 312, 319 (1993) (holding that "a classification neither involving fundamental rights nor proceeding along suspect lines is accorded a strong presumption of validity"); *DeSousa v. Reno*, 190 F.3d 175, 184 (3d Cir. 1999) ("[D]isparate treatment of different groups of aliens triggers only rational basis review under equal protection doctrine. Under this minimal standard of review, a classification is accorded 'a strong presumption of validity' and the government has no obligation to produce evidence to sustain its rationality." (internal citations omitted)).

United States. *See* INA sec. 103(a)(1), 214(a)(1). Given the Secretary's authority to promulgate rules specifying the periods of admission and the statutory requirement to take into account reciprocity for the I nonimmigrant classification, this rule establishes a fixed period of up to 90-days, with the possibility of additional 90-days upon filing EOS applications. *See* new 8 CFR 214.2(i)(3)(ii), (5)(iii). While reciprocity is one factor that the Secretary takes into account for establishing the admission period for I nonimmigrants, the Secretary may also consider additional factors including, input from the DoS, and such other factors as may affect the U.S. interest.

f. Human Rights

Comments: Some commenters raised human rights concerns, arguing that the rule is contrary to the Universal Declaration of Human Rights (UDHR); including Articles 13, 19, and 26; and undermines fairness and respect for human dignity. One commenter said the rule impedes equal access to higher education by creating administrative and financial barriers for foreign students, referencing UDHR Article 26 as recognizing education as a human right. The commenters also said UDHR Article 13 guarantees the right to freedom of movement, which the commenter said is curtailed by repeated extensions by students and scholars under the threat of status termination. Other commenters referenced UDHR Article 19, which guarantees the right "to seek, receive and impart information . . . regardless of frontiers." Commenters stated the rule undermines compliance for I-visa holders.

A commenter also expressed concern that the proposed rule violates the United States' commitments as a party to the International Covenant on Civil and Political Rights (ICCPR), stating arbitrary limits on internal media representatives violates the commitment in ICCPR Article 19, which protects freedom of expression and the right "to seek, receive and impart information and ideas of all kinds."

Commenters remarked that previous court cases including *Medellín v. Texas* and *Murray v. Schooner Charming Betsy* affirm that the United States is obligated to uphold ratified treaties, or at a minimum, interpret statutes consistently with international law to avoid conflicts.

Response: DHS recognizes the importance of human rights and international treaty obligations, including Articles 13, 19, and 26 of the UDHR and Article 19 of ICCPR. DHS does not intend to undermine these

commitments. The rule is designed to ensure the integrity of the F, J, and I nonimmigrant programs and national security while also supporting education, the free flow of information, and cultural exchange. DHS believes the rule is consistent with U.S. law and international obligations, as it does not prohibit access to education, freedom of movement, or freedom of expression for qualified applicants. The rule continues to provide opportunities for foreign students and media representatives to study, work, and share information in the United States, subject to statutory and regulatory requirements.

g. Additional Legal Concerns Related to F-Visas and Students

Comments: Several commenters said that the proposed rule undermines the statutory and regulatory scheme related to F-Visas. A commenter explained that 8 U.S.C. 1101(a)(15)(F)(i), requires an foreign student be "qualified to pursue a full course of study" and enter the country "solely for the purpose of pursuing such a course of study" at a qualifying college, university, or other academic institution indicating that Congressional intent is for students to complete their academic programs rather than be subject to external time limitations. A commenter also referenced the INA's instruction that schools should report termination of enrollment, reasoning this supports the argument that F visa admissions should be governed by participation in academic programs rather than external time constraints. A commenter asserted that the administrative burdens the proposed rule would place on students and schools attempting to fulfill course of study requirements would be counter to the intent of the INA to support academic exchange.

Commenters raised concerns about academic program changes stating the INA does not restrict students from pursuing multiple degrees at the same level and that categorical prohibitions on graduate program changes, first-year transfers, and same- or lower-level study bear little relation to the discrete fraud risks, will harm students, and exceeds the statutory authority. Several commenters mentioned the Higher Education Act of 1965, as amended (20 U.S.C. 1001 *et seq.*) and it was stated that there is a broad Congressional policy of promoting access to higher education and nothing suggests that access to another degree should be denied to qualified students simply because they already hold a master's degree. Commenters recommended a narrower approach to prohibit

duplicative or substantially similar degrees at the same level.

Several commenters expressed concerns about interference with constitutionally protected interests, including academic freedom, educational rights to pursue higher education without government interference, association rights to maintain family relationships, and the right to economic freedom to complete educational and employment programs. Supreme Court cases, such as *Sweezy v. New Hampshire*, 354 U.S. 234 (1957), and *Keyishian v. Board of Regents*, 385 U.S. 589 (1967), were referenced. Commenters emphasized that universities possess constitutional rights to determine academic program structures and student progression requirements and suggested that federal restrictions on program flexibility interfere with institutional academic freedom and are government overreach. A commenter also noted that graduate research involves constitutionally protected expression, and restrictions on program changes may force students to abandon research projects. Another commenter stated the proposed rule is against the constitutional principles that the U.S. was founded on including the freedom to seek knowledge.

Several commenters noted that the rule could conflict with Title VI of the Civil Rights Act which prohibits nationality-based discrimination in federally funded programs, as it treats nonimmigrants as "potential fraudsters" and U.S. citizens as "legitimate learners." Several commenters stated the proposed rule is not tied to a narrowly tailored legitimate government interest and therefore is discrimination based on national origin including restricting academic freedoms of F-1 students compared to their U.S. counterparts.

A commenter asserted that DHS might be required to consult with the Department of Education (ED) and expressed concern that the rulemaking process did not show evidence of consultation, including regarding curricular calendars. The commenter further questioned whether the rulemaking process included coordination with State and local agencies, referencing 6 U.S.C. 112 (c)(1) (2024).

A commenter expressed that visa restrictions and uncertainty created by the proposed rule would conflict with the U.S. policy affirmed in the 2021 Joint Statement of Principles by the DoS and Education of encouraging foreign students and undermine longstanding policy goals to streamline immigration compliance.

Response: DHS appreciates the wide range of comments regarding the statutory, regulatory, and policy implications of the proposed rule related to F-visas. DHS recognizes commenters' concern about Congressional intent under 8 U.S.C. 1101(a)(15)(F)(i), including the expectation that foreign students be able to complete their academic programs, and the role of institutional reporting in maintaining compliance. DHS reiterates that the rule does not prohibit a nonimmigrant student from finishing a course of study or create an external time constraint for completing a program; rather, it provides clarification on the parameters for maintaining status and provides mechanisms for extensions of stay for students who require additional time to complete their programs.

DHS recognizes the concerns about administrative burdens imposed on students and schools, believing that these burdens are counter to the intent of the INA to support academic exchange. DHS reiterates that this rule is designed to align F, J, and I nonimmigrant classifications with other nonimmigrant categories that are admitted for fixed periods, while still providing opportunities for extensions and continued study where warranted. DHS will provide guidance to institutions and students to support compliance and minimize disruption.

DHS also appreciates commenters' concerns regarding academic program changes and the ability of students to pursue multiple degrees at the same educational level. DHS recognizes that the INA does not explicitly prohibit students from enrolling in more than one degree program at the same level, and that the Higher Education Act reflects a broad Congressional policy of promoting access to higher education. In developing this rule, DHS sought to balance the need for program integrity and fraud prevention with the importance of academic flexibility and opportunity. DHS determined that certain limitations on repeated or duplicative degree programs are necessary to deter abuse of the nonimmigrant student visa process, while ensuring that qualified students can continue to pursue legitimate academic goals. The rule is not intended to deny access to higher education for qualified students, but rather to prevent misuse of student status for purposes unrelated to bona fide study.

DHS appreciates commenters' concerns regarding academic freedom, association, and economic rights, and notes the Supreme Court cases referenced. DHS respectfully disagrees

that the rule violates constitutional principles or interferes with academic freedom. Recognizing the role of educational institutions as an integral part of the Federal Government's national security responsibility of monitoring foreign students studying in the United States, Congress authorized DHS to regulate and oversee educational institutions certified by SEVP to enroll nonimmigrant students.²⁶³ Further, 8 U.S.C. 1184(a)(1) provides broad discretion to DHS over time and condition requirements for nonimmigrant students. SEVP certified schools, their programs of study, and nonimmigrant students, have long been subject to administrative requirements based on these Congressional mandates. DHS believes the rule's changes impacting programs of study and nonimmigrant student transfers are consistent with this statutory authority and in line with the existing administrative burden on nonimmigrant students and SEVP certified schools. The rule does not dictate academic program content or structure, nor does it restrict universities' ability to determine academic programs or students' pursuit of knowledge. Additionally, the rule does not interfere with a right to maintain family relationships, as family members are free to maintain their relationships with F, J, and I nonimmigrants, regardless of their status.

DHS acknowledges the comment on Title VI of the Civil Rights Act's prohibition on discrimination applies to recipients of federal funds. However, that prohibition against discrimination does not prevent DHS from setting out these eligibility requirements for F, J, and I nonimmigrant visas, which (1) apply uniformly to all nonimmigrants in F, J, and I status, without regard to gender, religion, socioeconomic status, or cultural background; and (2) are intended to eliminate fraud, abuse and noncompliance with INA 101(a)(15)(F)(i). DHS believes that any Title VI challenges would be restricted to universities. It is incumbent upon the universities to address non-discrimination during their enrollment process and abide by the requirements as laid out in Title VI.

The commenter cited 8 U.S.C. 1101(a)(15)(F)(1) for the requirement to consult with the ED. The requirement to consult with the ED under 8 U.S.C. 1101(a)(15)(F)(1) relates to consultation about whether to approve an institution of higher education; however, DHS did consult with the ED prior to the publication of the NPRM and the final

rule. Additionally, 6 U.S.C. 112(c)(1)'s requirement to coordinate with State and local agencies through DHS's Office of State and Local Coordination does not apply to rulemaking affecting the SEVP program.

DHS disagrees with the comment that the final rule would be in conflict with the 2021 Joint Statement of Principles. While DHS was not a party to the Joint Statement to DoS and ED, the Joint Statement is merely aspirational and not binding legal authority. The Joint Statement states, "We propose the following principles to guide our approach to international education," and includes a series of aspirational principles to guide the DoS and ED in their approach to international education. Additionally, the Joint Statement is not in conflict with this final rule as this final rule adds clarity and parameters for nonimmigrant students. This final rule also aligns with the President's Executive orders on immigration and national security. *See, e.g.,* E.O. 14161, Protecting the United States from Foreign Terrorists and Other National Security and Public Threats (Jan. 20, 2025). This rule creates certainty setting a fixed period of entry and lowers opportunities for fraud and abuse thereby ensuring that the classifications are used for the purpose it was intended by Congress.

DHS has outlined its legal authority for proceeding with this final rule within the NPRM and throughout this final rule, including in the comment responses included above under "Proposed Rule Exceeds Statutory Authority and Congressional Intent." DHS has carefully considered the statutory, regulatory, constitutional, and policy issues raised by commenters and has sought to ensure that the final rule supports program integrity, compliance, the continued success of foreign students and academic institutions in the United States.

h. Additional Legal Concerns Related to J-Visas and Exchange Visitors

Comments: Commenters raised concerns about DHS potentially overstepping into DoS territory regarding the J-1 Exchange Visitor Program. A commenter questioned why DHS was creating burdensome regulations for a DoS-administered program, suggesting this would increase bureaucracy, create inefficiencies, and convey hostility toward exchange visitors, undermining the program's purpose. The commenter stated that individual program objectives should not be arbitrarily cut by 20 percent without clear and compelling justification and represented an

²⁶³ See 8 U.S.C. 1372 and 1762.

unnecessary encroachment into DoS jurisdiction. Commenters suggested the proposed rule might violate international treaties and agreements, including the Fulbright-Hays Act, as J-1 exchange restrictions could undermine the statutory purposes of promoting international educational exchange. Other commenters wrote that the proposed restrictions on J-1 visitors would impact U.S. interests and undermine immigration policy goals. They emphasized that the proposed J-1 restrictions would jeopardize intellectual exchange that fuels innovation and strengthens diplomatic ties.

Response: DHS appreciates commenters concerns about J visas. DHS outlined the rationale for amending regulations for the J-1 Exchange Visitor Program within the NPRM. This includes providing better oversight and accountability, preventing fraud and abuse, obtaining alignment with other nonimmigrant categories, national security, program integrity, and obtaining clarity about the authorized period of stay and process for requesting additional time, reducing confusion and administrative burden.

DoS is responsible for the designation, oversight, and management of the J-1 Exchange Visitor Program. DoS sets the program objectives, approves sponsors, and establishes requirements for participation, including the issuance of Form DS-2019. While DoS manages the program content and sponsor relationship, DHS is responsible for admitting J-1 nonimmigrants, setting the conditions of their stay, and adjudicating requests for extensions or change of status. DHS's authority to set admission periods and conditions is found in INA 214(a) (8 U.S.C. 1184(a)), which grants DHS discretion over time and conditions of admission for all nonimmigrants. DHS coordinates with DoS to ensure program integrity and compliance.

DHS notes that the proposed rule does not alter the DoS' authority to designate and oversee exchange visitor programs, nor does it change the eligibility criteria or program objectives established under the Fulbright-Hays Act or related agreements. The rule is intended to enhance oversight and program integrity by establishing clear admission periods and procedures for extensions of stay, consistent with DHS's statutory authority under the INA.

DHS has carefully considered the statutory and policy objectives of international exchange programs in drafting the final rule and believes the changes are consistent with U.S. obligations and commitments. DHS

remains committed to supporting international educational exchange and will continue to coordinate with the DoS to ensure the continued success of the J-1 Exchange Visitor Program.

i. Additional Legal Concerns Related to I-Visas and Foreign Information Media

Comments: Many commenters expressed opposition to the proposed rule based on constitutional concerns including First Amendment protections for freedom of speech and press. They argued that the changes could lead to censorship, viewpoint discrimination, denied visas based on retaliatory grounds, self-censorship, and a chilling effect on speech—practices previously struck down by the courts. Commenters cited several Supreme Court cases, including *Near v. Minnesota*, 283 U.S. 697 (1931), *New York Times Co. v. United States*, 403 U.S. 713 (1971), *Miami Herald v. Tornillo*, 418 U.S. 241 (1974), and *Branzburg v. Hayes*, 408 U.S. 665, 707–08 (1972) to support their position that the rule would conflict with established protections against government regulation of press content and source confidentiality.

Commenters expressed concern that granting broad discretion to immigration officers without clear standards could normalize content-based evaluations, chilling investigative reporting and limiting critical coverage. Another commenter stated that by forcing foreign journalists to reapply frequently to extend an I nonimmigrant's stay, the proposed rule creates serious risks that visas could be denied in retaliation for unfavorable reporting, thereby placing government officials in a position to punish journalists for exercising their First Amendment rights. Commenters urged DHS to adopt safeguards to protect journalistic independence, fairness, and constitutional principles. This includes eliminating content-based review requirements, promptly expunging information gained about an applicant's reporting, providing protections for source confidentiality, offering a transparent appeals process, and the right to continue work during an appeal, and providing safeguards respecting press freedom principles.

One commenter expressed concerns that the proposed rule is an unconstitutional attempt to chill research, academic freedom, and social media engagement. Commenters stated that the proposed reduction of I visa durations and increased bureaucratic hurdles improperly expand federal oversight over the work of foreign journalists and are threats to cultural exchange, understanding U.S. society, and the depth of reporting on American

life and research. Commenters also noted that these changes could violate treaty obligations that encourage education and journalistic mobility. Commenters cautioned that the rule could damage the United States' global reputation as a defender of press freedom, reduce public access to independent international journalism, undermine transparency in elections, and shrink the diversity of viewpoints.

Others noted that the rule could disproportionately harm independent journalists from repressive countries, who may not have a formal relationship with their country's media and face repression.

One commenter suggested that the proposed rule would impact freedom of association rights protected by the National Labor Relations Act under 29 U.S.C. 157.

Commenters expressed that foreign journalists could also face issues surrounding the First Amendment. While referencing a law review article,²⁶⁴ one commenter stated that in the past, the Supreme Court had allowed the Federal Government to “target immigrants for deportation based on political activities because of their immigration status.” Furthermore, in looking to *Citizens United v. FEC*, 558 U.S. 310 (2010), the commenter noted how the First Amendment can be curtailed based on an individual's identity, and that, while there are decisions that protect immigrant's freedom of speech, it is unclear if this might be changed in the future.

Response: DHS acknowledges that First Amendment rights apply to aliens lawfully in the United States.²⁶⁵ DHS appreciates the commenters' concerns and takes seriously the First Amendment concerns surrounding any review of journalistic information. DHS does not intend for the rule to chill speech, encourage censorship, or result in viewpoint discrimination. As described in the proposed rule and consistent with current practice, DHS will review content solely to confirm that the foreign information media representative is engaging in bona fide journalism as required under 8 U.S.C. 1101(a)(15)(I). This review is not intended to assess the substance, viewpoint, or subject matter of the reporting, but rather to distinguish journalistic work, as required under the INA for this category from

²⁶⁴ The commenter referenced Kagan, M., *When Immigrants Speak: The Precarious Status of Non-Citizen Speech under the First Amendment*, 57 Boston College Law Review 1237 (2016).

²⁶⁵ See generally *Kwong Hai Chew v. Colding*, 344 U.S. 590, 596 n.5 (1953) (quoting *Bridges v. Wixon*, 326 U.S. 161 (1945)).

entertainment or promotional activities. Since these standards are already applied throughout the Federal Government, DHS does not anticipate that the changes in this rule will represent a significant departure from current processing and therefore does not believe the rule will hinder the free expression of First Amendment rights.

DHS immigration officers are trained to adjudicate EOS applications in accordance with policy, regulations, and applicable law. Officers do not have unfettered discretion to deny applications arbitrarily or in retaliation for unfavorable reporting. Assertions that the rule would permit punitive denials are speculative and unfounded.

DHS appreciates commenters' recommendations for additional safeguards. The rule does not impose content-based review requirements beyond what is necessary to confirm journalistic status, and it is not intended to restrict academic or research endeavors, nor is it intended to chill academic freedom or social media engagement. Protections for source confidentiality remain in place, consistent with Supreme Court precedent. While appeals are not available for Form I-539 denials, applicants may file motions to reopen or reconsider, and denial notices will continue to provide specific reasons for denial, except for classified information, as required by regulation.

DHS notes that an alien seeking I classification must demonstrate that he or she has foreign information media assignments, projects, and work to continue staying in the United States, and DHS believes that the 240-day period is not only sufficient to cover most assignments²⁶⁶ but is also an appropriate interval for the U.S. government to ensure that the alien remains eligible as an I nonimmigrant. DHS acknowledges the suggestion to distinguish between short-term event-based journalists and bureau correspondence regarding admission periods but declines to adopt different standards for different types of I visa holders. The rule does not limit the number of extension requests and thus EOS requests may be pursued by those I nonimmigrants who want additional time in the United States for their I visa activities.

DHS also appreciates and acknowledges concerns about the impact to independent journalists, the global reputation of the United States as a defender of press freedom, the importance of international journalism, and the importance of diverse

viewpoints. DHS remains committed to supporting transparency and the free flow of information and does not anticipate the rule to negatively impact these values.

DHS has considered comments regarding freedom of association under the National Labor Relations Act. The rule does not alter or restrict the rights of nonimmigrants to associate for lawful purposes. DHS is aware of the legal precedents cited by commenters and will continue to ensure that all actions are consistent with Supreme Court decisions and applicable law.

j. Support for Proposed Rule and Alignment With Statutory Intent

Comments: Several commenters stated that the D/S framework undermines Congress's intent in enacting the 3- and 10-year bars to admission found in INA secs. 212(a)(9)(B)(i) and (C)(i)(I), reasoning that D/S makes it difficult for DHS to determine when unlawful presence begins, and frustrating the enforcement of these statutory bars. Another commenter noted that the proposed rule redefines the accrual of unlawful presence. A commenter wrote that admitted nonimmigrant students generally do not file paperwork with USCIS and thus only begin accruing unlawful presence when detected, referencing backlog statistics of almost 3.8 million cases and extended waits in immigration courts nationwide. The commenter concluded that Congress intended a "bright-line" system in which unlawful presence starts when the authorized stay ends, and that D/S does not align with this intent and expressed support for repealing D/S regulations.

Response: DHS appreciates the support for eliminating D/S and acknowledges commenter's concern that a D/S framework makes it difficult for DHS to determine when unlawful presence begins in certain circumstances. Nonimmigrants admitted for D/S generally do not accrue unlawful presence as provided under INA 212(a)(9)(B) and (C), 8 U.S.C. 1182(a)(9)(B) and (C), unless there is a finding by an immigration officer that the nonimmigrant violated their status in the course of adjudicating an immigration benefit, or when an immigration judge orders the nonimmigrant, excluded, deported, or removed.²⁶⁷ Since nonimmigrant students are currently admitted for D/S, they generally do not file with USCIS subsequent applications or petitions such as an EOS and, therefore,

immigration officers do not generally have the opportunity to determine whether the nonimmigrant student has violated their status. Further, even if DHS has supporting documents demonstrating a violation of status and issues a Notice to Appear to the nonimmigrant student, it can take months or years before his or her case is heard by an immigration judge and a decision is made on whether there is a violation of status, which at that point unlawful presence begins to accrue.²⁶⁸ With the transition from the D/S framework to a fixed period, once a period of authorized stay is finished, unlawful presence begins to accrue similar to other nonimmigrant categories. Accordingly, the rule places nonimmigrants subject to the rule on equal footing with other categories of nonimmigrant aliens whose cases are reviewed for compliance, rather than giving them an unwarranted advantage.

3. Severability

Comments: Commenters expressed concern with the inclusion of a severability clause. For example, commenters remarked that severability could result in incoherent or partially adapted provisions, reasoning that many of the proposed rule's provisions are interconnected. A commenter stated that the inclusion of a severability clause "signals the rule's overreach" across various sectors such as education, research, healthcare, culture, and media. The commenter noted that narrow problems like enhanced SEVIS analytics, risk-based reviews, and reuse of existing biometrics, could be addressed with targeted fixes, as opposed to a sweeping overhaul, to avert heavy costs. Commenters said that fragmentary implementation could cause confusion for students, schools, and DHS officers, suggesting any future revisions be republished as a unified package and put out for notice and comment. Additionally, a commenter said that adoption of severed provisions could cause compliance issues.

Response: DHS acknowledges the commenters' concerns regarding the inclusion of a severability clause in the proposed rule. The purpose of the severability clause is to ensure that, in the event a specific provision of the rule is invalidated or otherwise unenforceable due to legal challenge, the remaining provisions can continue to operate independently to the extent possible. This approach is consistent

²⁶⁶ DHS data, *supra* note 174.

²⁶⁷ See USCIS Memorandum, *supra* note 72.

²⁶⁸ See Executive Office For Immigration Review, *Adjudication Statistics* (July 31, 2025), <https://www.justice.gov/eoir/media/1344791/dl?inline> (indicating 3,797,662 pending cases as of the third quarter in 2025).

with standard rulemaking practices and is intended to preserve the functionality of the rule while minimizing disruption. DHS disagrees that compliance issues or confusion will result from the inclusion of a severability clause. In fact, the severability clause protects from significant changes to the regulation in the event a provision is rendered inoperable. DHS intends for the provisions of each new regulatory amendment to function sensibly independent of other provisions. The provisions finalized in this rule are intended to enhance program integrity and compliance, consistent with DHS's statutory authority and practices for other nonimmigrant categories. Although the provisions collectively will strengthen the overall integrity of the exchange visitor program and provide clearer compliance requirements, they each operate independently to serve this purpose as well. For example, the requirement for nonimmigrant aliens to file an EOS after the end of an approved course of study is independent from the prohibition on F-1 students at the graduate level from changing educational objectives. Similarly, providing F-1 students 30 days to depart is independent from the restriction against any F-1 student who has completed a program at one educational level from participating in a program at the same or lower educational level. To protect DHS's goals for this rule, DHS added regulatory text stating that the provisions be severable so that, if necessary, the regulations may continue to function even if a provision is rendered inoperable. Future revisions to the regulations which require notice and comment rulemaking will be published in the **Federal Register**.

4. Privacy Concerns

Comment: A commenter indicated that the proposed rule raises significant privacy and civil liberties concerns. The commenter explained that frequent re-vetting and more frequent submissions of personal, academic, medical, and financial data expand the volume of sensitive information collected and retained by government systems. Without strict limits on collection, use, retention, and sharing, the commenter warned about the increase in risks of misuse, data breaches, and "mission creep"—normalizing intrusive monitoring tied to immigration status rather than tailoring oversight to demonstrable risk.

Response: DHS appreciates the commenter's concerns regarding privacy and civil liberties. As with most other nonimmigrant visa categories that

require EOS, DHS is committed to protecting the privacy and civil liberties of individuals whose information is collected and maintained. All information collected under this rule will be handled in accordance with applicable federal privacy laws, including the Privacy Act of 1974, and DHS policies governing the collection, use, retention, and sharing of personally identifiable information (PII).²⁶⁹

Oversight mechanisms are in place to prevent misuse and unauthorized access. DHS implements strict safeguards to limit access to sensitive data, minimize the volume of information collected to what is necessary for the stated purpose, and ensure that information is retained only as long as required by law and mission need. DHS also conducts regular Privacy Impact Assessments (PIAs) and System of Records Notices (SORNs) to evaluate and mitigate risks associated with data collection and retention.²⁷⁰ DHS limits monitoring and vetting activities to those individuals and circumstances where there is a legal requirement or need, in compliance with applicable regulations and statutes, such as the biometrics requirements under this rule. DHS continually reviews its processes to ensure that oversight is tailored and proportionate, and that privacy and civil liberties are protected.

Q. Regulatory Impact Analysis (RIA) (E.O. 12866, 13563)

1. Methodology

Comments: Commenters expressed significant concerns about the Regulatory Impact Analysis (RIA) methodology, arguing that DHS substantially underestimated the proposed rule's economic impact and failed to adequately disclose true costs. One commenter wrote that the analysis relied heavily on speculative qualitative assessments rather than concrete data, potentially rendering the rule non-compliant with Executive Orders 12866 and 13563. Multiple commenters stated that the RIA quantified only a limited portion of costs while excluding major categories, such as administrative burdens on educational institutions, opportunity costs from reallocating DHS personnel, and long-term reputational harm to U.S. higher education.

Response: DHS acknowledges that not all costs of the rule are quantified in the

regulatory impact analysis. According to Circular A-4 guidance on regulatory impact analyses, when a regulation's impact is difficult to quantify, economists are required to complete the analysis by describing these impacts qualitatively.²⁷¹ Therefore, for costs of this rule which DHS is unable to effectively quantify, DHS elects to describe these impacts qualitatively.

DHS requested comments and data on the quantified burdens in the NPRM. Based on public comments, DHS's added additional time burdens to the RIA. For example, DHS included additional advising time burdens during the transition period. To the extent possible, DHS incorporated burdens into the quantified cost estimates.

Comments: Multiple commenters highlighted broader economic consequences, beyond those acknowledged in the analysis, including reduced foreign student enrollment, lost tuition revenue, decreased consumer spending, and diminished tax income. The commenters also highlighted concerns about downstream impacts such as labor market disruptions, reduced access for underrepresented students, innovation decline, and damage to U.S. higher education competitiveness. One commenter stressed the need for an assessment of impacts on the highly skilled workforce, including in critical sectors such as AI, energy, life sciences, and healthcare.

Response: DHS acknowledges the economic contribution of foreign students and exchange visitors through tuition and regional spending, as well as contributions to research, innovation, and teaching. DHS anticipates the economic benefits to municipalities, educational institutions, and firms whose businesses rely on foreign students and exchange visitors to continue. DHS acknowledges that the rule may adversely affect U.S. competitiveness in the international market for nonimmigrant students and exchange visitors by imposing an additional burden on foreign students and exchange visitors who need to file EOS requests. However, DHS expects the quality of U.S. education systems to remain high and international demand for U.S. education to continue.

Any reduction in enrollment has the potential to reduce the economic benefits that foreign students and exchange visitors offer, and to potentially disrupt labor markets that rely on foreign students and exchange

²⁶⁹ See, e.g., ICE, *DHS/ICE/PIA-001 Student and Exchange Visitor Program (SEVP)* (last updated Nov. 30, 2023), <https://www.dhs.gov/publication/dhsicepia-001-student-exchange-visitor-information-system-sevis>.

²⁷⁰ See ICE, Office of Information Governance and Privacy, <https://www.ice.gov/management-administration/privacy> (last visited Feb. 20, 2026).

²⁷¹ OMB, *Circular A-4: Methods for Treating Non-Monetized Benefits and Costs* (Sept. 17, 2003), https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/.

visitor labor. DHS expects the United States to remain a popular, competitive, and attractive place for foreign students and exchange visitors to pursue their program of interest. Accordingly, DHS does not intend for the rule to impact the quality of educational experience offered in the United States. DHS has decided to discuss this impact qualitatively due to the speculative nature of the magnitude of the decrease in enrollment and any associated reduction in revenue.

Additionally, DHS notes that the F, J, and I visa categories are not intended to address U.S. labor markets for the high skilled workforce. This rule does not impact the H-1B or O-1 visa categories.

Comments: One commenter stated that DHS significantly underestimated the number of students who would require extensions under the proposed rule. The commenter referenced their own institution's data showing that on average 71 percent of graduating seniors either apply for OPT or request transfers to graduate programs and stated that these figures are far higher than DHS's estimate that only 13 percent of F-1 students would be affected. Commenters also critiqued incorrect DHS assumptions regarding J-1 exchange visitors, explaining that program sponsors routinely issue DS-2019s for only a year at a time based on annual reappointment cycles, rather than for the maximum period allowed. The commenters stated this practice follows regulatory requirements that J-1 sponsors only issue DS-2019s for the length of exchange activity and duration of adequate funding, which often align with annual appointment cycles.

Another commenter criticized DHS's reliance on outdated data, noting that the analysis used SEVP data from 2016 to 2018, which they considered too old to project future impacts accurately.

Response: DHS acknowledges that the NPRM utilized data from 2016 through 2018. The Regulatory Impact Analysis has been updated to include data from 2016, 2018, 2020, 2022, 2023 and 2024 to provide a more accurate model of the number of EOS requests. The annualized cost estimates from the NPRM to the final rule increased from \$390.3 to \$443.1 million when discounted at 3 percent, and \$392.4 to \$448.6 million when discounted at 7 percent.

The regulatory impact analysis shows 1,470,059 F-1 students may be affected by this rule. This number is a 3-year average from 2022–2024, and DHS acknowledges that some schools may be more affected than others by this rule.

DHS recognizes that J-1 program sponsors issue DS-2019s for only a year

at a time for certain programs. DHS will provide guidance to officers admitting J-1 nonimmigrants to refer to Box 4 on their DS-2019 in order to get the full program length, up to four years, for the admitted non-immigrant's I-94, which will reduce the need for the annual reappointment cycle that the commenter cites. This allows categories with longer programs (extending beyond 4 years), such as alien physicians, professors, or research scholars, to only require an EOS after the initial 4 years, and other categories to only require an EOS when needed as discussed in this rule. This will limit the number of EOS requests from J-1 nonimmigrants while still providing the necessary oversight the rule seeks to provide. This change was applied to the RIA estimate of the number of EOS requests for J nonimmigrants.

Comments: Many commenters recommended that DHS conduct a comprehensive impact analysis before finalizing the proposed rule. They emphasized the need to fully assess operational, economic, opportunity, and equity implications, stressing that any future rulemaking should include a robust cost-benefit analysis comparing multiple regulatory alternatives and involve meaningful consultation with affected economic sectors.

Response: DHS conducted a regulatory impact analysis to fully consider the potential impacts of the final rule in accordance with Circular A-4 best practices.²⁷² In this RIA, DHS considered the impacts of the rule on affected parties, including F, J, and I nonimmigrants, DSOs and ROs, and government agencies such as DHS and DoS. DHS also considered a variety of alternatives to the rule, as explained in the published NPRM, but concluded that eliminating the D/S framework and switching to fixed time periods for F, J, and I nonimmigrants was ultimately the most effective method of addressing intertwined national security, fraud, and overstay concerns.

2. Costs

a. General Comments on Costs Considered

Comments: Commenters stated that the proposed rule would be costly, citing DHS's own estimate of annualized costs ranging from \$390.3 million to \$392.4 million, affecting both U.S. and non-U.S. parties. Commenters wrote that U.S. parties would face between \$86.3 million and \$88.1 million yearly, with the vast majority attributed to DSOs and AROs. A few commenters

pointed out that DSOs would have to undergo additional training and adaptation to familiarize themselves with the new regulations, and that this compliance cost is estimated to reach \$93.3 million across the sector in year one, according to NAFSA.²⁷³ Commenters challenged DHS's cost estimates as substantially understated, with some offering alternative calculations. One commenter estimated annual costs between \$7.4 billion and \$12.4 billion, including \$2.3 billion in direct costs, and up to \$10 billion in lost economic activity from reduced student enrollment. Another commenter cited projections from an economist and the Institute for Progress suggesting the elimination of D/S could cost the United States between \$72 billion and \$145 billion over 10 years, significantly higher than DHS's estimate of \$3.3 billion.

Commenters expressed concerns about the financial impact of the proposed rule on educational institutions, arguing that DHS's implementation cost estimates were too low. Community colleges, 2+2 transfer programs, and smaller colleges in rural areas were identified as particularly vulnerable. Commenters warned English language schools could see severe impacts, including revenue decreases and potential closures. One commenter estimated that the loss of students deterred by the EOS requirement would cost their English language learning program \$1 million annually. Commenters also warned of broader economic consequences, including reduced U.S. competitiveness and negative impacts on local economies.

Response: DHS has updated its regulatory impact analysis to use data from 2016, 2018, 2020, 2022, 2023 and 2024, and finds annualized costs of \$443.1 million to \$448.6 million when discounted at 3 and 7 percent respectively. These updated cost figures result from data updates and updating the EOS cost model for event specific data, changes in burden estimates for rule familiarization, and new guidance on the adjudication of for DS-2019 for J visa holders. DHS disagrees with the larger impacts proposed, as they assume large enrollment impacts as a result of the rule. It is unknown how many current students will choose not to continue their enrollment at a U.S. educational institution. This rule's main regulatory burden to nonimmigrants is to fill out an EOS request and pay a small fee, relative to the overall cost of attendance, but the rule will allow them

²⁷³ Commenters referenced *Duration of Status Explainer*, see *supra* note 136.

²⁷² *Id.*

to continue with their educational activities in the country upon completion of this requirement and continued compliance with the terms of the nonimmigrant's visa. While some foreign students may choose not to enroll as a result of this rule, DHS expects that U.S. educational institutions will continue to attract other students who are not dissuaded by the requirements of this rule due to the high quality and opportunities at these institutions. U.S. universities and colleges may be able to fill any vacancies left by foreign students who choose not to enroll with other qualified applicants, whether from other countries or domestically, which could reduce the overall impact on enrollment numbers. DHS is unable to quantify enrollment impacts due to uncertainty factors (see Appendix A in the Regulatory Impact Analysis) as a result of the increase in quantified costs due to this rule.

Comments: A commenter recommended that DHS study the projected private sector economic impacts and provide additional research on the alleged security threats posed by overstays. Multiple commenters recommended that DHS reperform its cost-benefit analysis to reflect the larger scale impacts that the proposed rule fails to recognize.

Response: In the regulatory impact analysis for this rule, DHS does consider the larger scale impacts of this rule, including its impacts on the private sector. DHS understands that the elimination of D/S has the potential to reduce nonimmigrant student enrollment and participation of exchange visitor and foreign media representatives due to additional costs and other burdens associated with extensions of the admission period. However, DHS does not intend for this rule to cause substantial reductions in student enrollment, as DHS maintains that there are a wide range of benefits from pursuing an academic program in the United States that may outweigh the impacts from the admission for a fixed period. Additionally, nonimmigrants, if needed, can extend their stay if they meet the EOS eligibility requirements. This rule does not prevent nonimmigrants from filing an EOS request. Because DHS does not expect substantial reductions in student enrollment, DHS does not expect this rule to have major downstream impacts on the municipalities, educational institutions, and firms whose businesses rely on foreign students, foreign media representatives, and exchange visitors.

DHS acknowledges that not all costs of the rule are quantified in the

regulatory impact analysis and there is uncertainty regarding enrollment impacts. According to Circular A–4 guidance on regulatory impact analyses, when a regulation's impact is difficult to quantify, economists are required to complete the analysis by describing these impacts qualitatively. Therefore, for costs of this rule which DHS is unable to effectively quantify, such as the potential burden for DHS and nonimmigrants associated with government requests for additional information or in-person interviews, or the potential reduction in enrollment of nonimmigrant students and exchange visitors and subsequent revenue effects on sponsoring institutions, DHS elects to describe these impacts qualitatively and describes uncertainties regarding enrollment impacts. See the Regulatory Impact Analysis, "Costs" and Appendix A of the RIA sections available in the docket for this rulemaking.

As far as studying the overstays to determine the risks they pose, the record has been clear for many years. Any nonimmigrant who overstays any class of visa is unlawfully present in the United States and presents a risk to national security. Once an F–1 visa holder completes their program and is no longer tracked by DSOs at SEVP-certified institutions, DHS no longer has accurate data on their location or activities through the SEVIS database. The United States has had several incidents in which individuals overstayed their visa and went on to commit terrorist acts, including several of the 9/11 attackers and Mohamed Soliman who violently attacked U.S. citizens in Boulder, Colorado in 2025.²⁷⁴

b. Costs to Nonimmigrants, Aliens, and Their Support Systems

(1) Costs for EOS Filings

Comments: Multiple commenters stated that the proposed rule would impose significant costs on foreign students from EOS filings (e.g., fees, biometrics). One commenter expressed concern that DHS provided little supporting data for the EOS filing costs to foreign students and exchange visitors, specifically individual cost breakdown. Another commenter stated that the expense of filing an EOS adds to an already considerable list of fees that foreign students pay to come to the United States and maintain their status,

including the SEVIS I–901 fee (\$350), nonimmigrant visa application fee (\$185), visa integrity fee (\$250), and (if applicable) fees associated with OPT and STEM OPT.

Commenters stated that, under the proposed rule, many foreign students are likely to incur costs for at least one EOS application, with many needing to file multiple EOS applications due to changes in academic level or participation in OPT. One of these commenters referenced a common educational path, Bachelor's degree, OPT, Master's degree, OPT, and STEM OPT, which would require four separate EOS filings with USCIS and an approximate cost of \$1,680.

Response: DHS acknowledges that EOS filings will incur costs to nonimmigrants. Table 16, Applicant Unit Costs for Filing an EOS with USCIS of the final Regulatory Impact Analysis calculates the various costs that could be assumed for an EOS request. These costs include assistance and differences in submission type. These costs would only be incurred if the nonimmigrant files an EOS request and would not be concurrent with fees such as the Visa Application Fee.

DHS acknowledges that some nonimmigrants will incur multiple EOS requests. These costs are not expected to occur in a single instance and would be dispersed across multiple years according to the nonimmigrant's program. The Regulatory Impact Analysis does model nonimmigrants who would apply for multiple EOS requests across the 10-year timeframe, which make up the estimate for the number of EOS requests per year.

DHS expects foreign students to consider the cost of extending their status in the context of the overall cost of their program, which may include expenses such as tuition, textbooks, room and board, and discretionary expenses. Because the cost of status extension is small, relative to the overall cost of attendance, DHS does not expect this added cost to impose a significant change in burden for foreign students.

Comments: Commenters stated that the proposed rule fails to account for the costs associated with foreign students and exchange visitors obtaining legal representation. They emphasized that DSOs and ROs are not authorized to provide legal advice, meaning that many foreign students and exchange visitors would need to hire legal counsel to ensure proper completion of filings. Commenters provided alternative cost estimates for legal support when filing an EOS, ranging from \$750 to \$3,000. One of these commenters argued that the EOS filing costs could create

²⁷⁴ See *The 9/11 Commission Report*, supra note 18; see also Spagat, E., *The Associated Press, What we Know About the Visa Obtained by Egyptian Man who Injured a Dozen People in Colorado* (Jun. 4, 2025), <https://apnews.com/article/immigration-visas-soliman-colorado-attack-81f44b98365adc01b1ff418a1885a1c6>.

financial barriers to program completion, specifically referencing doctoral students, who typically earn \$30,000 annually.

Response: DHS acknowledges that nonimmigrants may require legal help in completing the EOS request. This cost is accounted for in the Regulatory Impact Analysis of the NPRM as an average cost of \$490, according to the Supporting Statement of Form I-539. As not all nonimmigrants will require legal support, this cost is only applied to 24.5 percent²⁷⁵ of the nonimmigrants expected to file an EOS request and require additional assistance.

Comments: One commenter criticized the cost analysis for the biometrics appointments required as part of the EOS process. The commenter specifically noted (1) the use of a “50 mile round-trip” without any analysis of the geographic distribution of ASCs in relation to universities (particularly for rural institutions) and (2) the assumption of universal car ownership, ignoring students who rely on public transportation, rideshare services, or who may need to arrange overnight accommodations due to the distance. These oversights, the commenter stated, result in a systematic underestimation of actual costs, which are likely to far exceed DHS’s projections. Another commenter stated that biometrics appointments pose a substantial challenge for the majority of foreign students, who frequently lack access to personal transportation.

Response: DHS disagrees that the cost analysis for the biometrics is underestimated and does not expect this burden to be a significant deterrent to most foreign students. DHS acknowledges that nonimmigrants will incur different travel costs based on location and availability of transportation; they were included in the regulatory impact analysis of the NPRM. The usage of 50 miles is an average distance and is not the same experience for all nonimmigrants. Some will incur small costs due to proximity and low-cost transportation, and others will incur higher costs. This figure is meant to provide an average per nonimmigrant but will not be the specific cost for all nonimmigrants.

(2) Obtaining an EOS at a POE

Comments: One commenter remarked that, given the financial burden and uncertainty associated with international travel, exiting and

reentering the United States at a POE would not be a viable alternative to filing Form I-539 with USCIS for extending status. The commenter also stated that F-1 and J-1 visa holders, particularly individuals holding single-entry visas, may need to obtain a new visa stamp to travel abroad and reenter the country to extend their period of admission. This may force individuals to remain outside the United States for an extended period of time and impose significant personal cost and risk.

Response: DHS acknowledges that travelling outside of the United States and re-entering may not be the preferred option for all impacted visa holders. The exact proportion of eligible nonimmigrants who will choose to re-enter through a POE is unknown, but in the regulatory impact analysis for the NPRM and Final Rule, DHS assumes that, while requesting an EOS at a POE is an option, many nonimmigrants wishing to remain in the country will file an EOS and remain in country instead of incurring costs due to travel and reentry. The regulatory impact analysis also assesses how the impacts would change if nonimmigrants sought extensions while traveling through a POE instead of filing the I-539 or I-539A form.

(3) Unquantifiable and Intangible Costs

Comments: One commenter stated that DHS does not acknowledge the unquantifiable and intangible costs associated with the uncertainty of applying for a new period of admission. These include (1) the lack of published adjudication data for Form I-539 to inform the likelihood of EOS denial under the proposed rule, (2) current processing time issues at the USCIS California Service Center, which reports an average of 4.5 months for changes to F-1 or J-1 status and 3.5 months for extensions, and (3) the inability of applicants to depart the United States after filing an EOS application for fear of abandoning the application and losing their money.

Response: DHS acknowledges that a denial of EOS may cause an interruption in a student’s studies. However, any such denial would be warranted due to an applicant’s lack of eligibility for an EOS (*i.e.*, the student is placed on academic probation or suspension, repeatedly fails classes, failed to maintain their nonimmigrant status, or has a criminal history).

DHS acknowledges backlogs in the processing of EOS applications have occurred due to various factors not related to this rulemaking. DHS believes that factors contributing to this backlog will not be present when more

significant influx of EOS applications resulting from this final rule are anticipated to be filed with USCIS. USCIS, as a fee funded agency, may set fees to support the additional workload associated with adjudication of cases subject to section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4). USCIS conducts comprehensive fee studies on a biennial basis to assess whether its fee schedule adequately accounts for the full cost of naturalization and adjudication services. This assessment necessarily takes into account the projected volume of filings and the level of effort necessary to adjudicate various immigration benefit requests.²⁷⁶ USCIS will allocate appropriate levels of resources to ensure the adjudication of EOS continues in a timely fashion. Due to the expected growth of fees paid for the I-539 form, USCIS will have more resources to allocate to meet the demand.

Students will be aware of their allowed length of stay as well as the end date for their length of stay. Students who do not wish to leave the country while filing for an EOS are able to plan their travel ahead of time based on that information.

c. Costs to the Government

(1) Costs to USCIS

Comments: Multiple commenters emphasized that the Federal Government would need substantial resources to manage the increased volume of visa renewal and immigration extension applications. One commenter stated that the proposed rule does not clearly indicate whether application fees or other revenue sources would be sufficient to offset these additional costs.

Response: DHS does not expect an unreasonable burden to USCIS, the agency responsible for Form I-539, from the adjudication of EOS requests. USCIS is a fee-funded agency and established fees for the EOS applications to support the workload associated with adjudication of cases. USCIS conducts comprehensive fee studies on a biennial

²⁷⁵ Based on Supporting Statement for Form I-539 values, 24.5 percent of F-1, J-1, and I applicants (70% paper applicants * 35% requiring outside assistance = 24.5%) will incur these costs.

²⁷⁶ USCIS published a rule to change its fee schedule. See *USCIS Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, 85 FR 46788 (Aug. 3, 2020), corrected by *USCIS Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, 85 FR 49941 (Aug. 17, 2020) (Fee Rule). The U.S. District Court for the Northern District of California has preliminarily enjoined DHS from implementing or enforcing any part of the Fee Rule. *Immigration Legal Resource Center et al., v. Wolf, et al.*, Case No. 20-cv-05883-JSW (N.D. Cal. Sept. 29, 2020). While the Fee Rule is enjoined, USCIS will continue to accept USCIS forms with the current editions and current fees and use the regulations and guidance currently in place to adjudicate applications and petitions.

basis to assess whether its fee schedule adequately accounts for the agency's full costs. Additionally, the regulatory impact analysis for this rule qualitatively assesses how USCIS requests for additional information or in-person interviews may impose additional costs on USCIS.

Comments: Multiple commenters stated that DHS failed to quantify the economic and operational impact of the proposed rule on USCIS, despite the agency potentially needing to process hundreds of thousands of additional EOS applications. Without evidence, these comments stated that USCIS currently lacks the necessary systems, staffing, training, information technology (IT) infrastructure, and integration capabilities to manage such an increase in application volume efficiently. One commenter highlighted that USCIS is already facing significant resource constraints and processing delays, particularly after the recent loss of experienced personnel due to government downsizing and added that further workload increases without adequate resources would likely strain the agency and lead to longer processing times. Another commenter recommended that DHS fully assess the potential impact of the proposed rule on application processing times across all Federal agencies, particularly those responsible for employment-based applications.

Response: DHS agrees with commenters that there will be an increase in fee-paying volumes of EOS applications received by USCIS following the effective date of the final rule as those nonimmigrants who are required to file EOS begin to do so and acknowledges this in the NPRM. However, DHS notes that the most significant increase in the volume of EOS applications will not materialize until 4 years after the effective date of this rule. This will allow time for DHS to shift resources as needed and as appropriate to ensure that the larger increased volumes are integrated into existing workflows. Several commenters noted and DHS has acknowledged backlogs in the processing of EOS applications. DHS believes that, given that 80 percent of Form I-539 adjudications for F, M, and J aliens are completed in three months,²⁷⁷ factors contributing to this backlog will not be present when the EOS applications resulting from this final rule are anticipated to be filed with USCIS. The fees collected with the increase in

applications will result in additional resources for USCIS to use to mitigate the impact on the processing queue. The funds can be used to allocate appropriate resources to ensure adjudication of the I-539 in a timely manner. This will lessen the impact on processing times for applications with USCIS.

DHS acknowledges that not all costs of the rule are quantified in the regulatory impact analysis. According to Circular A-4 guidance on regulatory impact analyses, when a regulation's impact is difficult to quantify, economists are required to complete the analysis by describing these impacts qualitatively. Therefore, for costs of this rule which DHS is unable to effectively quantify, DHS elects to describe these impacts qualitatively. These impacts include system upgrades, training and adaptation for the federal government, among others. DHS did quantify the costs of filing EOS requests on the nonimmigrant population, the educational institutions and sponsors assisting the nonimmigrants, and overall familiarization and adaptation costs. These were quantified using available data regarding population sizes, burden estimates, and wage rates.

(2) Costs to CBP

Comments: A commenter states that while DHS acknowledges that CBP will require new training, updated procedures and system upgrades, it fails to provide a cost estimate for these changes. Another commenter stated that DHS had not adequately assessed the significant impacts on CBP, including (1) training for CBP officers on new systems and procedures and (2) necessary upgrades to systems and procedures. A commenter stated that CBP training expenses for new admission procedures are standard government costs that can be calculated using established per-employee methodologies.

Response: DHS acknowledges that this rule will require efforts to update systems and train officers. However, these system updates will not incur additional costs, as the updates for SEVIS are part of regular software updates and incorporated within the budget allocations into current financial and resource allocations for SEVIS operations and maintenance. Furthermore, ADIS does not require any additional costs for new software updates as a direct result of the D/S rule. Training costs are similarly expected and incorporated within the overall training budget allocations and incur no additional cost to the U.S. taxpayer. The training for compliance

with the rule will be part of regular training and training budgets and cannot be separated as a distinct cost.

(3) Costs to DoS

Comments: Multiple commenters stated that DHS does not account for additional costs or budgets. These commenters remarked that the proposed rule would likely increase DoS responsibilities, considering the newly implemented screening and vetting procedures for F and J nonimmigrants, which now require in-person interviews for nearly all nonimmigrant visa renewal applicants. One commenter highlighted that changes to the interview waiver policy could result in an increase in visa interview volume. One other commenter recommended DHS consider the impact that the proposed rule would have on consular operations worldwide.

Response: DHS disagrees that this rule imposes additional burden on DoS which are not accounted for in the regulatory impact analysis. This rule does not increase DoS responsibilities or require changes to vetting procedures. Changes to screening and vetting procedures required by other regulatory or policy changes are not a burden of this rule and so are not assessed in the RIA.

(4) Costs to Other Federal and State Agencies

Comments: One commenter stated that the Social Security Administration and the Internal Revenue Service use Form I-94 for business purposes and would require system updates and additional employee training as a result of the proposed rule. This commenter also stated that State-level processes that rely on Federal systems, such as driver's license and state ID issuances, were not considered in the cost or impact of the rulemaking.

Response: DHS acknowledges that this rule will change the filing process of the I-94 at a POE for nonimmigrants affected by this rule. However, the I-94 form will not change, as the end date will be replaced with a hard date, no longer than 4 years after entry, instead of the D/S indicator. Agencies who use the I-94, such as the Social Security Administration, Department of Motor Vehicles, and the Internal Revenue Service, should receive notification of these changes. Agencies will be aware so that there is no confusion and understand that D/S is no longer used for this population of nonimmigrants.

DHS recognizes various state laws related to driver's licenses for aliens but does not have authority to adjust these state laws. DHS acknowledges that

²⁷⁷ DHS, USCIS, *Case Processing Times*, <https://egov.uscis.gov/processing-times/> (last accessed Feb. 23, 2026).

indirect impacts, such as more frequent license renewals, could occur as a result of how states utilize the I-94 form.

However, many other visa types utilize fixed duration on the I-94 form, so this adjustment should not be significant.

d. Costs to Schools, Programs, Program Sponsors, and Small Entities

(1) Increased Costs for Rule Familiarization and Adaptation

Comments: Multiple commenters stated that the DHS cost estimate for DSO/RO rule familiarization and adaptation in the first year after the rule takes effect is significantly understated. Using DHS's 67-hour estimate, one commenter estimated rule familiarization and adaptation costs for their institution of \$180,000. Commenters stated that the 67 hours of training would be the minimum, as DSOs and ROs would need to assume additional duties, such as outreach work for students, exchange visitors, and staff regarding the changes, updates to case management and batch processing systems, additional counseling, updates to all relevant guidance and processes, and other duties which could require near constant attention for 1 to 2 years. Commenters noted that there would be additional burden to DSOs who must advise their current F-1 students of the new rule. Another commenter stated that the rule's restrictions, if implemented, would require an overhaul of all materials in English, French, Spanish and Mandarin, adding administrative burden while decreasing income. Another commenter stated that the proposed rule does not consider the new and ongoing training that institutions will have to develop and implement for multiple academic departments and administrative entities involved in supporting foreign students. Commenters stated they had already spent over 50 hours analyzing the information in the proposal, running out of time, before comments were due.

Response: In response to comments providing alternative estimates for DSO/RO labor burden from the rulemaking, DHS has revised the rule familiarization and adaptation burden estimate to the median value the public comments provided of 135 hours—this includes the time required to create and modify training materials. Additionally, DHS has also added in a 1 hour per current F nonimmigrant advising burden to account for the first year of costs estimated, to provide an accurate accounting of the burden to DSOs when transitioning from D/S to a fixed length of stay. This increase is reflected in the updated cost numbers, and includes any

additional training or materials created due to this rule. *See* the Regulatory Impact Analysis, "Rule Familiarization and Adaptation: F and J Sponsors", available in the docket for this rulemaking.

Comments: One commenter highlighted concerns for labor organizations representing visa holders, writing that they would face increased costs to educate members about the changes, organize trainings, produce materials, and assist with extension processes.

Response: DHS recognizes that some organizations such as labor organizations may choose to update materials as a result of this rule. However, this rule does not obligate those changes. Should a labor organization choose to offer assistance with EOS applications for foreign students, DHS cannot account for that cost or time burden in the RIA since it is not required by the rule.

(2) Annual Administrative Burden for Sponsors

Comments: Commenters expressed concern about the administrative burden the proposed rule would impose on DSOs, particularly regarding the increased volume of EOS applications they would be required to process. One commenter stated that the time burden estimated in the RIA for DSOs was significantly underestimated, particularly considering that students typically file EOS applications simultaneously each year due to the academic calendar and standardized I-20 end dates. Multiple commenters estimated their institutions' EOS processing costs under the rule using DHS's cost and time projections. This estimate amounted to hundreds of thousands of dollars in costs and additional full-time equivalent (FTE) staff needs to meet the burden. Other commenters estimated overall annual costs resulting from the rule, ranging from \$767,000 to \$1.3 million.

Response: DHS acknowledges that the new process for an EOS may increase the burden for DSOs and acknowledges that there may be seasonal variation in the number of EOS requests DSOs will need to process. However, similar to employment reporting, the DSO is only required to input accurate information in SEVIS and provide the updated I-20 to the foreign student. Beyond that, it is the foreign student's responsibility to apply for the extension with an updated I-20 to USCIS using the I-539 form. Based on best professional judgment, SEVP continues to estimate that DSOs/ROs would require an average of 3 hours per EOS request for (1) reviewing the

foreign student's or exchange visitor's EOS request form (1 hour), (2) updating the SEVIS record and tracking EOS requests (1 hour), and (3) advising the foreign student or exchange visitor about the extension process and the requirements to file an EOS with USCIS (1 hour). Should a DSO offer additional assistance with EOS applications for their foreign students as part of their offered services, DHS cannot account for that cost or time burden in the RIA since it is not required by the rule.

(3) Impacts on University Staffing

Comments: Commenters expressed concern that the proposed rule would require institutions to hire additional staff to manage the increased administrative workload. One commenter estimated that first-year costs for staffing, training, and systems development would total approximately \$250,000 for their university. Another commenter projected the need to hire at least two FTEs, at a minimum cost of \$80,000, to meet the demands of the proposed reporting requirements. A commenter specifically remarked that the rule would require Oklahoma State University to hire four additional full-time immigration compliance staff and implement new tracking systems costing approximately \$500,000 initially, based on their preliminary analysis. Another commenter stated that DHS failed to account for impacts of the proposed rule on university staff beyond the foreign student office. This commenter further stated that these impacts include rule familiarization, training, and procedure updates for (1) payroll staff needing to perform I-9 reverification more frequently, (2) staff charged with verifying legal presence, (3) academic advisors, who may be asked to write support letters for extensions, and (4) hiring departments and supervisors needing to revise recruitment, hiring, and retention policies.

Response: SEVP-certified schools are not required to maintain specific staff numbers other than one PDSO. Although DHS anticipates that most schools authorized to sponsor F students and J exchange visitors will be able to accommodate the additional DSO/RO labor burden with existing staff, DHS recognizes that some may elect to hire more DSOs and ROs to meet the requirements of the rulemaking. DHS expects that hiring costs would vary depending on number of F students and J exchange visitors at each institution, size of the institution, and number of existing staff. DHS anticipates that costs from hiring and paying additional staff would represent

a small portion of annual revenue for the great majority of sponsors.

In its regulatory impact analysis, DHS recognizes that beyond DSOs, additional university departments may also incur labor burden from the rulemaking, such as personnel offices and planning committees, among others. DSOs and ROs already coordinate with other departments when completing regular SEVIS updates, and DHS anticipates that these updates would provide the information needed for most EOS requests.

(4) Human Resources (HR) and Hiring Processes

Comments: One commenter stated that because F–1 students and J–1 exchange visitors can be legally authorized to work at many public and private sector employers across the United States, DHS had not adequately assessed the significant, negative impacts that HR professionals at employers are likely to experience if the proposed rule is implemented. The commenter further stated that HR staff would need to determine the employment eligibility end date for each F–1 and/or J–1 employee and develop processes to track their EOS application, the status of their EOS application with USCIS, track the 240-day extension of work authorization while the application is pending, and obtain new documentation each time an extension is approved or denied by USCIS.

Response: DHS disagrees that the final rule will significantly burden employers. In its regulatory impact analysis, DHS accounted for 1.5 hours of HR labor burden per EOS request for time required by HR staff to track form updates related to each EOS request and avoid inadvertent unauthorized employment due to form discrepancies with the Form I–9. Nothing in the final rule requires employers to prepare additional documentation; the rule instead requires F–1 students who wish to complete OPT to apply for EOS if the OPT will occur after the expiration of the status. DHS also does not expect that the final rule will commonly result in documents with divergent and confusing expiration dates.

(5) IT System Costs and Concerns

Comments: Multiple commenters expressed concern about the financial burden that updating IT systems to meet the requirements of the proposed rule may place on educational institutions. One commenter stated that the time and resource burden of the changes would be significant and permanent, as would the addition of information technology solutions to track students' academic

progress, flagging any changes that impact students' proposed degree timelines. Another commenter stated that it was analytically indefensible to use "uncertainty of the scope and scale of the system upgrades needed as a result of this proposed rule" to avoid monetizing batch processing upgrade costs for institutions as a result of the rule. Another commenter stated that employment and payroll systems will need to be updated to incorporate the Form I–94 end date as an additional data point to determine employment eligibility and noted that any changes to the employment and payroll system, within a university system, must be made at the system level and requires at least 6 months advance notice before changes can be implemented.

In addition, another commenter stated that the rule would require extensive software updates, enhanced data collection, and the development of new business processes, which would be further complicated by unreliable data transfer systems between government agencies regarding the fixed period of stay.

Response: DHS acknowledges the concerns associated with schools updating their internal IT systems to meet the requirements of the rule and recognizes in the RIA that the rule could lead to system upgrades by schools and program sponsors that currently use batch processing to interface with SEVIS.

However, the costs associated with such updates vary based on the type of updates needed by each school and it is difficult for DHS to quantify specific costs. No specific costs were provided that allowed for a meaningful estimate to be utilized in the analysis. These costs are discussed in a qualitative manner in lieu of a quantified estimate. SEVP-certified schools are not required to utilize batch processing, *i.e.*, the use of a third-party software or database, to identify and push changes from foreign student records in a school's official academic database to SEVIS. Because of these heterogeneities, DHS was unable to model any monetized impact to institutions in a reliable manner. According to Circular A–4 guidance on regulatory impact analyses, when a regulation's impact is difficult to quantify, economists are required to complete the analysis by describing these impacts qualitatively. Therefore, DHS elects to describe these impacts qualitatively in the RIA.

Lastly, DHS disagrees that data transfers systems between government agencies regarding the fixed period of stay will be unreliable, as there has been coordination between agencies on

implementation. Additionally, many other visas utilize fixed periods of stay and are able to coordinate across government agencies. Since many visas utilize fixed periods, DHS expects that systems for employment should be able to handle the addition of an end date for alien workers in the country on a visa.

(6) Potential Decline in Enrollment

Commenters expressed concern that the proposed rule would lead to a significant decline in foreign student enrollment, contrary to DHS's assertion that it would have only a "marginal impact." One commenter estimated that programs exceeding 4 years at their institution are at risk of losing 61 percent of their enrolled foreign student population. One commenter cited a recent analysis published by NAFSA: Association of International Educators showing that visa bans and disruptions in visa interviews and processing were already predicted to cause a potential 30 to 40-percent decline in new foreign student enrollment, contributing to a 15-percent overall drop in fall enrollment.²⁷⁸ Another commenter cited surveys conducted by the Institute for Progress and NAFSA that found: (1) 49-percent of respondents, who were foreign students studying in the United States, said they would not have enrolled had D/S been replaced with a fixed period of admission; and (2) 16 percent fewer prospective students said they were likely to enroll in U.S. programs if D/S were replaced with a fixed period of admission (57 percent) compared to the current rules (67 percent).²⁷⁹ A commenter stated that 54 percent of current students and 29 percent of prospective students, reported they would not come to the United States for a degree without access to OPT.²⁸⁰

Response: DHS acknowledges that the rule may have an impact on U.S. competitiveness in attracting foreign students and exchange visitors. Any reduction in enrollment could potentially diminish the economic benefits that foreign students and exchange visitors contribute to the U.S. economy. DHS has chosen to discuss these impacts qualitatively, as the exact magnitude of any enrollment decline and its downstream economic effects

²⁷⁸ The commenter referenced <https://www.nafsa.org/about/about-nafsa/us-economy-could-suffer-7-billion-loss-precipitous-drop-international-students>.

²⁷⁹ The commenter referenced Institute for Progress and NAFSA, *Surveys on International Talent Pipelines* (Sept. 15, 2025), <https://ifp.org/wp-content/uploads/2025-Surveys-on-International-Talent-Pipelines-1.pdf>.

²⁸⁰ The commenter referenced the 2025 *Surveys on International Talent Pipelines*, *supra* note 279.

remain uncertain and speculative. DHS also discusses uncertainty regarding enrollment impacts in Appendix A of the RIA.

DHS acknowledges the analysis from NAFSA showing how disruptions in visa interviews and processing could contribute to a fall in student enrollment. Any visa interview or processing disruptions that occurred prior to the announcement of this rule are likely to be driven by factors other than this rule. Further, this rule is unlikely to impact the student visa interview or processing processes. Therefore, DHS does not intend for the rule to cause significant shift in student enrollment due to these effects.

DHS acknowledges the commenter's report that survey results from NAFSA indicated that 49 percent of respondents said they would not have enrolled in the first place had D/S been replaced with a fixed period of admission. However, DHS notes that survey responses often reflect hypothetical preferences rather than actual behavior, and such results may overstate the likelihood of enrollment declines. In practice, students may weigh other factors, such as the quality of U.S. educational institutions and career opportunities, more heavily when making enrollment decisions.

DHS expects foreign students to consider the cost of extending their status in the context of the overall cost of their program, which may include expenses such as tuition, textbooks, room and board, and discretionary expenses. Because the cost of status extension is small, relative to the overall cost of attendance, DHS does not expect potential reduction in enrollment due to this added cost to be significant.

Additionally, while some nonimmigrant students may choose not to enroll as a result of this rule, DHS expects that U.S. educational institutions will continue to attract other students who are not dissuaded by the requirements of this rule. U.S. universities and colleges may be able to fill any vacancies left by nonimmigrant students who choose not to enroll with other qualified applicants, which could reduce the overall impact on enrollment numbers.

Comments: Another commenter questioned why the analysis of the 2020 Rule indicated a stronger potential effect on international enrollment than the current proposed rule and stated that without a clear justification for the change, experts in the field are not reassured that the proposed change will not impact their job security.²⁸¹

Response: The effects of the D/S rule differ from the impacts calculated in the 2020 regulatory impact analysis due to changes in underlying student enrollment patterns since 2020 and changes in the proposed rule, such as replacing the 2-year/4-year maximum fixed admission period with a 4-year maximum fixed admission period. DHS has updated the RIA for the final rule and estimates annualized costs of \$443.1 million and \$448.6 million, when discounted at 3 and 7 percent respectively.

e. Costs to the U.S. Economy, Industries, Taxpayers

(1) Economic Contributions of Foreign Students

Comments: Many commenters emphasized the significant economic contributions that foreign students and exchange visitors make to the U.S. economy, with multiple commenters citing data from NAFSA showing that foreign students contributed \$43.8 billion to the U.S. economy during the 2023–24 academic year and supported over 378,000 jobs across various economic sectors. Another commenter stated that the estimated foregone economic activity resulting from reduced international talent retention is \$12.8 billion. The commenters remarked that, for every three foreign students enrolled in the United States, one U.S. job is created or supported through spending in higher education, accommodation, dining, retail, transportation, telecommunications, and health insurance.²⁸² Another commenter stated that, according to data from the U.S. Department of Commerce Bureau of Economic Analysis, education related travel exports ranked seventh among service exports in 2024.²⁸³

Commenters stated that policies that discourage foreign students from studying or conducting research in the United States would have significant negative economic consequences. One commenter stated that the immediate economic losses projected by DHS paled when compared with possible future losses since foreign students drive innovation, advance America's global competitiveness, and create research

and academic opportunities in local colleges and universities that would benefit the country for generations. Multiple commenters emphasized the vital role of foreign students in American innovation. One commenter stated that, since 2000, 36 percent of U.S. Nobel Prize winners have been immigrants, many arriving initially as students; 40 to 47 percent of Fortune 500 companies were founded by immigrants or their children; and 44 to 55 percent of billion-dollar startup companies have at least one immigrant founder. Some commenters stated that foreign students, and graduates, founded 55–64 percent of America's "unicorn" companies (valued at \$1 billion or more), creating millions of jobs and trillions in economic value in critical fields, such as AI, in the United States, ahead of other nations. One commenter mentioned that international graduates who remain in the United States become high-earning taxpayers who offset administrative costs, and young international workers help support America's aging population through Social Security and Medicare contributions.

Commenters referenced their own analysis using over 20 years of detailed administrative data from USCIS, SEVIS, and the U.S. Census.²⁸⁴ They stated they conservatively assumed a 10-percent decline in new F–1 enrollments in degree granting programs due to the elimination of D/S and determined that this reduction would lead to a 1.9-percent decrease in the total supply of high-skill STEM workers in the United States. This would be a 0.09 percentage-point decline in their share of the labor force, and a 0.024 to 0.048 percentage-point reduction in annual Total Factor Productivity growth. The commenters stated that, over a 10-year period, this lost productivity growth would cause GDP to be 0.239 to 0.478 percent smaller than it otherwise would have been, equivalent to \$72 to \$145 billion in today's economy. Another commenter cited this study explaining it found that expected reductions in STEM focused foreign students would, in turn, reduce annual productivity growth in the U.S. economy by 3 to 6 percent, cumulating to a loss of \$220 to \$439 billion per year after 10 years and this would be the likely end result after the combined effect of eliminating D/S admissions,

²⁸² The commenters referenced NAFSA, *The United States of America: Benefits from International Students* <https://www.nafsa.org/sites/default/files/media/document/EconValue2024.pdf> and NAFSA, *International Students Contribute Record Breaking Level Spending and 378,000 Jobs*, <https://www.nafsa.org/about/about-nafsa/international-students-contribute-record-breaking-level-spending-and-378000-jobs>.

²⁸³ The commenter referenced United States Department of Commerce, Bureau of Economic Analysis, *Education Service Exports*, <https://www.trade.gov/education-service-exports>.

²⁸⁴ The commenters referenced Clemens, M., Neufeld, J., and Nice, A., *Brain Freeze: How International Student Exclusion will Shape the STEM Workforce and Economic Growth in the United States* (Sept. 28, 2025), attaching the report to their comment and advising it was forthcoming by the Institute for Progress and IZA Institute of Labor Economics.

²⁸¹ See 85 FR 60526 (Sept. 25, 2020).

restricting OPT, and reducing access to H-1B status. The commenter reported this estimate is 22 times greater than DHS's cost estimate of \$3.3 billion in the NPRM.

Commenters provided specific examples and statistics related to state level economic contributions of foreign students. A commenter stated that preliminary projections by NAFSA and JB International revealed that recent actions, such as visa bans and disruptions in visa interviews and processing, had already had a calamitous effect on many U.S. local economies. Commenters cited a Fall 2025 NAFSA report and stated that an analysis of SEVIS and DoS data predicted a potential 40-percent decline in new foreign student enrollment, contributing to a 15-percent drop in overall enrollment that fall, which would deprive local economies of an estimated \$7 billion in spending and more than 60,000 jobs.²⁸⁵ One commenter suggested the cost could be between \$50 and \$200 million to local economies in lost tax revenue. Another commenter cited the same analysis and remarked that this dramatic decline is already taking place without the enactment of the proposed rule, and the proposal would only increase the losses further. One commenter shared that their institution was expecting a 61-percent decline in foreign student enrollment and questioned what the impact would be on the U.S. economy if only one school was experiencing such a significant decline.

Response: DHS acknowledges the economic contribution of nonimmigrant students and exchange visitors through tuition and regional spending, as well as contributions to research, innovation, and teaching. DHS anticipates the economic benefits to municipalities, educational institutions, and firms whose businesses rely on nonimmigrant students and exchange visitors to continue, as this rule will not end those activities. DHS acknowledges that the rule may adversely affect U.S. competitiveness in the international market for nonimmigrant students and exchange visitors, however DHS does not intend for the rule to cause significant impacts on enrollment. Any reduction in enrollment has the potential to reduce the economic benefits that nonimmigrant students and exchange visitors offer. However, DHS expects the United States to remain a popular, competitive, and attractive

place for nonimmigrant students and exchange visitors to pursue their program of interest. Enrollment decisions are driven by a wide variety of factors beyond EOS costs, including perceived quality of education, total cost of education, and job opportunities offered by the education. DHS does not intend for the rule to impact the quality of educational experience or availability of job opportunities offered in the United States and expects that the extensions of stay required by this rule will be a relatively minor burden for students and exchange visitors in the context of the total costs of living and studying in the United States. For these reasons, DHS expects that the United States will remain a desirable destination for many nonimmigrant students. Due to the speculative nature of the magnitude of the decrease in enrollment and any downstream economic impacts that may result from this rule, DHS discusses this impact qualitatively.

DHS disagrees with the assumption made in the Clemens analysis that a 10 percent decline in new F-1 enrollments is a conservative estimate. This assumption is based on survey results from NAFSA, which indicated that "49 [percent] of respondents said they would not have enrolled in the first place had D/Ss been replaced with a fixed period of admission."²⁸⁶ DHS notes that survey responses often reflect hypothetical preferences rather than actual behavior, and such results may overstate the likelihood of enrollment declines. In practice, students may weigh other factors, such as the quality of U.S. educational institutions and career opportunities, more heavily when making enrollment decisions. It remains uncertain as to how many students will choose not to enroll due to this rule. DHS discusses the uncertainty with enrollment impacts in the Final Regulatory Impact and Flexibility Act Analysis, Appendix A. DHS believes that this rule will not be a major deterrent, as the main regulatory burden to file an EOS request in order to remain in the country may not be costly enough to dissuade enrolling. While some students may perceive risk in the new requirement, DHS assumed DSO and RSOs will provide guidance to students to facilitate EOS submission in addition to compliance with other new requirements. DHS acknowledges the perceived risk impacts but anticipates uncertainty may decline as students and DSOs/RSOs become more familiar with the EOS process. The EOS cost is not

seen as significant for those who desire the quality of U.S. educational institutions and the opportunities afforded to them. Therefore, if there are minimal enrollment impacts, we do not expect the downstream effects on employment and GDP to materialize.

DHS notes a goal of this rule is to effectively enforce compliance with statutory inadmissibility grounds related to unlawful presence and to mitigate the risks found in the D/S framework, thereby preventing fraud and abuse, enhancing national security, and ensuring program integrity. While some nonimmigrant students may choose not to enroll as a result of this rule, DHS expects that U.S. educational institutions may attract other students who are not dissuaded by the requirements of this rule. U.S. universities and colleges may be able to fill vacancies left by nonimmigrant students who choose not to enroll with other qualified applicants, which could reduce the overall impact on enrollment numbers such that the net impact is difficult to estimate. DHS maintains that nonimmigrant students will continue to pursue educational opportunities in the STEM fields. The students who replace the vacancies at educational institutions would be able to fill employment vacancies that would otherwise have been occupied by nonimmigrants deterred by the rule. DHS expects this replacement effect to reduce the impact of the rule on employment sectors that utilize nonimmigrant students, such as STEM fields, and thus reduce the impact on overall GDP.

Finally, DHS emphasizes that this rule does not address practical training programs, such as OPT or H-1B visa status, which are governed by separate regulations.

(2) Impacts on Specific Industries and Sectors

Comments: One commenter noted the challenges facing America's high-skill workforce and the resulting impact, highlighting the growing technology corridors that depend on international talent pipelines to compete globally. The commenter continued referencing smaller metropolitan areas (e.g., Rochester, New York, or Madison, Wisconsin) that have built innovation focused economies around universities that attract significant foreign student populations. Citing the Global Innovation Index, the commenter remarked that 23 U.S. clusters rank among the world's top 100 science and technology clusters and stated that they all rely heavily on foreign students to maintain their competitive edge. Another commenter stated that severely

²⁸⁵ Commenters referenced <https://www.nafsa.org/sites/default/files/media/document/EconValue2024.pdf> and <https://www.nafsa.org/fall-2025-international-student-enrollment-outlook-and-economic-impact>.

²⁸⁶ See *Surveys on International Talent Pipelines*, supra note 279.

curtailing the number of international scholars and students in STEM fields would create disastrous disruptions to research institutions and biomedical innovation. The commenter also stated that the proposed rule would create greater uncertainty for international scholars considering where to study, leading to a limited talent pool within the U.S. biomedical research workforce. This talent pool has contributed, significantly, to the United States leading the world in biomedical innovation. Another commenter stated that the economic impacts would be particularly acute to industries like the automotive and mobility sectors, manufacturing, and higher education, some of the most significant employers in the Michigan economy. One commenter cited a report indicating that the United States faces a significant skills deficit in AI and “heavily relies on foreign-born talent,” with foreign students constituting more than 50 percent of computer scientists with graduate degrees employed in the country today and nearly 70 percent of currently enrolled computer science graduate students. The commenter also stated that, among U.S.-trained Ph.D. Graduates in AI-related fields, around 80 percent have remained in the country. Similarly, another commenter noted that over 70 percent of full-time graduate students in computer science and electrical engineering at U.S. universities are foreign students. Another commenter claimed that the rule would cause a 2-to-4-percentage-point contraction in entry-level talent pools for tech and engineering and setbacks in critical research for defense and emergency preparedness.

Response: DHS acknowledges nonimmigrant students and scholars have made contributions to industries like the automotive and mobility sectors, manufacturing, higher education, and STEM fields. DHS does not intend for the rule to cause a significant decline in nonimmigrant student enrollment because the high-quality education offered at U.S. institutions will continue to attract talented nonimmigrant students and researchers. DHS thus does not anticipate a significant reduction in research capabilities, technological advancement, or industrial benefits associated with nonimmigrant students.

Comments: One commenter expressed concern about the impact of the proposed rule on the U.S. healthcare system, particularly regarding J–1 physicians, since the use of annual contracts would effectively require J–1 clinical residents and fellows to file extensions every year with USCIS. This

would likely result in consequential delays in their ability to timely start their training programs on June 1, each year. One commenter projected a 5-to-10-percent reduction in J–1 physicians in medical deserts. The commenter stated that this would cause catastrophic harm, not only on U.S. training programs but on the overall provision of health in the United States, given the critical role J–1 physicians play in providing healthcare, and particularly in federally designated underserved communities. The commenter argued that at a time when the United States was expecting a shortage of 187,130 physicians by 2037, the United States simply could not afford to lose U.S. trained physicians. Another commenter highlighted the potential negative impact on medical training programs themselves, noting that the added administrative burdens, uncertainty around EOS approvals for resident physicians, and increased costs would deter many qualified individuals from filling available training positions in the United States.

Response: DHS acknowledges that nonimmigrant students who received medical training at U.S. institutions have filled important roles providing medical care in the United States, including in underserved, rural areas. DHS expects that nonimmigrant students will continue to receive medical training in the United States and will continue to serve in these critical roles due to the lack of such training opportunities in their home countries.

Officers admitting J–1 nonimmigrants will be instructed to refer to Box 4 on their DS–2019 in order to get the full program length, up to four years, for the admitted nonimmigrant’s I–94, which will reduce the need for the annual re-appointment cycle that the commenter cites. This allows categories with longer programs, such as Alien Physicians, to only require an EOS every 4 years, and other categories to only require them if they exceed their maximum duration and can extend beyond that. This will limit the number of EOS requests from J–1 nonimmigrants while still providing the necessary oversight the rule seeks to provide. Since the overall cost of an EOS request is small compared to the lengthy programs for Alien Physicians admitted on J–1 visas, this is not expected to deter physicians from practicing in the United States, and they will continue to support the healthcare industry. Any reduction in J–1 Alien Physicians is expected to be minimal and not impact healthcare systems in a significant way.

Comments: A couple of commenters expressed concern about the broader economic and diplomatic impact of the proposed rule. One commenter stated that DHS must analyze the financial and diplomatic impact of the proposed rule, beyond direct impacts to the education sector, including the presence and contributions of foreign students in U.S. higher education, workforce development, global understanding, and impact on foreign relations more generally.

Response: DHS acknowledges the commenters’ concerns about United States image abroad. DHS believes the United States will remain a destination of choice for foreign nationals in the F academic student, J exchange visitors, and I foreign information media representative classifications, because the rule will not diminish access to quality programs, open discussion and exchange of ideas, and other benefits that have attracted—and will continue to attract—hundreds of thousands of foreign nationals to the United States. For this reason, DHS does not expect this rule to result in negative impacts on U.S. foreign relations.

Comments: A commenter stated that DHS’s cost analysis fails to capture the disproportionate burdens placed on rural institutions and their foreign students.

Response: DHS recognizes that this rule may impose higher burdens on rural institutions and their foreign students as a result of greater travel distance to complete Form I–539/I–539A. To estimate travel costs, DHS used an average round-trip distance to an ASC of 50 miles and the 2025 General Services Administration rate of \$0.70 per mile in the regulatory impact analysis of the NPRM. DHS acknowledges that some nonimmigrants will differ from that average depending on proximity to ASCs and access to transportation. Additionally, this rule does not prevent students or other nonimmigrants subject to the rule from enrolling or participating in their programs in rural areas. While there is an increased possibility of travel costs, these costs should be minimal over the length of their program and will not serve as a deterrent to those nonimmigrants who wish to participate in programs in rural areas.

(3) Concerns About Taxpayer Burden

Comments: A couple of commenters expressed concern about the burden the proposed rule would place on U.S. taxpayers. One of these commenters stated that SEVIS is funded by users (not taxpayers), and the proposed changes would precipitate “countless

millions in taxpayer-funded expenditures for enforcement.”

Response: DHS recognizes that a reduction in the number of nonimmigrant students and exchange visitors applying for visas or for F or J status in the United States will impact the amount of fees collected by SEVP and DoS from nonimmigrant students and exchange visitors through visa applications and SEVIS fees. These fees are used to cover the operational costs associated with processing the applications and adjudications, and thus any decrease in fee payments would be associated with a corresponding decrease in costs. As USCIS is fee funded, they can adjust the required resources as needed based on volume and the amount of fees received to process forms.

Further, DHS does not expect substantial reductions in the number of nonimmigrant students and exchange visitors applying for visas or for F or J status in the United States as a result of this rule. DHS acknowledged in the NPRM that the elimination of D/S has the potential to reduce nonimmigrant student enrollment and participation of exchange visitor and foreign media representatives due to additional costs and other burdens associated with extensions of the admission period. DHS expects foreign students to consider the cost of extending their status in the context of the overall cost of their program, which may include expenses such as tuition, textbooks, room and board, and discretionary expenses. Because the cost of status extension is small, relative to the overall cost of attendance, DHS does not expect potential reduction in enrollment due to this added cost to be significant.

f. Costs to Representatives of Information Media

Comments: One commenter stated that media outlets would face significantly higher costs due to the need for constant rotation of international correspondents, jeopardizing the sustainability of U.S. bureaus. The commenter remarked that all costs of correspondents' stays, housing, insurance, travel, schooling, are fully funded by media organizations, not by U.S. taxpayers.

A commenter stated that, from an administrative perspective, implementing 2-year admissions and extensions would significantly reduce the frequency of filings and this would likely lower the number of I visa extension petitions DHS would have to adjudicate each year. The commenter stated that this reduction would, in turn, decrease both applicant costs and

agency workload. The commenter further stated that reducing repeat filings within the small, well-defined I visa population aligns with DHS's objectives under Executive Orders 12866 and 14192 to maximize net benefits and minimize private sector expenditures. The commenter also suggested that allowing multiple extensions, without a numeric cap, and authorizing up to 5-year visa validity through reciprocity, would help reduce backlogs at consular posts and POEs. This would still enable DHS to conduct regular checks at each 2-year admission and with every EOS filing.

One commenter estimated that more frequent I visa renewals would increase operational and travel costs by approximately 700 percent over a 5-year period, creating what they characterized as an unreasonable financial burden.²⁸⁷

Response: DHS recognizes the public's desire to minimize impacts to media outlets and international correspondents. However, DHS disagrees that the rule meaningfully increases the rotation of these correspondents by setting a fixed admission period of 240 days (90 days for I nonimmigrants presenting passports from the PRC except Hong Kong SAR and Macau SAR passport holders) with no limit on the number of extensions that an I nonimmigrant may apply for, or the number of times the I nonimmigrant may apply for admission at a POE, so long as they continue to pursue I activities. DHS data shows that the at least 90 percent of I nonimmigrants remain in the United States for less than 240 days.

DHS acknowledges that changing the duration of I visas from 240 days to 2 years or 5 years could reduce the number of EOS requests from this population. However, DHS finds that most I visa holders will not require an EOS request with a 240-day duration of stay, as the majority of I visas stay less than the 240-day duration.²⁸⁸ Individuals who wish to stay longer will have the ability to apply for extensions of their stay.

DHS chooses the 240-day stay to guarantee a regular cadence of review for national security and fraud prevention benefits while limiting the number of I visa holders who will need to apply for an EOS request.

DHS disagrees with the significant cost increase for I nonimmigrants cited by the commenters, as the cost of EOS requests would only apply to less than

10 percent of I nonimmigrants. The Regulatory Impact Analysis calculated the cost of an EOS request and found that an I nonimmigrant will, on average, spend between \$732 and \$1,311, depending on the level of assistance and submission method. These costs are variable and will depend on the exact situation of the nonimmigrant completing the form. These costs will only incur once or twice per year, accumulating for those who remain in the United States for a significant period of time. Overall, these costs are not considered a large financial burden on I nonimmigrants.

3. Benefits

Comments: While providing feedback on the RIA, a commenter stated that the NPRM fails to demonstrate any measurable security benefits resulting from the proposed rule. The commenter also expressed that existing oversight systems already provide extensive monitoring capabilities. Furthermore, the commenter wrote that security resources should be focused on actual threats rather than being diverted to administrative processing.

Response: DHS acknowledges that it has not quantified the benefits of the final rule in the regulatory impact analysis but disagrees with the claim that it fails to demonstrate any measurable security benefits. DHS has clearly articulated the security benefits of the final rule, including enabling DHS to more effectively combat fraud and abuse, accurately account for the accrual of unlawful presence grounds of inadmissibility and better protect the integrity of nonimmigrant categories such as F, J, and I classifications. By replacing the D/S framework with fixed periods of admission, the final rule provides DHS with periodic and direct opportunities to assess compliance with immigration laws, detect violations, and address national security concerns. This oversight mechanism ensures timely evaluations at pre-determined intervals, which are critical for enforcing immigration laws and promptly identifying risks to national security.

4. Costs-Benefits Comparison

Comments: Commenters also criticized the rule's cost-benefit analysis and economic data as flawed and misleading, underestimating costs and overstating benefits. Others commented that DHS had not shown that the benefits of the rule were outweighed by the economic costs, highlighting financial impact to higher education institutions, exchange programs, employers, and local economies.

²⁸⁷ The commenter did not provide a source.

²⁸⁸ DHS's analysis of ADIS data identifying length of stay of I-visa holders between 2015 and 2024, valid as of March 21, 2025.

Many commenters expressed concerns that the proposed rule would impose substantial annualized costs, exceeding \$390 million across both U.S. and non-U.S. parties, without presenting evidence of proportional national security benefits.

Approximately \$86 to 88 million of the costs would be borne by U.S. parties alone. One commenter stated that, based on DHS's own estimate of nearly \$400 million annually, the rule would result in a cost of over \$100,000 per student visa case that would be handled differently than under current procedures. Another commenter calculated, using DHS's estimate of \$86.3 to \$88.1 million in costs to U.S. parties only and an average of 88 individuals of concern per year, the cost would amount to approximately \$1 million per individual. A commenter suggested DHS publish a detailed return-on-investment (ROI) or benefit analysis quantifying the estimated security or immigration-integrity benefits, such as the number of misuse or fraud cases the rule would prevent and the associated cost per case. Without such evidence, the commenter stated, the rule appears to be a costly solution in search of a problem.

Commenters criticized the proposed rule's RIA for failing to demonstrate that its benefits outweigh its substantial costs, in violation of basic principles of sound governance.²⁸⁹ A commenter stated that by overlooking the well-documented economic contributions of foreign students, the proposed rule fails to weigh costs against claimed benefits, contrary to sound regulatory practice. Multiple commenters stated that the cost-benefit analysis quantifies hundreds of millions of dollars in costs while offering only qualitative description of benefits, highlighting a failure to meet basic regulatory standards. A commenter emphasized that effective regulatory analysis requires demonstrable evidence that benefits outweigh costs, and asserted that the proposal does not meet this fundamental test. They further stated that implementing the rule would constitute an abuse of executive authority by imposing costly restrictions without delivering proportionate benefits.

Response: DHS acknowledges there are costs associated with the rule as discussed in the regulatory impact analysis. The purpose of this rule is to effectively enforce compliance with the

statutory inadmissibility grounds related to unlawful presence and to mitigate the risks found in the D/S framework, which in turn reduces fraud, abuse, and noncompliance with statute for the F, J, and I nonimmigrant programs. Requiring a fixed term of admission affords immigration officers enough predetermined opportunities to directly verify that aliens are engaging only in those activities their respective classifications authorize while they are in the United States, and, in turn, more effectively enforce compliance with immigration laws as well as monitor fraud and abuse. The rule does not direct institutions to change their admissions or finances but requires additional oversight of nonimmigrants to prevent fraud and abuse.

The commenter calculating a cost of \$100,000 per individual is using a particular example of potential overstay cases mentioned in the NPRM—the nearly 77,000 F–1 students who have spent more than 10 years in nonimmigrant student status since SEVIS was implemented in 2003. The commentator calculating a cost of \$1 million per individual is using another particular example of potential overstay cases mentioned in the NPRM—2,134 aliens who first entered as F–1 students between 2000 and 2010 and remain in active F–1 status today. However, the goal of this rule is not to target specifically the individuals in these populations, but instead to effectively enforce compliance with statutory inadmissibility grounds related to unlawful presence and to mitigate the risks found in the D/S framework, thereby preventing fraud, abuse, and national security risks more generally. Therefore, these calculations substantially misestimate the cost-benefit balance of this rule.

Circular A–4 guidance for conducting the Regulatory Impact Analysis says agencies should proceed only on the basis of a reasoned determination that the benefits justify the costs, but with the recognition that some benefits and costs are “difficult to quantify”. It acknowledges not all-important effects can be expressed in monetary units, but requires the government to provide a reasoned, transparent determination that the overall social good is a sufficient reason to proceed, even if the purely monetized benefits are not numerically larger than the monetized costs. DHS believes it has sufficiently met this requirement and demonstrated that national security and fraud detection benefits exceed the expected costs in the regulatory impact analysis accompanying the final rule.

R. Regulatory Flexibility Analysis: Disproportionate Impact on Small Institutions

Comments: Commenters expressed concern that the proposed rule would disproportionately burden small educational institutions, stating that DHS failed to accurately estimate or disclose the true costs and rendering the rule non-compliant with the RFA. One commenter said the NPRM lacks the required analysis of impacts on small entities mandated by 5 U.S.C. 605 and stated that the rule fails to include adequate regulatory flexibility provisions to mitigate disproportionate burdens to small entities. A commenter stated that they estimated their school would see, at minimum, a 75-percent reduction in F–1 student numbers and that their business would see, at minimum, a 70-percent reduction in annual revenue, resulting in job losses and a distinct possibility that the school would no longer be financially viable. Another commenter stated that DHS estimates did not reflect realities at small, rural colleges with no dedicated international staff, noting that at their institution, DSO duties fell to three Associate Deans of Student Affairs who were already balancing multiple responsibilities. One commenter asked what concrete measures DHS would implement to prevent rule requirements from forcing smaller institutions to reduce foreign student services or withdraw from international education entirely.

Response: DHS appreciates the commenter's concerns regarding the analysis of impacts on small entities as required by the RFA, 5 U.S.C. 605, and the adequacy of regulatory flexibility provisions to mitigate disproportionate burdens on small entities. However, DHS respectfully disagrees with the commenter's assertions that the rule lacks the required analysis and fails to include adequate regulatory flexibility provisions.

In addition to preparing an initial regulatory flexibility analysis (IRFA), DHS prepared and published a full Final Regulatory Flexibility Analysis (FRFA), which is available in the docket for the rule. The IRFA and FRFA evaluate the potential impacts of the rule on small entities, including whether the rule is likely to have a significant economic impact on a substantial number of small entities. The analyses also consider alternatives to minimize such impacts while ensuring the rule achieves its intended objectives.

DHS analyzed all the entities that would be affected by the final rule and

²⁸⁹ Commenters referenced E.O. 12866, *Regulatory Planning and Review*, 58 FR 51735 (Oct. 4, 1993); E.O. 13563, *Improving Regulation and Regulatory Review*, 76 FR 3821 (Jan. 21, 2011).

DHS found that 78 percent of SEVP-certified institutions and 62 percent of J exchange visitor program sponsors would be considered small entities.

Under the final rule, DSOs and ROs will have to spend approximately 135 hours for rule familiarization and adaptation in the first year after the rule takes effect. For each DSO, rule familiarization would cost \$6,735 in the first year after the rule takes effect. Additionally, 1 hour of advising burden has been added per F-1/J-1 nonimmigrant already in country before the rule takes effect. This results in an additional average of \$3,630 per DSO/RO in year 1. Further, each year DSOs/ROs will spend approximately 3 hours per F-1/J-1 EOS request to review the Form I-539 completed by the F-1/J-1 nonimmigrant, update the SEVIS record and track EOS requests, and advise the F-1/J-1 nonimmigrant about the extension process and the requirements to file an EOS with USCIS. Additionally, HR staff will spend approximately 1.5 hours per F-1 EOS request to track form updates related to each EOS request and avoid inadvertent unauthorized employment due to form discrepancies with the I-9. The DSO cost per EOS request is \$233.

DHS estimates that 73.4 percent of small schools will experience an impact less than or equal to one percent of their annual revenue. DHS estimates that the majority of small J sponsors would experience an impact less than or equal to one percent of their annual revenue.

S. Paperwork Reduction Act (PRA)

1. General Comments

Comments: Multiple commenters raised concerns about the proposed changes to SEVIS and USCIS forms, which they said would increase administrative burdens and require substantial implementation and training costs. Multiple commenters expressed concern that the potential additions of hundreds of thousands of I-539 extension applications annually could conflict with the Paperwork Reduction Act, the E-Government Act of 2002 and other policies requiring administrative simplification.

Multiple commenters expressed concern converting the SEVIS program process into a USCIS-adjudicated EOS process would substantially increase the public burden due to the paperwork expansion required by new or more frequent EOS information collection requirements (e.g., Form I-539/I-539A filings, biometrics appointments, potential interviews). Another commenter stated that the proposed rule's Sufficient Fund Requirement at 8

CFR 214.2(f)(7) appears burdensome from the perspective of the PRA.

A commenter stated that DHS must provide accurate estimates of the associated burden hours and costs and justify these against proven D/S compliance tools. A commenter stated that the PRA estimate does not reflect the realities of small rural colleges that lack dedicated international staff, writing that the added burden of EOS filings would overwhelm staffing capacity and place the greatest strain on students, who would face increased costs, confusion, and delays. A commenter noted the large amount of work that will be created at larger institutions during the transition, noting specifically work authorizations. Another commenter asserted that the Attorney General has the authority for information collection, in consultation with the Secretary of State and the Secretary of Education.

Response: DHS appreciates the commenters' concerns regarding potential legal issues, administrative burdens, and information collection requirements associated with the proposed rule. However, DHS respectfully disagrees with the assertions made.

Regarding concerns about administrative burdens and the potential conflict with the PRA, DHS has carefully considered the implications of the proposed rule and its associated information collection requirements. DHS has determined that the rule complies with the PRA and does not impose administrative burdens beyond what is required for the implementation of the rule. The PRA requires federal agencies to minimize the paperwork burden for individuals, businesses, and other entities while ensuring the efficient collection of information necessary for the proper performance of agency functions. DHS has conducted an analysis of the information collection requirements and utilized the costs burdens as part of the full Regulatory Impact Analysis. The final RIA concluded that the overall benefits outweigh the total costs of the rule.

DHS conducted a thorough review of all SEVIS functionality to identify modifications necessary to guarantee the systems compliance with the regulatory provisions. These changes include substantive and non-substantive changes to SEVIS to support additional recordkeeping and reporting requirements associated with recommendations for an F-1 student EOS. As these modifications are implemented SEVIS users will be updated via Broadcast Messages and

Release Planning Guides once the changes have occurred. DHS acknowledges that these changes may incur implementation and training costs as identified in the RIA. However, DHS believes that the estimated burden is necessary to realize the national security and fraud prevention benefits of this rule.

With respect to the assertion that the Attorney General has the authority for information collections in consultation with the Secretary of State and the Secretary of Education, DHS notes that the Homeland Security Act of 2002 transferred certain authorities and responsibilities from the Attorney General to the Secretary of Homeland Security. Specifically, the Act established DHS and reassigned functions related to immigration and other areas to the Secretary of Homeland Security. As such, the Secretary of Homeland Security now holds the authority to implement rules and policies within DHS's jurisdiction, including those involving information collections. Furthermore, the consultation referenced in 8 U.S.C. 1372(a)(1) relates to the initial development of SEVP and SEVIS and does not require consultation for these minimal changes to the existing information collection request; however, DHS did consult with the ED prior to the publication of the NPRM and the final rule.

2. ICE Forms I-20 and I-17

Comments: A commenter stated that the "Extend Program" functionality in the F-1 SEVIS release at the time of their comment restricts the new program end date to no more than 1 year beyond the student's current program end date despite the current EOS regulation under 8 CFR 214.2(f)(7) not limiting the term of the extension period, and recommended alignment between SEVIS functionality and regulatory provisions.

Multiple commenters had suggestions about the new items proposed on the I-20 and I-17 forms in described in the NPRM. Commenters opined that the proposed substantive and non-substantive changes in SEVIS intended to facilitate the DSOs' recommendations for the EOS are not necessary since DSOs routinely approve extensions of programs under the D/S framework. A commenter suggested SEVIS already collected a program end date and that a graduation/degree conferral date is duplicative and unnecessary. Multiple commenters stated that the DHS proposal to update the list of educational levels in the I-17 is vague. Commenters further added that DSOs

have trouble mapping programs to SEVIS categories and inconsistencies between institutional systems and SEVIS definitions could lead to compliance or reporting challenges.

Response: DHS conducted a thorough review of all SEVIS functionality to identify modifications necessary to implement the new regulatory provisions from this rule. As these modifications are implemented, SEVIS users will be updated via Broadcast Messages and Release Planning Guides once the changes have occurred.

DHS appreciates the feedback from commenters regarding the substantive and non-substantive changes to SEVIS. This rule will change the way that a DSO processes the extension of an F student's program of study. Therefore, SEVP is updating SEVIS to accommodate the new EOS process, which will now require DSOs to recommend an extension of an F student's AUD, instead of approving an extension.

With regard to the request to add a field to collect an F student's graduation or degree awarded dates, DHS disagrees with the statement that this new data element is duplicative. Separating a student's program end date from the graduation or degree awarded date will provide DHS with clearer data on whether a student has officially completed their program of study. This distinction is particularly important in cases in which DSOs do not shorten the program end date when a student graduates or completes their program early, creating ambiguity about the student's actual completion status. Collecting this information will improve SEVP's ability to monitor students' completion status and ensure accurate reporting across SEVP-certified schools. Additionally, DHS appreciates the commenters' feedback about the proposal to update the list of educational levels in SEVIS. DHS relies on the National Center for Education Statistics' (NCES) definitions of educational levels,²⁹⁰ which provide a structure for determining whether a nonimmigrant student's program of study reflects upward academic progression. The list of educational levels that schools should use to update their Form I-17, "Petition for Approval of School for Attendance by Nonimmigrant Student," is available on Study in the States. DHS plans to update SEVIS to be consistent and clear on how this list of educational levels

should be mapped appropriately with an F student's program of study, thus ensuring consistency with the NCES definitions.

Comments: Multiple commenters expressed support for a separate proposal that would collect additional data through Forms I-20 and I-17, including the integration of program information into Form I-17, thereby replacing the current process of emailing portable document format (PDF) files to SEVP and providing more data and information for DHS to investigate specific cases of concern without the need for the broader changes proposed in the rule.

Response: While DHS appreciates commenters support for ongoing SEVP initiatives to better collect data on the Forms I-20 and I-17 in SEVIS, this subject matter does not fall within the scope of this rule.

3. USCIS Forms I-539 and I-539A

Comments: A commenter said the NPRM's own PRA analysis for Forms I-539/I-539A shows very large new burdens and costs and only questionable necessity. However, another commenter stated that the additional oversight mechanisms enabled by the proposed changes to the information collection requirements—particularly those related to Form I-539 and SEVIS reporting—are both necessary and appropriate. The commenter urged DHS to require more robust and standardized documentation in EOS applications to reduce fraud, ensure proper use of student status, and minimize unnecessary adjudication burdens. A commenter asked whether estimated time for biometrics appointment in conjunction with Form I-539 was sufficient and included travel time.

Response: DHS agrees that the oversight enabled by the changes to the Form I-539 is appropriate. The estimated time burden for Form I-539 did not change based on the changes proposed to the form. The total annual burden to respondents increased due to the addition of biometrics processing and the estimated number of increased applications.

The estimated time for biometrics appointment is sufficient and does not include travel time. Currently, the Form I-539 generally does not require a biometrics collection visit as part of the filing. The respondent may be requested to attend one, which is why the instructional language indicates "may" rather than stating the appointment as a requirement. As standard practice, DHS does not capture separate burden for an activity that isn't considered a normal

part of the process; the request to attend would not contribute a significant overall burden, so the form burden is considered adequate to cover such occasional requests. DHS is currently working on a final biometrics rulemaking after proposing to add a biometrics visit requirement and considering the associated time burden for that action.²⁹¹

T. Other Regulatory Requirements

1. Family Well-Being

Comments: While not expressly discussing family assessment requirements, a commenter encouraged DHS to reassess the rule's impact on mixed-status families and ensure that family unity and child welfare are central to the final rule. The commenter referenced *Zadvydas v. Davis*, 533 U.S. 678 (2001), stating that the Supreme Court emphasized the importance of family unity and constitutional protections afforded to U.S. citizen children. The commenter suggested creating a pathway to legal permanent residency for long term F-1 nonimmigrants that have U.S. citizen children while in the United States as a F-1 nonimmigrant. Similarly, the commenter requested clearer guidance on how extension requests will be evaluated, especially for individuals with deep family ties and long-term compliance histories.

Response: DHS has reviewed this rule in line with the requirements of section 654 of the Treasury General Appropriations Act, 1999, Public Law 105-277, 112 Stat. 2681 (1998). DHS has systematically reviewed the criteria specified in section 654(c)(1) *Assessment of Federal Regulations and Policies on Families*, by evaluating whether this regulatory action: (1) impacts the stability or safety of the family, particularly in terms of marital commitment; (2) impacts the authority of parents in the education, nurture, and supervision of their children; (3) helps the family perform its functions; (4) affects disposable income or poverty of families and children; (5) only financially impacts families, if at all, to the extent such impacts are justified; (6) may be carried out by State or local government or by the family; or (7) establishes a policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society. DHS has no data that indicates that this rule will have any direct impacts on family well-being. Accordingly, DHS has determined that

²⁹⁰ See National Center for Education Statistics, *Digest of Education Statistics*, https://nces.ed.gov/programs/digest/d09/figures/fig_01.asp (last visited Mar. 18, 2026).

²⁹¹ See *Collection and Use of Biometrics by U.S. Citizenship and Immigration Services*, 90 FR 49062 (Nov. 3, 2025).

the implementation of this regulation will not negatively affect family well-being and will not have any impact on the autonomy and integrity of the family as an institution.

While the commenter cited, *Zadvydas v. Davis*, 533 U.S. 678 (2001), that case is inapplicable to this rulemaking. The commenter also provided a suggestion to create a pathway to legal permanent residency for long term F–1 nonimmigrants that have U.S. citizen children while in the U.S. as a F–1 nonimmigrant; however, that is outside the scope of this rulemaking. DHS notes however that family members are free to maintain their relationships with F, J, and I nonimmigrants, regardless of their family structure or immigration status.

2. NEPA

Comments: A professional association recommended that DHS strengthen its position that the rule does not require an environmental analysis under the National Environmental Policy Act (NEPA) by creating and adopting a categorical exclusion specifically for rules that do not increase immigration. They also took the position that the existing categorical exclusion cited by DHS is flawed and overly broad, lacking specific reasoning tied to immigration policy, further stating that since the proposed rule does not increase immigration—and therefore does not contribute to population growth, a key environmental concern under NEPA—it would qualify for a properly tailored categorical exclusion. The commenter finished by remarking that establishing such an exclusion would provide a more robust procedural safeguard and reinforce DHS's compliance with environmental law.

Response: DHS appreciates the recommendation and the commenter's interest in matters of immigration, but creating a new categorical exclusion under NEPA is outside the scope of this rulemaking. Further agency finds no current need for such a categorical exclusion for this rulemaking since the rulemaking already complies with all necessary laws.

3. Unfunded Mandates Reform Act

Comments: Many commenters generally claimed the rule does not comply with the Unfunded Mandates Reform Act (UMRA). Some commenters characterized the rule as an unfunded mandate for educational institutions, U.S. entities, federal agencies, program sponsors, and states. One estimated that the rule would require over 1.2 million additional administrative hours annually across higher education, translating to approximately \$60 million

in unfunded personnel costs. Another commenter pointed out that these new costs were being imposed at a time when state or educational institution budgets are already strained. Another individual specifically pointed out that the rule imposes massive costs on educational institutions without adequate federal funding, potentially violating UMRA requirements. A commenter stated that the proposal amounts to an unfunded mandate on institutions, forcing universities to become extensions of the federal immigration bureaucracy and spend limited resources on compliance staff and systems. Another commenter warned that the rule would divert resources from education and research, transforming educational offices into an extension of USCIS and focused on processing paperwork rather than providing legitimate student support. Commenters further challenged the rule's compliance with the UMRA, arguing that DHS failed to properly estimate and disclose the true costs imposed by the rule such as additional administrative staff hiring needs, training costs of DSOs or other administrative staff, and administrative tracking and processing costs. A professional association further suggested that DHS relied on flawed and misleading economic data, which prevented the public from receiving accurate notice of the proposal's true costs.

Response: DHS appreciates the commenter's concerns regarding the potential applicability of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, to the proposed rule. DHS understands that UMRA requires federal agencies to assess the effects of discretionary regulatory actions that may result in expenditures of \$100 million or more (adjusted for inflation) in any year by State, local, or tribal governments, or by the private sector.

DHS has carefully evaluated the final rule to ensure compliance with UMRA. Based on DHS's analysis in the final regulatory impact analysis, the rule does meet the threshold for expenditures that would trigger the requirements of UMRA. In addition, DHS updated the regulatory impact analysis between the NPRM and the final rule, where DHS was able to obtain more detailed data in the analysis and updated some assumptions, such as familiarization costs, in response to the public comments. DHS has completed a written statement under UMRA in Section VI.E. of this final rule.

4. Federalism

Comments: Commenters also raised concerns about federalism. One individual remarked that education is traditionally a state function under the Tenth Amendment and another commenter posited that Federal restrictions effectively forcing states to restructure their educational programs undermine state fiscal autonomy, potentially compelling states to raise taxes or diminish education quality to cover resulting shortfalls. Commenters stated that decisions about whom to teach should rest with local educational institutions, consistent with principles of federalism and State sovereignty. One individual said that the proposed rule does not provide a federalism impact summary or Tribal impact summary as required by Executive Orders 13132 and 13175, writing that U.S. universities enrolling foreign students are often part of larger state higher education systems or Tribal colleges. They went on to reason that if program sponsors are correctly viewed as State or Tribal entities operating through State or Tribal budgets, with employees considered State or Tribal workers, then these impact analyses might be required by the aforementioned Executive Orders.

Response: DHS appreciates the commenters' concerns regarding federalism and the potential impacts of the proposed rule on State and Tribal entities, including remarks about education traditionally being a state function under the Tenth Amendment and the implications for state fiscal autonomy and sovereignty. DHS emphasizes that the rule has been carefully crafted to align with federal statutory authority and policy objectives while minimizing undue interference with State and Tribal functions. The rule does not mandate changes to State or Tribal educational programs or directly compel States or Tribes to restructure their budgets, raise taxes, or diminish education quality. Rather, the rule is intended to ensure compliance with federal immigration laws and policies, which operate within the scope of DHS's jurisdiction. Additionally, the effects of this rule that the commenters mentioned are speculative and are, at most, indirect effects.

Regarding Executive Orders 13132 (Federalism) and 13175 (Consultation and Coordination with Indian Tribal Governments), DHS has reviewed the rule and determined that it does not have substantial direct effects on States, Tribes, or the distribution of power and responsibilities between the federal government and State or Tribal

governments. As such, DHS has concluded that a federalism impact summary is not required for this rule. While DHS acknowledges that some U.S. universities enrolling foreign students are part of larger State higher education systems or Tribal colleges, the rule does not alter the fundamental structure or operations of these entities in a manner that would trigger the requirements of these Executive Orders.

U. Out of Scope

DHS received a wide range of comments, described in detail below, which fall outside the scope of this rulemaking. This includes potential legal challenges to the rule, hiring difficulties for aliens, requests for advance notice for planned SEVIS outages, a desire to collect more precise data in SEVIS, university admissions policies, tuition costs, elimination of work authorizations, abuses in practical training by technology consulting companies, desired changes to the practical training structure, employment-based immigration, humanitarian and family-based immigration, DACA, other nonimmigrant categories, a desired expansion of the Voluntary Self-Reported Exit program, and broader political or cultural concerns. DHS appreciates these comments and has taken them under advisement for the future.

DHS recognizes the contributions and challenges faced by foreign students, scholars, and exchange visitors, as well as the need for system stability and program integrity. This rule is focused specifically on the admission and maintenance of status for F, J, and I nonimmigrant classifications, and does not set or revise overall immigration policy, establish new quotas, or create new eligibility categories. The rule does not apply to DACA recipients, who are not in any lawful immigration status. This rule was carefully developed to comply with all applicable statutory and regulatory requirements.

DHS has carefully considered public comments and the potential impacts on affected parties in developing this rule, and remains committed to ensuring the integrity, security, and fairness of the U.S. immigration system. DHS will continue to monitor and respond to legal developments or challenges as appropriate, and appreciates all input received, even where it falls outside the scope of this rulemaking.

Accordingly, DHS will not provide further detailed responses to comments that do not directly relate to the provisions of this rule. A summary of these out-of-scope comments follows.

A commenter warned that multiple parties would have standing to challenge the rule, including student plaintiffs facing imminent harm from retroactive status changes, universities facing administrative costs and lost enrollment, and businesses reliant upon foreign student spending. Additionally, the commenter provided discussion of venue considerations, damage claims, and preliminary relief standards as part of potential legal challenges to the proposed rule.

Commenters shared experiences of being unable to accept contract roles due to citizenship requirements or facing rejection during job searches before reaching interview stages. Commenters expressed concerns about system stability, requesting more advanced notice for planned SEVIS outages that affect school processing capabilities.

Commenters stated that university prices continue to increase for Americans, Americans continue to take on educational debt and face school admission difficulty. Commenters expressed concern that foreign students increase competition for admissions which leads to a decrease in educational and leadership opportunities for Americans. A commenter argued that the presence of foreign students does not enhance the educational experience of American students. Additionally, commenters raised concerns and challenges regarding foreign teaching assistants with limited English proficiency or subject matter expertise which impacts the quality of education. Conversely, other commenters opposed these views.

Many commenters voiced concerns on the difficulty of Americans finding work and the impact of foreign students and workers on American jobs and wages. Some commenters suggested that DHS eliminate work authorizations for nonimmigrants to preserve job opportunities for American workers. Other commenters made comments on other impacts of H-1B and similar programs on U.S. workers.

Some commenters recommended eliminating or significantly modifying the OPT and CPT program. A commenter argued that OPT violates the INA by allowing student visa holders to work after completing their degrees. Commenters stated that “Day One CPT” functions as an employment status rather than as an educational status. Another commenter maintained that OPT circumvents congressionally determined limits on H-1B visas and saturates the American labor market with foreign job seekers who may accept lower wages. However, some

commenters defended the OPT program because the participants are more likely to work in STEM fields, the program provides valuable work experience and strengthens the talent pipelines between U.S. educational institutions and companies.

Many commenters were supportive of limiting nonimmigrant access to CPT and (to a lesser degree) OPT. While generally expressing support for the proposed rule, commenters expressed concerns over CPT and OPT, remarking that these programs are “heavily abused” by technology consulting companies and create an unfair advantage for foreign workers.

A commenter stated that CPT should be approved by USCIS. One commenter stated that CPT should be abolished because it takes jobs away from Americans. Commenters opposed to changes in CPT/OPT stated that some F-1 students remain in CPT/OPT because of the difficulty in obtaining H-1B status. One commenter stated that foreign students are forced to stay in F-1 status by the H-1B lottery. Another commenter raised concerns regarding the recent H-1B lottery reforms and \$100,000 entry fees, noting low percentages of selection rates through the lottery process.

A commenter recommended that DACA recipients should be excluded from the proposed rule. Separately, a commenter stated that the use of the term “alien” to describe human beings from another country was dehumanizing people from abroad and not appropriate.

Some commenters suggested improving transparency and accessibility in labor market testing, utilizing the creation of a national job posting board for Program Electronic Review Management (PERM) listings and broader job advertisement requirements.

A commenter recommended expanding SEVIS to collect more precise employment data for F-1 students participating in CPT and OPT, including third-party placement tracking and wage reporting.

Commenters proposed a wide range of restrictions, limits, and procedural changes to various nonimmigrant and immigrant visa categories. Suggestions included stricter eligibility requirements, more frequent visa applications, shorter stay limits, increased background checks and monitoring (especially for certain nationalities), biometric identity cards, caps on foreign student numbers, mandatory out-of-country renewals, and higher costs for visa applicants. Some advocated for reducing or eliminating

student visas, prioritizing American students and workers, and restricting or pausing visa issuance until border security is achieved. Others recommended changes to marriage fraud prevention, the B-1/B-2 and H-1B programs, and the OPT program, including subjecting OPT hires to the same taxation as U.S. citizens. Additional recommendations included new reporting and biometric requirements, special policies for medical graduates and high-skilled talent, and exemptions for healthcare workers from certain H-1B fees. Some commenters also called for country-specific restrictions based on perceived security risks.

Some commenters also recommended expanded waivers and pathways for physician International Medical Graduates, preserving OPT for medical graduates transitioning to residency, creating exceptions for medical and biomedical research training, and establishing a “Legal Privilege Status” for high-skilled global talent with flexible work authorization. Commenters supported expanding visa opportunities for individuals perceived as contributing positively to the U.S. economy and society.

A commenter expressed support for expanding the Voluntary Self-Reported Exit program, suggesting that integration with the existing SEVIS system could provide DHS with more effective tracking and oversight of ability visa holders’ departures than annual extension applications.

A commenter stated that the NPRM failed to evaluate how the fixed admission model would affect populations beyond the F, J and I categories. The commenter further stated that the NPRM overlooked the impact on individual R-1 religious workers who pursue academic study or ministerial training in the United States, who often transition between student and religious worker status.

Commenters made out-of-scope remarks about various immigration statuses and programs, including general opinions on foreign student processing; concerns and allegations about general lack of immigration law enforcement and immigration fraud; allegations related to visa applicants, employment-based immigration (including H-1B fraud, EB-1, EB-2 NIV and I-140), family-based immigration (marriage, green card), B-1/B-2 visitors, and humanitarian-based immigration such as waivers and the asylum process; concerns about H-1B program costs; a request to lift travel ban for Iranians; and concerns that the visa program promotes slave labor and corporate

incentives that render U.S. laws meaningless and generally disadvantage Americans. Another commenter raised concerns about F-1 students engaged in ELT programs and urged DHS to halt F-1 visa issuance for all ELT programs.

Other out of scope comments unrelated to the rule included general support for enforcing immigration laws, general opposition to social media monitoring and surveillance of students; general opposition to various Presidents, general opposition to various Administrations’ policy decisions (including open borders, closed borders) and government officials, remarks about American voters and culture, comments urging the government address illegal immigration and avoid pursuing policies which impact social security checks, opposition to billing code changes, general support that public funded institutions should benefit Americans; general political opposition, concerns about public safety, comments generally concerned about national security, counterproliferation, and infrastructure (including domestically and with respect to China, India, and Middle-Eastern countries), general comments about freedom of speech concerns, comments indicating that corporate employers benefit financially from the foreign student program and hiring foreigners (some commenters indicating that politicians and/or government officials permits this), statements which did not explain with sufficient specificity what or who the commenter was referring to, a comment indicating a test of the commenting system, one commenter suggested an elaborate legislative proposal modifying the hiring, recruiting, and interview process; a request for an exception for a specific individual from China; statements about reinstating the McLaren-Warren act, requests to release “the Epstein Files,” request to revoke specific media visas issued, and a congratulatory message to “Mr. Edlow” on his confirmation as USCIS director.

V. Discussion of the Final Rule

All persons arriving at a POE to the United States must be inspected by a CBP officer and must apply for admission to the United States with CBP.²⁹² In the case of aliens, a CBP officer determines whether the aliens are eligible for admission and, if they are, issues the Form I-94, Arrival/Departure Record, with the nonimmigrant classification and period

of admission.²⁹³ For the vast majority of aliens, their I-94 includes a specific date through which their status is valid; they must depart the United States on or before that date. An alien who wishes to lawfully remain in the United States in the same status past that date generally must apply for an EOS with USCIS.

However, certain nonimmigrant classifications, including F academic students, J exchange visitors, and I representatives of foreign information media, and their dependents, may be admitted into the United States for D/S instead of a period of time with a specific departure date. DHS has changed the admission provisions for these particular nonimmigrant classifications, including replacing admissions for “duration of status” with a fixed admission period. This will enable immigration officers to independently and directly verify the continued eligibility of foreign visitors in F, J, or I nonimmigrant status. It will also require aliens who fall under certain criteria to apply more frequently for additional admission periods.

A. Summary of Changes in the Final Rule as Compared to the NPRM

Following careful consideration of public comments received, DHS has made several modifications to the regulatory text proposed in the NPRM. In addition to minor changes for clarity, the changes include the following:

- *Technical edits in the following sections:*

- 8 CFR 214.1(c)(5)—Removes prior language in the NPRM under 8 CFR 214.1(c)(5) (proposed) because the current version of the regulation at 8 CFR 214.1(c)(7) already substantively addresses this topic, *i.e.*, that USCIS has discretion to grant decisions on extension or amendment of stay request, and that decisions may not be appealed;

- 8 CFR 214.2(f)(5)(i)(C)—Revised to clarify that “public high school” may also include a charter school or other similar school funded by U.S. taxpayers;

- 8 CFR 214.2(f)(5)(ii) and 8 CFR 214.2(f)(8)—Revised the titles for consistency with one another;

²⁹³ The I-94 is used by the U.S. government to track arrivals and departures of nonimmigrants. Originally the form was designed in two parts—one for the Government and one for the nonimmigrant. The second part would be stapled into the nonimmigrant’s passport and then removed upon departure. The form is now maintained electronically and can be accessed by nonimmigrants by downloading it from the CBP website. See CBP, *Official Site for Travelers Visiting the United States: Apply for Provisional I-94, Retrieve Form I-94/I-95, Request Travel History and Check Travel Compliance*, <https://i94.cbp.dhs.gov/> (last visited Jun. 4, 2026).

²⁹² See INA sec. 235, 8 U.S.C. 1225; see also 8 CFR 235.

○ New 8 CFR 214.2(f)(5)(ii)(C)—Replaces “F–1 nonimmigrant” with “F–1 student” for consistency with the other regulatory changes, as the terms are synonymous;

○ New 8 CFR 214.2(f)(5)(viii)—Replaces “Automatic extension of F stay” with “Automatic extension of the authorized period of stay”;

○ New 8 CFR 214.2(f)(8)(i)(D)—Consistent with the discussion in the NPRM,²⁹⁴ adds the word “first” to refer to the student needing to complete his or her first academic year of a program of study at the school that initially issued his or her Form I–20 or successor form (unless an exception has been authorized by SEVP);

○ New 8 CFR 214.2(f)(8)(i)(H)—Adds the phrase “begin or resume classes” rather than the previously proposed “resume classes”;

○ New 8 CFR 214.2(f)(8)(ii)—Clarifies the previously proposed transfer procedure language;

○ 8 CFR 214.2(f)(11)(i)(D)—Replaces “60” with “30”, which provides that an F–1 student may not request a start date that is more than 30 days after the student’s program end date. This technical change aligns with the 30-day period that was proposed in the NPRM under 8 CFR 214.2 (f)(11)(i)(B)(2) and with the 30-day period of preparation for departure under new 8 CFR 214.2 (f)(5)(v); and

○ New 8 CFR 214.2(j)(1)(vi)—Replaces “J–1 stay” with “J–1 authorized period of stay”.

• *Clarifications and substantive changes in the following sections:*

○ 8 CFR 214.1(c)(3)(v)—Clarifies that those who fall under 8 CFR 214.1(m) may be eligible for an EOS if admitted for D/S;

○ New 8 CFR 214.1(m)(1)(ii) and (iii)—Clarifies that under the transition regulations, DHS reserves the discretion to extend the period exempting the filing of the Form I–539 or successor form beyond the dates and instances provided under paragraph (i) and (ii) regarding OPT and STEM OPT (by moving part of the proposed paragraph (ii) from the NPRM into a new standalone paragraph (iii) in the final rule, to correctly reflect that the new paragraph (iii) applies for the entire subsection);

○ New 8 CFR 214.2(f)(5)(i)—Clarifies when additional time may be granted to F–1 students by referencing additional activities and the accompanying CFR sections which provide procedures for those activities (*i.e.*, adding “to complete their program of study, as described in paragraphs (f)(7) and

(f)(8)(iv) of this section, begin a new program of study, as described in paragraphs (f)(5)(ii)(D) and (f)(7) of this section, or”);

○ New 8 CFR 214.2(f)(5)(ii)(A)—Clarifies the language prohibiting transfers and changes in educational objectives for F–1 students at any level below the graduate degree level, prohibiting them from transferring or changing educational objectives, *i.e.*, majors or educational levels, within the first academic year of a program of study, unless an exception is authorized by SEVP for extenuating circumstances. Adds “a student needing to change schools to complete elementary or secondary education” to the non-exhaustive list of examples of extenuating circumstances. Clarifies that an F–1 student at the graduate level or above may not change educational objectives at any point during their program of study. Prohibits an F–1 student at the graduate level or above from transferring at any point during their program of study, unless an exception is authorized by SEVP for extenuating circumstances;

○ New 8 CFR 214.2(f)(5)(ii)(C)—States that the prohibition for an F–1 student to maintain, be admitted, or otherwise be provided F–1 status at the same or lower educational level after completing a program applies to those aliens who have completed a program after the effective date of this final rule;

○ New 8 CFR 214.2(f)(5)(ii)(E)—Limits the ability to delay or suspend the implementation of 8 CFR 214.2(f)(5)(ii)(A) through (C) for a period of two years from the effective date of the rule since this provision is not needed indefinitely. Further, adds that if DHS delays or suspends any provisions in new 8 CFR 214.2(f)(5)(ii)(A) through (C) governing the change in educational objectives, DHS will make an announcement of the delay or suspension by publication of a notice in the **Federal Register**. This is in addition to the announcement on SEVP’s website;

○ New 8 CFR 214.2(f)(5)(v)—Clarifies that an F–1 student who completes their course of study or any authorized practical training early must depart, with any eligible dependents, within 30 days from the end date of their study or training or otherwise seek to maintain lawful status (by adding “However, if the F–1 student ends his or her study or training prior to expiration of his or her period of admission, the F–1 student, and any eligible dependents, must, within 30 days from the end date of the study or training, depart the United States or otherwise seek to maintain lawful status.”) This section also

clarifies that if an F–1 student fails to maintain a full course of study or otherwise fails to maintain status, not only are they not eligible for any additional time for departure, but they must also leave the country immediately;

○ New 8 CFR 214.2(f)(8)(i)(C) and (D)—As proposed in the NPRM, prohibits an F–1 student in a graduate level program of study from changing educational objectives or transferring to an SEVP-certified school, but clarifies that this does not apply if an exception is authorized by SEVP under 8 CFR 214.2(f)(5)(ii)(A);

○ New 8 CFR 214.2(f)(10)(ii)(D)—Revises the proposed language for F–1 students recommended for post-completion OPT to make it clear that they can seek admission through CBP after travel abroad or an EOS with USCIS;

○ New 8 CFR 214.2(j)(1)(ii)(C)—Clarifies that the departure period of 30 days applies equally for those whose programs have ended early and those whose programs completed on time (by adding “If the program end date is shortened, the J–1 exchange visitor and any J–2 accompanying dependents, must leave the United States within 30 days from the new program end date or otherwise seek to maintain lawful status in that 30-day period.”);

○ New 8 CFR 214.2(j)(1)(iv)(D)—Clarifies the process for late requests for extensions of the current program end date. The language was revised with terminology that accurately reflects the responsibilities of ROs in updating the program status or program end date on the most recent Form DS–2019, and the sponsor’s responsibilities in submitting the necessary corrections or reinstatements;

○ New 8 CFR 214.2(j)(1)(vii)(A)—Clarifies that for J–1 nonimmigrants, employment is authorized during the pendency of a timely filed EOS for up to 240 days, but not thereafter (by adding the phrases “in authorized employment and”; “but not including employment” where applicable). Also added clarifying language to make clear that there is a special provision for those applying for EOS during the first six months after the effective date of the rule;

○ Revised 8 CFR 214.2(j)(1)(ix)—Refers to DHS rather than previously proposed USCIS to not erroneously limit DHS authority related to this provision; and

○ New 8 CFR 248.1(e)—Continues to reference the aliens Form I–20 or Form DS–2019, but removes previously proposed text referring to those forms accompanying the change of status

²⁹⁴ See 90 FR at 42073.

application that was approved prior to the alien's departure.

B. General Period of Admission for F and J Nonimmigrants

DHS continues to develop its systems and processes in order to implement all provisions of the final rule. DHS will admit F-1 and J-1 nonimmigrants for up to the length of their program listed on the Form I-20 or Form DS-2019, or successor form, not to exceed a period of 4 years. These nonimmigrants will also receive an additional 30-day period for arrival prior to the start date listed on their forms and a 30-day period to prepare for departure or to otherwise seek to obtain lawful authorization to remain in the United States. *See* new 8 CFR 214.1(a)(4)(i) through (iii); and new 8 CFR 214.2(f)(5) and (j)(1)(ii). In this final rule, DHS has clarified that F and J nonimmigrants whose programs end early must either leave the United States or otherwise seek to maintain lawful status within 30-days from the new program end date. *See* new 8 CFR 214.2(f)(5)(v) and (j)(1)(ii)(C).

The period of admission for F-2 and J-2 dependents may not exceed the authorized period of stay of the principal F-1 or J-1 nonimmigrant.

DHS addresses the following circumstances that might apply when F and J nonimmigrants apply for admission at a POE:

- Aliens who departed the United States, including those seeking admission before their timely filed EOS application has been adjudicated, but after their previously authorized period of stay has expired, could be eligible to be admitted for the length of time required to reach the program end date noted in their most recent Form I-20 or DS-2019, not to exceed 4 years, plus a period of 30 days to prepare for departure or to otherwise seek to obtain lawful authorization to remain in the United States, similar to an initial period of admission. *See* new 8 CFR 214.1(a)(4)(i)(A) and (ii)(A). USCIS would consider the alien's EOS application abandoned because the alien's new fixed date of admission based on the most recent I-20 or DS-2019 had already been determined by CBP upon the most recent admission to the United States, and thus the pending EOS application is extraneous. *See* new 8 CFR 214.1(c)(8).

- Aliens who departed the United States and are applying for admission before their timely filed EOS application has been adjudicated, but before their previously authorized period of stay has expired, could be eligible to be admitted either for: the length of time as indicated by the program end date noted

in their most recent Form I-20 or DS-2019, not to exceed 4 years, plus a period of 30 days to prepare for departure or to request admission for the previous period authorized admission and wait for USCIS to adjudicate the EOS. If the alien is admitted for the program length (not to exceed 4 years, as applicable), USCIS would consider the alien's EOS application abandoned because the alien's new fixed date of admission based on the most recent I-20 or DS-2019 had already been determined by CBP upon the most recent admission to the United States, and thus the pending EOS application is extraneous; or the period of time remaining on their previously authorized period of admission. CBP could admit the alien for a period of time not to exceed the unexpired period of stay that was authorized before the alien's departure, plus a period of 30 days to prepare for departure. In this scenario, in accordance with new 8 CFR 214.1(c)(8), an alien's EOS application is not considered abandoned and USCIS could grant a new period of stay upon subsequent adjudication of the EOS application. *See* new 8 CFR 214.1(a)(4)(i) and (a)(4)(ii). DHS is providing additional clarification here in this preamble that in order to facilitate admission in this scenario, aliens should be prepared to provide evidence of a timely filed extension in the form of a receipt notice issued by DHS for either instance detailed above.

- Aliens who departed the United States after timely filing an EOS application and are reapplying for admission after their EOS application is granted. In such cases, CBP could admit them for a period of time not to exceed the time authorized by their approved EOS, plus a period of 30 days to prepare for departure. *See* new 8 CFR 214.1(a)(4)(i)(C) and (a)(4)(ii)(C). When applying for admission at a POE while their application for employment authorization is pending, they should have a notice (currently Form I-797) issued by USCIS indicating receipt of the application for employment authorization (currently Form I-765) necessary for post-completion OPT or STEM OPT and their latest I-20 endorsed by their DSO approving OPT or STEM OPT with a proposed end date. *See* new 8 CFR 214.1(a)(4)(iii).

- Aliens who departed the United States without an approved EOS application and are applying for admission with a valid Form I-20 or Form DS-2019, or successor form, may be admitted for the length of time as indicated by the program end date noted in their Form I-20 or DS-2019, not to

exceed 4 years, plus a period of 30 days to prepare for departure. *See* new 8 CFR 214.1(a)(4)(i)(A) and (ii)(A) and new 8 CFR 214.2(f)(5) and (j)(1)(ii)(A).

- F nonimmigrants applying for admission to engage in post-completion OPT or STEM OPT may, generally, be admitted either up to the expiration date noted on their EAD or up to the DSO's recommended employment end date for post completion or STEM OPT specified on their Form I-20, whichever is later, plus a 30-day period to prepare for departure. *See* new 8 CFR 214.1(a)(4)(iii) and new 8 CFR 214.2(f)(5). When applying for admission at a POE while their application for employment authorization is pending, they should have a notice issued by USCIS indicating receipt of the employment authorization application necessary for post-completion OPT or STEM OPT (currently Form I-797) and their latest I-20 indicating approval for OPT or STEM OPT by their DSO with a suggested end date.

- The method to calculate the period of admission for F-1 and J-1 nonimmigrants is explained. The 30-day period before the indicated report date or program start date and 30 additional days following the program end date do not count towards the maximum. *See* new 8 CFR 214.2(f)(5), (f)(7)(vi), (j)(1)(ii) and (j)(1)(iv)(C). The calculation of the 4-year maximum period of admission will not begin from the date of admission during that 30-day arrival window, but from the program start date. Similarly, the 30-day departure periods for F-1 and J-1 nonimmigrants will not count towards the 4-year maximum period of admission. This will avoid a scenario where an F-1 or J-1 seeks admission 30 days prior to the program start date, is admitted for a maximum 4 year period of admission to complete a 4 year program, but receives a period of admission calculated from the date of entry, meaning that the end of their period of admission would end 30 days prior to their 4 year program end date, thereby requiring the F-1 or J-1 to apply for an EOS or depart and re-enter the United States.

Under this final rule, certain aliens applying for admission pursuant to the provisions relating to automatic extension of visa validity in the case of an absence not exceeding 30 days solely in contiguous territory or adjacent islands could be admitted up to the unexpired period of stay authorized prior to their departure and the visa is considered automatically extended to the date of application for readmission only. *See* new 8 CFR 214.1(b)(1) and 22 CFR 41.112(d).

All of these cases assume, consistent with this final rule, that the admission period of any F or J nonimmigrant previously admitted for D/S will be transitioned to a fixed date of admission upon travel outside the United States. To provide adequate notice to aliens previously admitted for D/S regarding the date when their admission period ends pursuant to the transition, an alien's period of admission will expire on the program end date on the alien's Form I-20 or DS-2019 that is valid on the final rule's effective date, not to exceed a period of 4 years from the final rule's effective date, plus the currently permitted additional period of 60 days for F nonimmigrants and 30 days for J nonimmigrants to depart. *See* new 8 CFR 214.1(m)(1). DHS believes that this will provide adequate notice because all students and exchange visitors in F or J nonimmigrant status who wish to extend their program currently need to apply for permission with their DSO or RO. At that time, the DSO or RO could explain that they are recommending a program extension, but the F or J nonimmigrant must apply for an EOS directly with DHS or depart the United States and seek readmission, and such EOS or readmission must be granted to remain lawfully in or to re-enter the United States, respectively.

Under current policy, F and J nonimmigrants admitted for D/S do not accrue unlawful presence until the day after USCIS formally finds a nonimmigrant status violation while adjudicating a request for another immigration benefit or on the day after an immigration judge orders the alien excluded, deported, or removed (whether or not the decision is appealed), whichever comes first.²⁹⁵ In reliance on this policy, some F and J nonimmigrants admitted for D/S may not have taken the appropriate steps to maintain status, otherwise change status, or depart the United States. This final rule is concerned with providing adequate notice to allow F and J nonimmigrants who are maintaining status to transition to a new date-certain admission.

Although some F and J nonimmigrants may have program end dates longer than 4 years, DHS believes that using the program end date on the Form I-20 or DS-2019, up to a maximum 4-year period of admission, as the fixed date of admission is the best option because it aligns with the general structure of post-secondary education

while still allowing for the government to have increased oversight of this population through the requirement that those nonimmigrants who wish to remain beyond their authorized period of admission either apply to extend their stay or depart the United States and seek readmission. According to the ED, students can normally earn a bachelor's degree in 4 years²⁹⁶ and non-resident students normally earn their bachelor's degrees within 4 years of entry.²⁹⁷ The total number of F-1 students pursuing a bachelor's degree in 2023 was 457,906, constituting almost 34 percent of the 2023 nonimmigrant student population. The total number of F-1 students pursuing a master's degree, generally 2-year programs, in 2023 was 608,857, representing almost 45 percent of the nonimmigrant student population. Taken together this population represents almost 79 percent of the nonimmigrant students in the United States.²⁹⁸ Therefore, DHS believes that a 4-year period of admission will not pose an undue burden on them, because many F and J nonimmigrants will complete their program within a 4-year period and not have to request additional time from DHS. The smaller proportion of students not pursuing a bachelor's or master's degree are enrolled in different programs, which may last more or less than 4 years.²⁹⁹ While DHS acknowledges the additional burden that this rule would impose on students engaged in programs lasting longer than 4 years, DHS believes that the benefit to program integrity of this rule would outweigh the burden to this population. Before arriving at the 4-year admission periods, DHS considered various options, which were discussed within the NPRM.³⁰⁰

²⁹⁶ *See* The Mobile Digest of Education Statistics, *The Structure of American Education* (2017), https://nces.ed.gov/programs/digest/mobile/The_Structure_of_American_Education.aspx.

²⁹⁷ *See* National Center for Education Statistics. (2024). *Graduation rate from first institution attended for first-time, full-time bachelor's degree-seeking students at 4-year postsecondary institutions, by race/ethnicity, time to completion, sex, control of institution, and percentage of applications accepted: Selected cohort entry years, 1996 through 2017* (Table 326.10). In *The Digest of Education Statistics, 2024*. https://nces.ed.gov/programs/digest/d24/tables/dt24_326.10.asp (last visited Feb. 9, 2026).

²⁹⁸ *See* ICE, 2023 SEVIS by the Numbers Report (May 10, 2024), https://www.ice.gov/doclib/sevis/btn/24_0510_hsi_sevp-cy23-sevis-btn.pdf.

²⁹⁹ Other programs include associate degrees, language training programs, and Ph.D. programs, among others.

³⁰⁰ *See* 90 FR at 42082–83 (Aug. 28, 2025).

C. Automatic Extension of Visa Validity at POE for Contiguous Travel

DHS changed the admission language in the provision relating to extension of visa validity in limited situations from “shall” to “may” to clarify that CBP always maintains the discretion to determine whether an alien is admissible and the appropriate period of admission. This change removes any ambiguity about whether CBP has an absolute duty to admit an alien to clarify that CBP has the discretion to admit an alien for a certain period of time, consistent with statutory and regulatory authorities. *See* new 8 CFR 214.1(b)(1).

DHS made technical revisions to the visa revalidation provisions allowing certain F, J, and M nonimmigrants to apply for admission if eligible for admission as an F, J, or M nonimmigrant if they are applying for admission after an absence from the United States not exceeding 30 days spent solely in contiguous territory or adjacent islands. *See* new 8 CFR 214.1(b). Such technical revisions include updating language to clarify that “visa revalidation” refers to automatic extension of visa validity at the POE to the date of application for readmission only. These provisions apply when, for example, a nonimmigrant finds himself or herself applying for re-entry after going to Mexico on spring break without realizing that his or her visa had expired. Instead of having to get a new visa, CBP may admit the nonimmigrant, whose visa validity is automatically extended by operation of DoS regulations. *See* 22 CFR 41.112(d). DHS does not believe it is necessary to require a nonimmigrant to obtain a new visa under these circumstances.

DHS made minor technical updates to account for inaccurate or no longer applicable terms and cites. First, DHS struck the reference to INA 101(a)(15)(Q)(ii) and reserved it, as that program no longer exists and is no longer in the INA.³⁰¹ *See* new 8 CFR 214.1(b)(1)-(3). Second, DHS struck the reference to “duration of status” in redesignated 8 CFR 214.2(f)(5)(vii) and new 8 CFR 214.1(b)(1), 214.2(f)(18)(iii), and 274a.12(b)(6)(v).

D. EOS

This final rule will not create a new form for an EOS application. However, in the future, some form names and numbers may change. While DHS plans to update existing forms to allow F and I nonimmigrants to apply for an EOS

³⁰¹ *See* Irish Peace Process Cultural and Training Program Act of 1998, Public Law 105–319, 112 Stat. 3013 (Oct. 30, 1998), as amended by Public Law 108–449, 114 Stat. 1526 (Dec. 10, 2004).

²⁹⁵ *See* USCIS Memorandum, *supra* note 72 (which currently applies unlawful presence to F, J, and I nonimmigrants in relation to duration of status but which will change accordingly when duration of status no longer applies to them.).

with USCIS, DHS believes it is more efficient to replace references to specific form names and numbers throughout the current regulations with generally applicable language.

Using general language in the regulatory text instead of referring to specific form names and numbers helps both DHS and stakeholders. It allows for technical changes without requiring an entirely new rulemaking to update form names. Stakeholders will receive notice and specific guidance on USCIS' website and in the appropriate form instructions, as they already do for various other benefits. Therefore, DHS uses this language in 8 CFR 214.1(c)(2) and struck the phrase exempting F and J nonimmigrants from filing an EOS, as they will be required to file an EOS if they wish to remain in the United States beyond their specified date of admission. *See* new 8 CFR 214.1(c)(2).

Additionally, DHS struck "other than as provided in 214.2(f)(7)" from new 8 CFR 214.1(c)(3)(v) and added in its place "except those who fall under 8 CFR 214.1(m)" to make it clear that students must apply for an EOS. This requirement will not apply to other nonimmigrants admitted for D/S, such as A-1 or A-2 representatives of foreign governments and their immediate family members; they will remain ineligible to file an EOS.

As part of the EOS application, USCIS requires biometric collection and may require such collection from F, J, and I nonimmigrants. USCIS has the general authority to require and collect biometrics from applicants, petitioners, sponsors, beneficiaries, or other individuals residing in the United States for any immigration and naturalization benefit. *See* 8 CFR 103.16. Biometric collection helps USCIS confirm an individual's identity and conduct background and security checks. Further, USCIS may also require any applicant, petitioner, sponsor, beneficiary or individual filing a benefit request, or any group or class of such persons submitting requests to appear for an interview. *See* 8 CFR 103.2(b)(9). USCIS may require such an interview as part of the screening and adjudication process that helps confirm an individual's identity, elicit information to assess the eligibility for an immigration benefit, and screen for any national security or fraud concerns.

The rule addresses the admission of F, J, and I nonimmigrants who timely filed an EOS and/or an application for employment authorization but left the United States before receiving a decision from USCIS. DHS anticipates this scenario will apply mostly to F-1

students applying for post-completion OPT and STEM OPT extensions.

While USCIS generally does not consider an application for EOS abandoned when the nonimmigrant leaves the United States,³⁰² DHS recognizes the potential for conflict if a nonimmigrant receives authorization from both CBP and USCIS for what amounts to the same request (a specific period of time to pursue authorized activities). Where an alien in F, J, or I status timely files an application for EOS, leaves the United States before USCIS approves that EOS application, and applies for admission to continue his or her activities for the balance of the previously authorized admission period, USCIS would generally not consider the EOS application abandoned. *See* new 8 CFR 214.1(c)(8)(i).

Consistent with the general provision on admission in new 8 CFR 214.1(a)(4) where the alien leaves the United States and applies for admission while his or her EOS application is pending and is admitted based on a new Form I-20 or DS-2019 after his or her previously authorized admission has expired; the pending EOS may be deemed abandoned. In this case, the AUD provided by CBP on the alien's I-94 would govern. *See* new 8 CFR 214.1(c)(8)(ii). This is because, in these cases, CBP's grant of a new period of authorized stay will supersede the pending EOS application seeking a period of authorized stay, rendering it superfluous.

DHS considered a policy whereby an F, J, or I nonimmigrant would automatically abandon an EOS application upon departing the United States. However, DHS believes such a strict requirement would not be practical, because people cannot always predict when they will have to travel. The decision to grant or deny an EOS, including in the event of a departure, involves an exercise of agency discretion, utilizing the laws, regulations, agency policy, and operational guidance.

Regarding applications for employment authorization for F-1 and J-2 nonimmigrants, DHS notes that CBP does not adjudicate applications for employment authorization. Should an EOS application be deemed abandoned, USCIS will continue processing any applications for employment authorization, notwithstanding a departure, and, if the application is

approved, USCIS will not issue an EAD with a validity date that exceeds the fixed date of admission provided to the alien at the POE. For example, an F-1 student wishing to engage in post-completion OPT or a STEM OPT extension will need to file both an EOS application and an application for employment authorization. Where the alien had departed the United States before his or her applications are adjudicated, USCIS will not consider the employment authorization application abandoned. *See* new 8 CFR 214.1(c)(8)(ii).

In all events, when an F-1 or a J-2 nonimmigrant travels while the employment authorization or EOS application is pending, he or she is still expected to respond to any RFE and to timely submit the requested documents. Because an RFE may arrive after an alien departs, either electronically or at a U.S. address, aliens traveling outside the United States while applications are pending are advised to make necessary arrangements to determine whether they have received an RFE relating to their application and to timely respond to any RFE.³⁰³ Failure to do so could result in USCIS denying an employment authorization or EOS application for abandonment.

E. Transition Period

1. F and J Nonimmigrants Who Are in D/S on the Effective Date of the Final Rule

DHS will generally allow all F and J nonimmigrants present in the United States on the final rule's effective date who are validly maintaining that status and who were admitted for D/S to remain in the United States in F or J status, without filing an EOS request, up to the program end date reflected on their Form I-20 or DS-2019 that is valid on the final rule's effective date, for a period not to exceed 4 years from the effective date of the final rule, plus an additional 60 days for these F nonimmigrants and 30 days for J

³⁰² *See* U.S. Dep't of Justice, *Memo from Cook, Acting Asst. Comm. Programs, Travel After Filing a Request for a Change of Nonimmigrant Status*, HQ 70/6.2.9 (June 18, 2001), <https://www.uscis.gov/sites/default/files/document/memos/Travpub.pdf>.

³⁰³ *See* ICE, *Traveling as an International Student*, <https://studyinthestates.dhs.gov/traveling-as-an-international-student> (last visited Feb. 9, 2026). *See also* ICE, *Travelling Outside the United States for Five Months or Fewer*, <https://www.ice.gov/sevis/travel> (last updated July 8, 2025), which notes, "Can I reenter if my request for OPT is pending? Yes, but traveling during this time should be undertaken with caution. USCIS may send you [an RFE] while you are away, however, so you will want to make sure you have provided a correct U.S. address both to your DSO and on the application and would be able to send in requested documents. Also, if USCIS approves your OPT application, you will be expected to have your EAD in hand to re-enter the United States. Like a request for further information, USCIS can only send the EAD to your U.S. address."

nonimmigrants to depart the country. See new 8 CFR 214.1(m)(1).

F and J nonimmigrants who depart the United States after the rule's effective date and before the end date reflected on their Form I-20 or DS-2019 may be admitted with a new fixed admission period, like any other newly admitted F or J nonimmigrant, as provided for in new 8 CFR 214.1(a)(4), based on the date on their Form I-20 or DS-2019 and 30 days for departure. See new 8 CFR 214.2(f)(5) or (j)(1)(ii). Aliens who need additional time to complete their current course of study, including requests for post-completion OPT, STEM OPT, or academic training, or would like to start a new course of study or exchange visitor program must apply for an EOS with USCIS for an admission period up to the new program end date, or OPT end date, listed on the Form I-20 or DS-2019, or successor form, reflecting such an extension, up to a maximum of 4-years. See new 8 CFR 214.1(m)(1).

For those aliens in F-1 status, admitted for D/S, present in the United States on September 15, 2026 who have timely filed on or before September 15, 2026 an application for post-completion OPT or a STEM OPT extension, there is not a requirement to file an EOS application, and, instead, they are only required to file the application for employment authorization for post-completion OPT or STEM OPT extension. See new 8 CFR 214.1(m)(1)(i). An F-1 nonimmigrant who departs the United States before filing the application for post-completion OPT or STEM OPT, and is subsequently admitted to the United States with a fixed period of admission is required to file both an application for employment authorization, (Form I-765 or successor form) and an Application to Extend/Change Nonimmigrant Status (Form I-539, or successor form), pursuant to 8 CFR 214.2(f)(11)(i)(B)(2) or (C). See new 8 CFR 214.1(m)(1)(ii). An alien described in this section who departs the United States while the Application for Employment Authorization is pending or once approved will be admitted for a fixed period of time pursuant to 8 CFR 214.1(a). *Id.* DHS reserves the discretion to extend the period exempting the filing of the Application to Extend/Change Nonimmigrant Status (Form I-539 or successor form) in 6-month increments by publication of a notice in the **Federal Register**. See new 8 CFR 214.1(m)(1)(iii). The final rule moved this paragraph from paragraph (ii) to offer additional clarity, since such an extension can also apply to paragraph (i).

An F-1 nonimmigrant who departs the United States while the application for employment authorization for post-completion OPT or STEM OPT is pending or once approved will be admitted for a fixed admission period pursuant to new 8 CFR 214.1(a)(4)(iii). F-1 nonimmigrants who file for employment authorization for STEM OPT remain eligible for the 180-day extension of their post-completion OPT EAD while their application for STEM OPT is pending pursuant to 8 CFR 274a.12(b)(6)(iv).

Regarding pending applications for employment authorization during the transition period, aliens in F status who are subject to the transition and who are seeking post-completion OPT and STEM OPT employment authorization will be authorized to lawfully remain in the United States while the application is pending with USCIS if: (1) they are in the United States on the effective date of the final rule with admission for D/S; (2) they properly filed an application for employment authorization; (3) their application is pending on the final rule's effective date; and (4) they are not otherwise removable under the INA. Unless otherwise advised by USCIS, they will not have to file for an EOS or re-file an application for employment authorization. See new 8 CFR 214.1(m)(2). If the application for employment authorization is approved, the F-1 student will be authorized to remain in the United States in F-1 status until the expiration date of the EAD, plus 60 days as provided in their previous admission. If the employment application is denied, the F-1 student will continue to be authorized to remain in the United States until the program end date listed on their Form I-20, plus 60 days as provided in their previous admission, as long as he or she continues to pursue a full course of study and otherwise meets the requirements for F-1 status. See new 8 CFR 214.1(m)(2)(i).

Aliens in F-1 status with pending employment authorization applications, other than post-completion OPT and STEM OPT, also do not need to file for an extension or refile an employment authorization application. As long as these F-1 nonimmigrants continue to meet the requirements for F-1 status, they continue to be authorized to remain in the United States until the program end date listed on the Form I-20, plus 60 days, regardless of whether the employment authorization is approved or denied. See new 8 CFR 214.1(m)(2)(ii).

As discussed in the NPRM, DHS believes that this transition will not be unreasonably burdensome on F and J

nonimmigrants, and it will enable DHS to transition F and J nonimmigrants without unduly burdening nonimmigrants, USCIS, or CBP. Many would be able to complete their programs per the terms of their initial D/S using the original program end date as an expiration of their authorized period of stay. DHS may grant such periods, which include an additional 60 days for F nonimmigrants and 30 days for J nonimmigrants as provided in their previous admission, automatically without an application or fee. With this option, DHS believes that the majority of F and J nonimmigrants will be shifted to a fixed initial period of admission of 4 years or less. For example, J-1 research scholars and alien physicians who have program end dates for up to 5 or 7 years respectively will need to apply for an EOS before the 4-year maximum period of stay expires, *i.e.*, the date that falls 4 years after the rule becomes effective and is listed in this rule for each program.

This will also allow DHS to transition F and J nonimmigrants to an admission for a fixed time period without unduly burdening them, USCIS, or CBP. It ensures that no F and J nonimmigrants remain in the United States indefinitely by requiring all F and J nonimmigrants admitted for D/S who wish to extend their stay beyond their program end date or the 4-year maximum, whichever is applicable, to either file an EOS request or depart the United States and apply for admission at a POE by their program end date or the 4-year maximum period of stay from the effective date of this final rule, plus an additional 60 days for F nonimmigrants and 30 days for J nonimmigrants.

DHS considered the effect of transitioning to a fixed period of admission on F and J nonimmigrants originally admitted for D/S who chose to temporarily come to the United States to pursue a program of study or an exchange visitor program. DHS believes the changes will not significantly affect the interests of these nonimmigrants admitted in D/S. DHS is not changing the fundamental requirements to qualify for these nonimmigrant statuses, rather it is only changing the length of time that an individual may lawfully remain in the United States in F or J status without filing an EOS application. Admitting these classifications of nonimmigrants for a fixed period of admission simply confirms that the admission is temporary and clearly communicates when that temporary admission period ends. Further, as is the case for the fixed period of admission policy more generally, a fixed date of admission simply places these

nonimmigrants in the same position as most other nonimmigrants who are temporarily in the United States. They will still be able to continue to pursue their full course of study or exchange program; however, if they need additional time in F or J status, the burden will now be on them to request authorization directly from DHS and establish eligibility to extend their period of stay in such status, whereas previously they obtained an extension of lawful status in conjunction with a program extension through a DSO or RO.

At the same time, this process will provide immigration officials an opportunity to directly review and determine whether F and J nonimmigrants who wish to remain in the United States beyond their fixed period of admission are complying with U.S. immigration law and are indeed eligible to retain their nonimmigrant status. If there are F or J nonimmigrants relying on a D/S admission in an attempt to permanently remain in the United States, or otherwise circumvent their authorized status, this process will allow DHS to detect and deny an EOS request or entry under a new period of admission. DHS considered several alternatives in the NPRM before determining the above proposal was the best option.³⁰⁴

2. I Nonimmigrants Who Are in D/S on the Effective Date of the Final Rule

I nonimmigrants who are in the United States on the effective date of the final rule will change from the existing D/S admission to a fixed date of admission. DHS is adopting the proposal in the NPRM for an automatic extension of the length of time it takes the alien to complete his or her activity, for a period of up to 240 days. *See* new 8 CFR 214.1(m)(3). This is based on the period of stay authorized in 8 CFR 274a.12(b)(20), which generally provides an automatic extension of employment authorization of 240 days to certain aliens whose status has expired but on whose behalf an application for an EOS was timely filed through a Form I-539, Application to Extend/Change Nonimmigrant Status, and which under new 8 CFR 214.2(i), has been generally applicable to an I nonimmigrant who changes information mediums.³⁰⁵ However, aliens who present a passport issued by the People's Republic of China (with the exception of a Hong Kong SAR passport

or a Macau SAR passport), may be authorized an EOS until the activities or assignments consistent with the I classification are completed, but the EOS must not exceed the maximum period of 90 days. *See* new 8 CFR 214.1(m)(3). DHS believes that adopting an already established timeframe, to which I nonimmigrants are already accustomed, is reasonable. Consistent with the current process, an I nonimmigrant who departs the United States after the effective date of this final rule and would like to return to the United States in that same status will need to reapply for admission as an I nonimmigrant at a POE.

I nonimmigrants on D/S who seek to remain in the United States longer than the automatic extension period provided are required to file an EOS request with USCIS.³⁰⁶ *Id.* In addition to I nonimmigrants being familiar with the timeframe under 8 CFR 274a.12(b)(20), DHS anticipates that this provision will reduce any gaps in employment due to USCIS' processing timeframes between the I nonimmigrant's application for extension and USCIS approval of the application. It will also facilitate an I nonimmigrant's ability to complete his or her assignment while temporarily in the United States on behalf of a foreign media organization, it that it will give ample time to any I nonimmigrant to either complete that assignment or ask for an extension, as needed.

If the EOS is denied, the alien must cease working and depart the United States immediately. As with most other nonimmigrant classifications, they will not be given any period of time to prepare for departure from the United States after the denial, and there may be significant immigration consequences for failing to depart the country immediately. For example, such aliens generally will begin to accrue unlawful presence the day after the issuance of the denial. DHS believes this standard provides parity across nonimmigrant classifications.

Finally, the transition procedures do not apply to aliens in F, J, or I nonimmigrant status who are outside the United States when the final rule takes effect, or to any aliens present in the United States in violation of their status. *See* 8 CFR 214.1(m).

F. Requirements for Admission, Extension, and Maintenance of Status of F Nonimmigrants

Under this final rule, as outlined in the proposed rule, DHS has changed the

regulations that provide the framework for admission, extension, and maintenance of status for F nonimmigrants. These changes will eliminate D/S, require students to file an EOS if requesting to remain in the United States beyond the period of their admission, and clarify terms to ensure that the activities in an F nonimmigrant has engaged in are consistent with those of a bona fide student.

1. Admission for a Fixed Time Period

In the NPRM, DHS proposed striking the previous regulation that allows F nonimmigrants to be admitted for D/S while also proposing to replace it with a provision allowing F nonimmigrants to be granted status for the length of their program, not to exceed 4 years. *See* proposed 8 CFR 214.2(f)(5)(i) and (f)(7)(vi). This is retained in the final rule with additional clarity added to new 8 CFR 214.2(f)(5)(i). More specifically, that paragraph references instances when additional time may be granted to an F-1 student by adding language to reference the completion of their program of study, as described in paragraphs (f)(7) and (f)(8)(iv) of that section and the beginning of a new program of study, as described in paragraphs (f)(5)(ii)(D) and (f)(7) of that section.

Second, the NPRM proposed retaining in the regulations the statutory limitation that restricts public high school students to an aggregate of 12 months of study at any public high school(s) while also clarifying that the 12-month aggregate period includes any school breaks and annual vacations. This is retained in the final rule with clarification that a public high school may also include a charter school or other similar school funded by U.S. taxpayers. *See* new 8 CFR 214.2(f)(5)(i)(C). Current requirements, including paying the full cost of education, also remain in place.

Third, F-1 students who are applying to attend an approved private elementary or middle school or private academic high school will continue to be covered by the provisions of 8 CFR 214.2(f)(6)(i)(E). These provisions require the DSO to certify a minimum number of class hours per week prescribed by the school for normal progress toward graduation. *See* 8 CFR 214.2(f)(6)(i)(E). However, like all other F-1 students, they will be subject to the 4-year maximum period of admission, and they will need to apply for an EOS with DHS if staying beyond this period. This is retained in the final rule. *See* new 8 CFR 214.2(f)(7)(vi).

Fourth, DHS proposed exempting part-time border commuter students

³⁰⁴ 90 FR at 42085–86 (Aug. 28, 2025).

³⁰⁵ *See* USCIS, *Instructions for Application to Extend/Change Nonimmigrant Status*, <https://www.uscis.gov/i-539> (last updated Jan. 9, 2026).

³⁰⁶ In FY 2024, fewer than 38,000 aliens entered the U.S. in I classification. *See* DHS FY 2024, Quarter 4, tbl.4B, *supra* note 11.

from the general length of admission provisions. The regulations at 8 CFR 214.2(f)(18) would continue to govern these border commuter students, including that DHS continue to admit them for a fixed time period. This is retained in the final rule. *See* new 8 CFR 214.2(f)(5)(i)(B).

Fifth, F–1 students in a language training program will be restricted to an aggregate of 24 months of language study, which will include breaks and an annual vacation. *See* new 8 CFR 214.2(f)(5)(i)(A). This limitation is a way to prevent abuse of the F–1 program. Public Law 111–306, enacted on December 14, 2010, and effective since 2011, requires language training schools enrolling F–1 students to be accredited by an accrediting agency recognized by the ED. DHS has found students enrolling in lengthy periods of language training, in some cases for more than two decades.³⁰⁷ DHS has also identified students who enrolled in language training programs despite previously being enrolled in or completing undergraduate and graduate programs requiring English language proficiency.³⁰⁸ Unlike degree programs that typically have prescribed course completion requirements, there are no nationally-recognized, standard completion requirements for language training programs and students are able to enroll in language training programs for lengthy periods of time. The lengthy enrollment in a language program, including enrollment in language courses for long periods subsequent to completion of a program of study that

requires proficiency in English, raises concerns about whether the F–1 nonimmigrants meet the statutory definition of a bona fide student with the intent of entering the United States for temporary study.³⁰⁹ Therefore, there is a 24-month aggregate limit for F–1 students to participate in a language training program, as it will provide a reasonable period of time for students to attain proficiency while mitigating DHS's concerns about the integrity of the program. This timeframe generally comports with the amount of time needed to gain the highest level of English proficiency under the Cambridge English Exam.³¹⁰ This is retained in the final rule.

Sixth, DHS proposed students with pending employment authorization applications who are admitted based on the DSO's recommended employment end date for post-completion OPT or STEM OPT specified on their Form I–20, with a notice issued by USCIS indicating receipt of the Application for Employment Authorization, Form I–765 or successor form for post-completion OPT or STEM OPT, and who cease employment authorized pursuant to a post-completion OPT- or STEM OPT-based EAD that expires before the alien's fixed date of admission as noted on their Arrival/Departure Record (Form I–94 or successor form), be considered to be in the United States in a period of authorized stay from the date of the expiration noted on their EAD until the fixed date of admission as noted on their I–94 (unless the student violates the terms of the authorized stay). This is retained in the final rule. *See* new 8 CFR 214.2(f)(5)(i)(D).

Seventh, the authorized period of stay for F–2 dependents cannot exceed the authorized period of stay of the principal F–1 student. DHS proposed adding this requirement and retains this proposal in the final rule. *See* new 8 CFR 214.2(f)(5)(i)(E).

2. Changes in Educational Objectives

Prior to the implementation of this final rule, all F–1 students who change from one educational level to another or pursue multiple degrees in the same educational level are considered to be maintaining status. *See* new 8 CFR 214.2(f)(5)(ii). DHS has observed that some students continuously enroll in different programs at the same degree level, such as by pursuing multiple associate, master's, undergraduate, bachelor's, or certificate programs. Alternatively, some students change to a lower educational level, such as

completing a master's degree and then changing to an associate's program or an ELT program.³¹¹ This has enabled some aliens to remain in the United States for lengthy periods of time in F–1 student status, raising concerns about the temporary nature of their stay. In 2024, DHS identified nearly 77,000 F–1 students who have spent more than 10 years in student status since SEVIS was implemented in 2003.³¹² This includes individuals who enrolled in programs at the same educational level as many as 19 times, as well as students who completed graduate programs and then enrolled in undergraduate programs, including associate's degrees.³¹³

DHS has also observed a pattern of students immediately transferring schools or changing educational levels or programs of study upon their arrival in the United States. These students often use an admission letter and Form I–20 from a well-known school to increase their odds of obtaining a student visa and then immediately request a transfer to their intended school or program of study once they have gained admission to the United States. Some of the most egregious examples are those who apply to a 4-year university, which requires demonstration of sufficient English level skills for enrollment in classes through the passage of the Test of English as a Foreign Language test (commonly known as TOEFL), receive their visa based on their declared intention of attending a 4-year university, and then transfer to English language programs upon arrival. Other, more dangerous examples, include those foreign students who receive a visa based on their declared intention to study the humanities, but then transfer into sensitive programs such as nuclear science. A handful of those have been arrested for spying for China.³¹⁴ The existing regulations are vulnerable to exploitation by aliens who threaten U.S. national security. This rule is designed to reduce this vulnerability. Since 2020, there have been over 13,000 F–1 students who transferred before the start of classes or within their first term, including over 4,400 students transferring from a higher education to ELT program of study within their first

³⁰⁷ For example, one student has been enrolled in ELT programs at nine different schools since January 3, 2003. This student is active in SEVIS, reportedly studying English full time as of May 7, 2025—accounting for more than 22 years of language training. The student's most recent school issued a program extension changing the student's program end date from January 2, 2025, to January 2, 2026. The school input the following reason for the extension: “Student pursuing advanced level linguistic studies.” The school's 2025 catalog contains no references to linguistic studies—advanced or otherwise—and indicates the school offers general English academic preparation, TOEFL preparation, and business English courses. DHS analysis of data in SEVIS and valid as of May 7, 2025.

³⁰⁸ SEVIS Records show that for example a student who entered the country in 2005 studied English and then between January 2011 and December 2024, he enrolled in a bachelor's program in Biology/Biological Sciences, a master's program in Biotechnology, and a second master's program in Bioinformatics. He also engaged in post-completion OPT and two periods of STEM OPT. Each of his Forms I–20 indicated the academic programs required English proficiency, and the student had English proficiency. However, in January 2025, the student transferred to a language training school and remains active in SEVIS reportedly engaged in ELT as of May 7, 2025. DHS found at least 20 similar examples. DHS analysis of data in SEVIS and valid as of May 7, 2025.

³⁰⁹ *See* INA 101(a)(15)(F).

³¹⁰ *See* Cambridge English, *supra* note 195.

³¹¹ *Id.*

³¹² DHS analysis of data in SEVIS and valid as of Mar. 17, 2025.

³¹³ *Id.*

³¹⁴ *See* CNN Politics, *Chinese Engineer Sentenced to 8 years in US Prison for Spying*, *supra* note 82, and Senate Select Committee on Intelligence Hearing (Feb. 13, 2018), *supra* note 82.

term or session of a program of study.³¹⁵ The number of F–1 students who changed their educational levels within the first 60 days of their program is close to 8,400.³¹⁶ While the number of students transferring or changing educational levels represents a small percentage of the total F–1 student population, these transfers are often promoted by third-party recruiters and other for-profit entities to allow aliens to use the student visa process to mask their intent in the United States or circumvent F–1 restrictions.³¹⁷ In addition, school officials are often burdened with the administrative costs of processing SEVIS transfer requests from F–1 students who misrepresented their intentions of studying at their institution.

While there may be legitimate cases of students who wish to change their educational objective to gain knowledge at a lower or the same educational level, the traditional path of study typically progresses from a lower educational program to a higher one. The existing regulations present a model consistent with the majority of bona fide students who follow this traditional trajectory. The term “full course of study” as defined in the existing regulations requires that the program “lead to the attainment of a specific educational or professional objective.”³¹⁸ Repeated changes to a program of study either within the same educational level or to move to a lower level, as well as immediate changes to a program of study upon initial entry into the United States, are not consistent with attainment of such an educational or professional objective. This understanding was reflected in the preamble to a 1986 rulemaking proposing changes to the F regulations, which stated: “The proposed regulation. . . places limitations on the length of time a student may remain in

any one level of study. Thus, the Service has eliminated applications for [EOS] for students who are progressing from one educational level to another but has placed a control over students who, for an inordinate length of time, remain in one level of study.”³¹⁹ But, by 1991, INS eliminated all EOS applications and began to rely on DSO’s to make the decision on whether educational progress was being made. In the decades that have followed, it has become clear that this has enabled thousands to stay here for decades by switching programs and not making any upward progress.³²⁰

Consistent with the NPRM, DHS is restricting school transfers and changes of educational objectives within a student’s first academic year of a program of study, unless an exception is authorized by SEVP, and prohibiting F–1 students in a graduate level program of study from changing educational objectives at any point during their program of study. F–1 students in a graduate level program of study are also prohibited from transferring, but the proposed regulatory text has been amended to allow SEVP to authorize an exception to this prohibition due to extenuating circumstances.

“Educational objectives” refers to an F–1 student’s educational level or major. See new 8 CFR 214.2(f)(5)(ii)(A) and new 8 CFR 214.2(f)(8)(i). DHS believes these changes will accommodate the legitimate academic activities of bona fide students, such as a desire to pursue a different field of study or more specialized studies in their current field. These changes will also provide SEVP with flexibility to grant exceptions for extenuating circumstances. For example, an exception may be appropriate when a school closes or when a school has a prolonged inability to hold in-person classes due to a natural disaster or other causes. DHS has also clarified in the final rule that extenuating circumstances include students needing to change schools to complete elementary or secondary education.

In addition, an alien who has completed a program as an F–1 nonimmigrant at one educational level will be unable to maintain F–1 status, depart and be admitted in F–1 status, or otherwise obtain F–1 status (e.g., via a change of status) through a program at the same educational level or a lower educational level. See new 8 CFR

214.2(f)(5)(ii)(C). However, an F–1 student who has completed a program in the United States at one educational level and is beginning a new program at a higher educational level will be considered to be maintaining F–1 status if they otherwise comply with requirements under 8 CFR 214.2(f). See new 8 CFR 214.2 (f)(5)(ii)(B). These provisions were retained from the NPRM to the final rule. They will be applied prospectively. Any programs completed prior to the effective date of the rule will not be counted towards the limits.³²¹

DHS believes that it is reasonable for a student to progress to a higher educational level rather than continue at the same level or pursue a lower level of education, as that is the traditional trajectory in the pursuit of higher education. Movement within the same level after completion of a program to a lower educational level raises concerns regarding whether the F–1 student is a bona fide student who intends to temporarily and solely pursue a full course of study rather than pursuing different degrees as a de facto way to prolong their stay in the United States.

If an F–1 student who has completed their first academic year of a program of study seeks to change educational objectives and this change would require an EOS, the alien would then apply for EOS using the form designated by USCIS, paying the required fee and following all form instructions, including submitting any biometrics required by 8 CFR 103.16. See new 8 CFR 214.2(f)(5)(ii)(D).

DHS recognized that these changes might require updates to SEVIS and other systems. Because the timeframe for those updates is not fixed and there could be technical issues regarding implementation, DHS is including a provision whereby DHS may delay or suspend implementation, in its discretion, if it determines that the change in educational level limitation is inoperable for any reason. The need for this provision is not indefinite and therefore DHS has added language in the regulatory text to clarify that this provision can be used for up to two years from the effective date of the rule (i.e., September 14, 2028). See new 8 CFR 214.2(f)(5)(ii)(E). If DHS delays or suspends the provisions in this section governing the change in educational objectives, DHS will make an

³¹⁵ See SEVIS Data on Initial Transfers and Change of Education Counts (Mar. 31, 2025).

³¹⁶ *Id.*

³¹⁷ On May 29, 2020, President Trump signed a Presidential Proclamation to suspend the entry as nonimmigrants of certain students and researchers from the PRC. See *Suspension of Entry as Nonimmigrants of Certain Students and Researchers from the People’s Republic of China*, Proc. No. 10043, 85 FR 34353 (Jun. 4, 2020). Since this proclamation, students often circumvent enforcement of this proclamation by applying to a permissible program of study to obtain a student visa and admission to the United States and then transferring or changing their program of study to engage in studies, research, and other activities that are prohibited. This is also a tactic used by international and third-party recruiters. See Inside Higher Ed., *Gaming the Student Visa System* (Jan. 12, 2024), <https://www.insidehighered.com/news/global/international-students-us/2024/01/12/international-admission-offices-plagued-fraud-and>.

³¹⁸ 8 CFR 214.2(f)(6)(i).

³¹⁹ *Nonimmigrant Classes; Change of Nonimmigrant Classification*, 51 FR 27867 (Aug. 4, 1986).

³²⁰ By reviewing SEVIS data as of Apr. 6, 2025, DHS has identified 2,137 aliens who first entered as F–1 students between 2000 and 2010 and remain in active F–1 status today.

³²¹ For example, an F–1 student who completed a master’s degree prior to the effective date of the rule would be eligible to enroll in and be admitted for the completion of another master’s degree. Any programs completed after the effective date of the rule would be counted towards the new limits of this rule.

announcement of the delay or suspension by notice in the **Federal Register** and to the academic community through SEVP's various communication channels, including *ICE.gov/sevis*, Study in the States (<https://studyinthestates.dhs.gov>), and SEVIS Broadcast Message. DHS will also announce the implementation dates of the change in degree level provision through SEVP's communication channels (*ICE.gov/sevis*, Study in the States, and SEVIS Broadcast Message) at least 30 calendar days in advance.

Additionally, DHS is retaining the term "educational" with respect to a change in level as DHS believes it accurately reflects current academic models. Specifically, "educational" captures programs for non-degree students, whereas using a term such as "degree" may not. For example, an F-1 student currently will not qualify for additional post-completion OPT if he or she changes to a non-degree certificate program, given that the certificate program is not a "higher educational level." Similarly, certificate programs for professional advancement are typically not considered to be a "higher educational level" allowing students to qualify for additional post-completion OPT.

DHS believes these changes will encourage F-1 students to complete the programs of study for which they were admitted to the United States and to only pursue additional programs of study that demonstrate an upward progression in degree levels, which is expected from a qualified bona fide student who is coming to the United States temporarily and solely to pursue a course of study. DHS believes that this restriction will not significantly impact the choice of bona fide students who come to the United States temporarily to complete a full course of study. The F-1 program, with its statutory requirement that an alien be a bona fide student who seeks to enter the United States temporarily and solely for the purpose of pursuing a full course of study at the school listed on his or her Form I-20 or successor form, should not be used by aliens wishing to remain in the United States indefinitely. These changes will better ensure that this statutory intent is fulfilled without hindering the options presented to bona fide students seeking study at higher educational levels and thus create a balanced solution to this issue.

3. Preparation for Departure

DHS retains its proposal from the NPRM to change the departure period for F nonimmigrants from 60 to 30 days. See new 8 CFR 214.2(f)(5)(v). DHS

received comments on this change, and those comments are discussed elsewhere in this preamble. DHS made this change for several reasons as discussed in the NPRM. The 60 days previously provided to F-1s to prepare for departure was twice as long as that of other SEVP programs (M and J nonimmigrants). See new 8 CFR 214.2(j)(1)(ii) and 8 CFR 214.2(m)(10)(i). In addition, this 60-day period is also six times longer than certain nonimmigrants who are authorized to remain in the United States for years but are only provided with a 10-day period to depart the United States.

As discussed within the NPRM, DHS believes that 30 days for the F nonimmigrant population is the appropriate balance between a 60-day and a 10-day period of departure and has retained the proposed 30-day departure period for F-1 nonimmigrants in the final rule.³²² Similarly, DHS notes that seeking an EOS or change of status is an allowable activity for F-1 nonimmigrants during the 30-day departure period following the completion of their program and incorporated this clarification in the proposed rule and retains it in the final rule. See new 8 CFR 214.2(f)(5)(v).

DHS has also retained its proposal to clarify that an F-1 student who has completed a course of study and any authorized practical training will be allowed an additional 30-day departure period which is reflected in the AUD on the Form I-94 (or successor form), or the expiration date noted on the EAD (Form I-766 or successor form) plus the 30-day departure period, as applicable, to prepare for departure from the United States, or to otherwise maintain status, including timely filing an EOS application in accordance with 8 CFR 214.2(f)(7) and 8 CFR 214.1 or to timely file a change of status application in accordance with 8 CFR 248.1(a). See new 8 CFR 214.2(f)(5)(v). DHS removed the reference to completing a course of study or a program in order to provide consistency in the admission of all F-1 and J-1 nonimmigrants and to allow the departure period to be reflected in I-94 at admission, so that the F-1 and J-1 nonimmigrants will have a unambiguous end date of their period of authorized admission, easily referenced on the I-94. USCIS, when adjudicating applications for a change of status to F-1 and J-1 nonimmigrant status and EOS applications of F-1 and J-1 status will similarly provide I-797 approval notices reflecting the 30-day departure period following the program end date or the 4-year maximum period of admission,

or period of OPT or STEM OPT, as applicable.

In the final rule, DHS added a clarifying sentence to address situations where F-1 students end their study or training early. For example, an F-1 student may enter their program anticipating it will take 4 years to complete, but they may then complete that program in 3 years. Or an F-1 student may enter their program anticipating it will take 4 years to complete, but they may stop their studies completely after one semester. When an F-1 student ends their study or training early, that student, and any eligible dependents, must, within 30 days from the new end date, depart the United States or otherwise seek to maintain lawful status. See new 8 CFR 214.2(f)(5)(v).

Since an F-1 student now has 30 days, rather than the previously allotted 60 days, to depart the country or to otherwise maintain status after their completion of their program or program end date, it follows that they need to file a Form I-765 or successor form for post-completion OPT within 30 days, rather than the previously allotted 60 days, after their program end date. See new 8 CFR 214.2(f)(11)(i)(B)(2). This has been retained in the final rule.

It similarly follows that a student may not request a start date of OPT employment which is more than 30 days (rather than 60 days) after the student's program end date. DHS overlooked this update to 8 CFR 214.2(f)(11)(i)(D) in the NPRM but has made the change in the final rule. As explained in the response to comments above, DHS recognizes failing to make this update may cause confusion. This technical change aligns with the 30-day period that was proposed in the NPRM under 8 CFR 214.2(f)(11)(i)(B)(2) and with the 30-day period of preparation for departure under 8 CFR 214.2(f)(5)(v).

In the NPRM, DHS also proposed retaining the current regulatory language that allows a 15-day period for departure from the United States if an alien is authorized by the DSO to withdraw from classes, but no additional time for departure if the alien fails to maintain a full course of study without the approval of the DSO or otherwise fails to maintain status. See new 8 CFR 214.2(f)(5)(v). Because DSOs generally authorize withdrawal based on compelling academic or medical circumstances when a student proactively requests permission, DHS believes retaining the 15-day period is appropriate and has retained this provision in the final rule. However, aliens who fail to maintain their full course of study, are denied EOS, or

³²² 90 FR at 42089 (Aug. 28, 2025).

otherwise violate their status are required to immediately depart the United States, as is consistent with other nonimmigrant classifications. DHS considered allowing a short “grace period” for departure after an EOS denial but concluded there was not a compelling reason to treat F nonimmigrants who have received a denial more favorably than other nonimmigrant classifications. As in other nonimmigrant classifications, failure to immediately depart under these circumstances may result in accrual of unlawful presence and subject the individual to removal.

4. Automatic Extension of Authorized Period of Stay and Employment

a. Authorized Period of Stay and Employment Authorization Under 8 CFR 214.2(f)(5)(viii)

Each year, a number of U.S. employers seek to employ F-1 students and file a Form I-129, Petition for a Nonimmigrant Worker, with USCIS, along with a change of status request, to obtain classification of the F-1 student as an H-1B nonimmigrant worker. The H-1B nonimmigrant visa program allows U.S. employers to temporarily employ foreign workers in specialty occupations, defined by statute as occupations that require the theoretical and practical application of a body of highly specialized knowledge and a bachelor's or higher degree in the specific specialty, or its equivalent. *See* INA sections 101(a)(15)(H)(i)(b) and 214(i); 8 U.S.C. 1101(a)(15)(H)(i)(b) and 1184(i). The H-1B classification, however, is subject to annual numerical allocations, commonly referred to as a “cap.” *See* INA sections 214(g)(1)(A) and (g)(5)(C); 8 U.S.C. 1184(g)(1)(A) and (g)(5)(C).³²³ For purposes of the H-1B numerical allocations, each fiscal year begins on October 1. Petitioners may not file H-1B petitions more than 6 months before the date of actual need for the employee.³²⁴ Thus, the earliest date an H-1B cap-subject petition may be filed for an allocation for a given fiscal year is April 1, 6 months prior to the start of the applicable fiscal year for which initial H-1B classification is sought.

Many F-1 students complete a program of study or post-completion

OPT in mid-spring or early summer. Per existing regulations, after completing their program or post-completion OPT, F-1 students have 60 days (which DHS is proposing to change to 30 days) to take the steps necessary to maintain legal status or depart the United States. *See* new 8 CFR 214.2(f)(5)(v). However, because the change to H-1B status cannot occur until October 1, an F-1 student whose program or post-completion OPT expires in mid-spring has two or more months following the 60-day period before the authorized period of H-1B status can commence. To address this situation, commonly known as the “cap-gap,” DHS established regulations that automatically extended F-1 D/S and, if applicable, post-completion OPT employment authorization for certain F-1 nonimmigrants until April 1 of the fiscal year for which the H-1B status is being requested or until the validity start date of the approved petition, whichever is earlier. *See* redesignated 8 CFR 214.2(f)(5)(vii). The extension of F-1 D/S and OPT employment authorization is commonly known as the “cap-gap extension.” This rule does not change the “cap-gap extension” provisions; it simply removes the reference to D/S and makes clear that an automatic extension will be granted to those with a fixed period of stay.

b. F-1 Status and Authorized Employment While EOS and/or Employment Authorization Applications Are Pending

DHS struck “duration of status” from redesignated 8 CFR 214.2(f)(5)(vii) in the proposed rule and clarified that an alien with F-1 status whose admission period as indicated on his or her I-94 has expired, but who has timely filed an EOS application, will be authorized to continue pursuing a full course of study after the end date of his or her admission until USCIS adjudicates the EOS application. *See* new 8 CFR 214.2(f)(5)(viii). This change allows for ongoing authorization to continue studies as long as the student has timely filed his or her EOS and will not penalize students if USCIS is unable to adjudicate an EOS application before a student's new term or course of study is underway. In such cases, students will be able to continue pursuing their full course of study.³²⁵ This change is retained in the final rule.

³²⁵ However, if the extension of stay application is received during the 30-day period under new paragraph 8 CFR 214.2(f)(5)(v), the F-1 student is authorized to continue a full course of study but may not continue or begin engaging in practical training or other employment. *See* new 8 CFR 214.2(f)(7)(iii)(B).

DHS did clarify the title of new 8 CFR 214.2(f)(5)(viii) in the final rule, since the automatic extension is for the authorized period of stay while the EOS is adjudicated, rather than an automatic EOS. The title changed from “Automatic Extension of F stay and employment authorization. . .” to “Automatic extension of the authorized period of stay and employment authorization. . .”

The shift to a fixed date of admission has implications for various types of employment authorization. Prior to the effective date of this final rule, DSOs could authorize certain types of employment authorization, including on-campus employment and CPT,³²⁶ and students generally did not need to be concerned about a specific expiration date for their student status, and thus their employment authorization, because they were admitted for D/S. This rule changes that framework with different implications for various types of employment authorization.

For on-campus employment where no EAD is needed, DHS is allowing aliens in F-1 status to continue to be authorized for on-campus employment while their EOS applications with USCIS are pending, not to exceed a period of 240 days.³²⁷ *See* new 8 CFR 214.2(f)(5)(viii). If the EOS application is still pending after 240 days have passed, the F-1 student will no longer be authorized for employment and will need to stop engaging in on-campus employment. DHS is allowing a 240-day automatic extension period in order to minimize disruptions to on-campus employment by teaching assistants, post-graduates working on research projects, and other positions that are integral to an F-1 student's educational program. Note that the 240 days start after the expiration of one's current stay. DHS has always encouraged and will continue to encourage all nonimmigrants to apply for EOS within

³²⁶ *See* 8 CFR 214.2(f)(9)-(12), 8 CFR 274a.12(b)(6)(iv).

³²⁷ *See* 8 CFR 214.2(f)(9)(i) for a description of on-campus employment. For on-campus employment that is based on severe economic hardship resulting from emergent circumstances pursuant to redesignated 8 CFR 214.2(f)(5)(vi), *see* later discussion for additional restrictions. The EOS application must be timely filed pursuant to the new paragraph at 8 CFR 214.2(f)(7)(iii)(B). Moreover, if an F-1 student files an extension of stay application during the 30-day period provided in 8 CFR 214.2(f)(5)(v)(new), he or she does not receive an automatic extension of authorized employment, including on-campus, CPT, and severe economic hardship, and must wait for approval of the extension of stay application (and employment authorization application, if required) before engaging in CPT or employment. *See* new 8 CFR 214.2(f)(5)(viii).

³²³ Under INA 214(g)(1)(A), 8 U.S.C. 1184(g)(1)(A), 65,000 aliens may be issued H-1B visas or otherwise provided H-1B nonimmigrant status in a fiscal year. This limitation does not apply to aliens who have earned a master's or higher degree from a U.S. institution of higher education, as defined in 20 U.S.C. 1001(a), until the number of aliens who are exempted from such numerical limitation during such year exceeds 20,000. INA 214(g)(5)(C), 8 U.S.C. 1184(g)(5)(C).

³²⁴ *See* 8 CFR 214.2(h)(2)(i)(I).

the six months³²⁸ preceding the expiration of their current authorized stay thereby providing an additional buffer against any disruption of the ability to work.

Likewise, DHS is allowing an automatic extension of off-campus employment authorization for up to 240-days during the pendency of the EOS application, for F–1 students who have demonstrated severe economic hardship pursuant to 8 CFR 214.2(f)(9)(ii)(C) and previously received an EAD from USCIS that expired at the program end date that is now being extended with the EOS application. *See* new 8 CFR 214.2(f)(5)(viii). These circumstances may include loss of financial aid or on-campus employment without fault on the part of the student, substantial fluctuations in the value of currency or exchange rate, inordinate increases in tuition and/or living costs, unexpected changes in the financial condition of the student's source of support, medical bills, or other substantial and unexpected expenses. In such cases, DHS believes a 240-day automatic extension of employment authorization will help alleviate the severe economic hardship and avoid a disruption in their employment, especially given the fact that an EAD is required and the frequency at which these students must submit an application for employment authorization.³²⁹ Additionally, given that USCIS's average EAD processing time is typically 60–120 days for foreign students and 90–120 for most others, a 240-day timeframe provides sufficient flexibility in case of unexpected delays.

For F–1 students granted off-campus employment authorization on the basis of severe economic hardship resulting from emergent circumstances pursuant to redesignated 8 CFR 214.2(f)(5)(vi), DHS proposed, and is retaining in the final rule, an automatic extension of such employment authorization with a different validity period than the general 8 CFR 214.2(f)(9)(ii)(C) severe economic hardship employment authorization extension described above while their EOS applications are pending. *See* new 8 CFR 214.2(f)(5)(viii). This will codify USCIS's current policy which states USCIS may grant SSR employment authorization for the duration of the

Federal Register notice validity period, but the period of authorization may not exceed the F–1 student's academic program end date.³³⁰

As first promulgated in 1998, the SSR regulations provide necessary flexibility to address unforeseeable emergencies by allowing DHS, by notice in the **Federal Register**, to suspend the applicability of some or all of the requirements for on- and off-campus employment authorization for specified F–1 students where an emergency situation has arisen calling for this action. These F–1 students must continue to attend classes but are allowed to take a reduced course load. By regulation, aliens approved for SSR to take at least 6 semester or quarter hours of instruction at the undergraduate level or 3 semester or quarter hours of instruction at the graduate level. *See* new 8 CFR 214.2(f)(5)(v). Failure to take the required credits could be considered a failure to maintain F–1 status. The SSR regulations are announced by notice in the **Federal Register**, and such employment may only be undertaken during the validity period of the SSR notice.

Due to the shift to a fixed admission period, DHS proposed to provide an automatic extension of SSR-based employment so aliens' ability to benefit from this long-standing regulatory relief is not interrupted by USCIS processing times. This change is consistent with current USCIS policy, which allows for SSR employment authorization to be granted for the duration of the **Federal Register** notice validity period, so long as the period of authorization may not exceed the F–1 student's academic program end date. It is also consistent with existing practice for certain nonimmigrants who require an EAD.³³¹ This is retained in the final rule. Further, DHS has retained its proposal to automatically extend SSR authorization if an F–1 student has a timely-filed EOS pending for up to the end date stated in the **Federal Register** notice announcing the suspension of certain requirements, or 240 days, whichever is earlier. *See* new 8 CFR 214.2(f)(5)(viii).

As evidence of these automatic extensions of employment authorization, DHS will allow the F–1 student's I–94 (or successor form) or EAD (Form I–766, or successor form), for F–1 nonimmigrants requiring an EAD, when combined with a notice

issued by USCIS indicating receipt of a timely filed EOS application (such as the Form I–797),³³² to be considered unexpired until USCIS issues a decision on the EOS application, not to exceed 240 days. *See* new 8 CFR 214.2(f)(5)(viii). SSR-based employment authorization that has been automatically extended can be evidenced by the F–1 student's EAD and the receipt notice issued by USCIS (the Form I–797), not to exceed the lesser of 240 days or the end date stated in the **Federal Register** notice announcing the suspension of certain requirements.

5. New Process for EOS Application

Under current regulations, F–1 students may obtain a program extension from a DSO as long as they are maintaining status and making normal progress toward the completion of their educational objectives. *See* new 8 CFR 214.2(f)(7)(i) and (iii). The problem with the “normal progress” standard is that it is undefined, and DHS believes that retaining it could lead to inconsistent adjudications. Even now, the lack of a standard definition for normal progress leads DSOs to inconsistently extend F–1 students' program end dates and thus their stay in the United States. Some DSOs use a strict standard, evaluating, for example, documentation to support a student's claim of a compelling medical condition or illness that serves as the basis for the student's request for extension of the student's current program. However, other DSOs claim that the student is making “normal progress” whenever a student simply needs more time to complete the program. This inconsistency results in some students being able to remain in F–1 status for years simply by having the DSO update the Form I–20 without providing a justification as to how the student is making “normal progress” and what academic or medical circumstances necessitate the extension of the program.

Therefore, DHS proposed not to use a “normal progress” standard with respect to seeking a program extension, and to require, in addition to the requirement that the applicant obtain a Form I–20 from the DSO recommending extension of the program, the applicant will be required to file an EOS

³²⁸ With respect to the earliest filing date for a Form I–539, there is no prohibition on filing the form before a certain date ahead of expiration.

³²⁹ *See* 8 CFR 274a.12(c)(3). 8 CFR 214.2(f)(9)(ii)(F)(2) provides that employment authorization based upon severe economic hardship may be granted in one-year intervals up to the expected date of completion of the student's current course of study.

³³⁰ *See generally* USCIS Policy Manual, Vol. 2, Part F, Chap. 6, *Employment*, <https://www.uscis.gov/policy-manual/volume-2-part-f-chapter-6> (last visited Feb. 4, 2026).

³³¹ *See* 8 CFR 214.2(f)(10)–(12), 8 CFR 274a.12(b)(6)(iv).

³³² However, if an F–1 student files an extension of stay application during the 30-day period provided in new paragraph 8 CFR 214.2(f)(5)(v), he or she does not receive an automatic extension of authorized employment, including on-campus, CPT, and severe economic hardship, and must wait for approval of the extension of stay application (and employment authorization application, if required) before engaging in CPT or employment. 214.2(f)(5)(viii).

application to request additional time to complete their current course of study beyond their authorized period of admission. *See* new 8 CFR 214.2(f)(7)(i). This change is retained in the final rule.

Apart from pursuing a new course of study, DHS appreciates that the time for study can legitimately fluctuate given the changing goals and actions of the student. For example, a student may experience compelling academic or medical reasons, or circumstances beyond their control that cause them to need additional time in the United States beyond the predetermined end date of the program in which they were initially enrolled. DHS understands these circumstances arise and believes these scenarios present an appropriate situation for DHS to directly evaluate the nonimmigrant's eligibility for additional time in the United States. However, instead of effectively extending their stay through a DSO's program extension recommendation in SEVIS, students will have to obtain a Form I-20 from the DSO recommending a program extension and apply to USCIS for an EOS. Immigration officers thereby will be able to conduct appropriate background and security checks on the applicant at the time of the EOS application and directly review the proffered evidence to ensure that the alien is eligible for the requested EOS, including through assessing whether the alien remains admissible. *See* 8 CFR 214.1(a)(3)(i). This extra step is necessary because an immigration officer will be able to see a more fulsome picture while considering the student's particular circumstances, and be able to identify potential fraud and criminality, thereby ensuring public safety and program integrity.

In these circumstances, DHS will only extend the stay beyond the program end date of an otherwise eligible F-1 student requesting additional time to complete their program if the additional time needed is due to a compelling academic reason, documented medical illness or medical condition, or circumstance that was beyond the student's control. As with all nonimmigrant EOS requests, an alien seeking an EOS generally must have continually maintained status.³³³ If an F-1 student dropped below a full course of study, that drop must have

been properly authorized. F-1 students seeking extensions of stay must primarily be seeking to temporarily stay in the United States solely to pursue a full course of study, INA section 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i), and not for other reasons separate from, or in addition to, pursuing a full course of study.

If an F-1 student were to violate the terms of his or her F-1 status, the F-1 student would need to apply to USCIS for reinstatement, consistent with 8 CFR 214.2(f)(16). If a student is reinstated and his or her admit until date expires within 6 months, but the student is unable to complete his or her program of study within that time, then the F-1 student also would need to apply to USCIS for an EOS. In that scenario, the F-1 student would need to make separate requests for reinstatement and for EOS by submitting a separate form for each request, including the required filing fee for each form, by marking reinstatement on one form and then EOS on the other. Both forms can then be submitted together at the same time to avoid unnecessary adjudication delays. In the event both forms are submitted together, and the F-1 student's application to reinstate student status is denied, his or her application for EOS would also be denied, with both filing fees being retained by USCIS and not refunded.

By way of illustration, a student with a fixed date of admission may request an additional 4 months to complete his or her program because the student was authorized to drop below a full course of study for one semester due to illness. Prior to the effective date of this final rule, the student would need to request an updated Form I-20 from the DSO recommending a program extension. Now, consistent with the proposal in the NPRM, an immigration officer could review the proffered evidence and ensure that the claim is supported by documentation from a medical doctor. Conversely, a student may request an EOS for additional time to complete an associate program but fail to submit evidence they were properly authorized to drop below a full course of study. The immigration officer has discretion to request transcripts from the student. If a student's transcripts reflect that the student failed multiple classes one semester, an immigration officer could determine if the student has failed to maintain status due to a failure to carry a full course of study as required. In another example, a student could submit an EOS request to continue in the same program because he or she was unable to take all the required classes for his or her major due to over-

enrollment at the school. Again, an officer could request additional information, if needed, to determine that the student was maintaining a full course of study (or, if not, was properly authorized to reduce his or her course load), but due to the school's high enrollment, the student may validly require an additional semester to complete the degree requirements in order to graduate.

Therefore, DHS proposed to eliminate a reference to "normal progress" with respect to seeking a program extension, and incorporate a new standard clarifying that acceptable reasons for requesting an extension of a stay for additional time to complete a program are: (1) compelling academic reasons; (2) a documented illness or medical condition; or (3) exceptional circumstances beyond the control of the alien. *See* new 8 CFR 214.2(f)(7)(i)(C).³³⁴ These provisions are retained in the final rule.

The first two factors are based on the current regulatory provisions for program extension, 8 CFR 214.2(f)(7)(iii), from the 2025 text (e.g., changes of major or research topics, and unexpected research problems). DHS proposed to clarify that, in addition to academic probation and suspension, a student's repeated inability or unwillingness to complete his or her course of study, as demonstrated by a pattern of failing classes and requesting multiple program extension, is not an acceptable reason to request an EOS for additional time to complete a program. *See* new 8 CFR 214.2(f)(7)(i)(C)(1). This is also retained in the final rule.

DHS expects bona fide students to be committed to their studies, attending classes as required, carrying a full course of study, and making reasonable efforts toward program completion. Repeatedly failing classes demonstrates that the student is not making reasonable efforts toward completing his or her program of study. Therefore, a student who has a pattern of failing classes that has resulted in multiple program extensions would not be qualified for an EOS. The prohibition against requesting an EOS would not include students, such as those who, pursuant to DHS regulations, are making normal progress toward completing their program of study and still may not complete the program within 4 years

³³³ Failure to file on or before the expiration of the previously accorded status or failure to maintain such status may be excused at the discretion of USCIS if the alien demonstrates that at the time of filing: the delay was due to extraordinary circumstances beyond the control of the applicant, and USCIS finds the delay commensurate with the circumstances, the alien has not otherwise violated his or her status, and is not subject to deportation. *See* 8 CFR 214.1(c)(3)(viii).

³³⁴ DHS did not propose to update the term "normal progress" as defined in 8 CFR 214.2(f)(6)(i)(E). The provision at 8 CFR 214.2(f)(6)(i)(E) relates to study at an approved private elementary or middle school or public or private academic high school. In that context, it is clear that "normal progress" is the completion of the academic year (for example, 6th grade).

due to the standard timeline and requirements for the program. Absent such factors as being placed on academic probation or suspension, or repeatedly failing classes, these students would be eligible for extension based upon compelling academic reasons. This prohibition also does not include cases where the DSO properly authorized the student to drop below a full course of study as well as cases in which the status has been reinstated following a loss of status. In such case, the student is eligible for reinstatement if the reduced course load was within the DSO's power to authorize. A student would be expected to provide evidence demonstrating the compelling academic reason in order for the DSO to recommend a program extension. The student may then apply for an EOS. While a letter from the student may be sufficient to meet his or her burden of proof, an immigration officer will evaluate the individual case and make the determination as to whether additional evidence (such as a letter from a member of the school administration or faculty) is needed to adjudicate the case.

DHS also proposed to clarify that a student can qualify for a program extension and corresponding EOS based on a documented illness or medical condition. To provide an objective standard, DHS proposed to codify standards already included in 8 CFR 214.2(f)(6)(iii)(B), which requires a student to provide medical documentation from a licensed medical doctor, licensed doctor of osteopathy, licensed psychologist, or licensed clinical psychologist to substantiate the illness or medical condition if seeking a reduced course load. *See new 8 CFR 214.2(f)(7)(i)(C)(2)*. This is retained in the final rule. As this is already a long-standing requirement for DSOs and students in a similar context, DHS believes this will be appropriate and easy to implement in the program extension and corresponding EOS process. Further, requiring applicants to provide documentation of their medical illness or medical condition that caused their program delay is a reasonable request, because they are asking DHS to provide them additional time in the United States.

DHS also proposed a new factor in the EOS provisions—circumstances beyond the student's control, including a natural disaster, a national health crisis, or the closure of an institution. *See new 8 CFR 214.2(f)(7)(i)(C)(2)(iii)*. This is retained in the final rule. As in the reinstatement context, DHS believes that there might be additional reasons beyond compelling academic or

documented medical reasons that result in a student's inability to meet the program end date listed on the Form I–20.

Therefore, DHS proposed a third prong that encompasses scenarios that are not envisioned in the current provisions governing the extension of a program end date, such as those noted above. Some scenarios are currently in the reinstatement provisions, 8 CFR 214.2(f)(16)(i)(F), such as natural disasters, pandemics, and the negligence of a DSO, and DHS believes that they merit favorable consideration in extension requests moving forward. Other scenarios may present circumstances that require a more intensive, fact-specific analysis and may fall into this proposed third prong. For example, the circumstances surrounding the closure of a school may be considered in determining whether the student qualifies for an EOS. By way of illustration, if a school closes as a result of a criminal conviction of its owners for engaging in student visa fraud by not requiring students to attend, but the student is unable to demonstrate that he or she was attending classes prior to closure as required to fulfill a full course of study, the closure of the institution might not qualify the student for a program extension. In contrast, if a school closes but a student is able to demonstrate that he or she was attending classes and was fulfilling all requirements to otherwise remain in status, the closure of the institute may qualify the student for a program extension.

The requirements to timely request an extension of the program end date would remain largely unchanged; however, DHS proposed a technical change to replace all references to the DSO “granting” an extension of the program with the term “recommend” an extension of the program in order for the student to file for EOS because USCIS, not the DSO, would “grant” the EOS. *See new 8 CFR 214.2(f)(7)(ii)*. This is retained in the final rule. For example, a student may not necessarily be granted an EOS by USCIS if an adjudicator determines the student has not actually maintained status or does not actually have compelling academic or documented medical reasons for the delay, despite the DSO's recommendation for program extension.

Where the alien requests a recommendation to extend the program end date, the DSO could only make a recommendation to extend the program if the alien requested the extension before the program end date noted on the most recent Form I–20, or successor form. Additionally, consistent with

changes throughout this rule, once the DSO recommends the extension of the program, the alien would need to timely file for an EOS on the form and in the manner designated by USCIS, with the required fees and in accordance with the filing instructions, including any biometrics required by 8 CFR 103.16 and a valid, properly endorsed Form I–20 or successor form, showing the new program end date barring extraordinary circumstances. *See 8 CFR 214.1(c)(4) and new 8 CFR 214.2(f)(7)(ii) and (f)(7)(iii)*. This is retained in the final rule.

If seeking an EOS to engage in any type of practical training, the alien in F–1 status will also need to have a valid Form I–20, properly endorsed for practical training, and be eligible to receive the specific type of practical training requested. *See new 8 CFR 214.2(f)(7)(v)*. This is retained in the final rule. Finally, as with all immigration benefit requests, an immigration officer will generally not grant an EOS where an alien in F–1 status failed to maintain his or her status.

Finally, a student's failure to timely request, from the DSO, a recommendation for extension of the program end date prior to expiration of the student's authorized stay, which would result in the DSO recommending an extension of the program end date in SEVIS after the end date noted on the most recent Form I–20 or successor form, will require the alien to file for a reinstatement of F–1 status, because the alien will have failed to maintain status and will be ineligible for an EOS. *See new 8 CFR 214.2(f)(7)(viii)*. A request for reinstatement must be filed in the manner and on the form designated by USCIS, with the required fee, including any biometrics required by 8 CFR 103.16. DHS is also requiring F–2 dependents seeking to accompany the F–1 principal student to file applications for an EOS or reinstatement, as applicable. These requirements are consistent with current provisions.

With the transition from D/S to admission for a fixed time period, F–1 students will need to apply for an EOS directly with USCIS, by submitting the appropriate form and following the requirements outlined in the form instructions. USCIS anticipates accepting the Form I–539, Application to Change/Extend Nonimmigrant Status, for this population but would like the flexibility to use a new form if more efficient or responsive to workload needs. Thus, DHS is retaining its proposal to use general language to account for a possible change in form in

the future. *See* new 8 CFR 214.2(f)(7)(iii)(A). If the form ever changes, USCIS would provide stakeholder's advance notice on its web page and comply with Paperwork Reduction Act requirements.

Like all other aliens who file a Form I-539, F-1 applicants may be required to submit biometrics and may be required to appear for an interview pursuant to 8 CFR 103.2(b)(9). In addition, applicants will need to demonstrate that they are eligible for the nonimmigrant classification sought. Accordingly, applicants must submit evidence of sufficient funds to cover expenses. A failure to provide such evidence will render the applicant ineligible for the EOS. *See* new 8 CFR 214.2(f)(7)(ii).

While the sponsoring school is required to verify the availability of financial support before issuing the Form I-20, they may not be well-versed in foreign documentation submitted by applicants and circumstances may change between the issuance of a Form I-20 and a request for an EOS. Further, it is incumbent upon DHS to determine the veracity of the evidence submitted, and officers must ensure that the student has sufficient funds to study in the United States without resorting to unauthorized employment. The phrase "sufficient funds to cover expenses" is referred to in existing DoS regulations concerning issuance of F and M nonimmigrant student visas, 22 CFR 41.61(b)(1)(ii), and current DoS policy requires an applicant to provide documentary evidence that sufficient funds are, or will be, available to defray all expenses during the *entire* period of anticipated study.³³⁵ While this does not mean that the applicant must have cash immediately available to cover the entire period of intended study, which may last several years, the applicant must demonstrate enough readily available funds to meet all expenses for the first year of study and that additional funds will be available for the duration of the intended period of study.³³⁶ DHS believes requiring evidence of readily available financial resources to cover expenses for one year of study is reasonable given that F students are familiar with this requirement because this is the standard used by the DoS in the issuance of F nonimmigrant visas. DHS also considers that this standard is appropriate because it establishes concrete resources for one full academic year of the program.

Further, applicants must demonstrate that, barring unforeseen circumstances, adequate funds will be available for each subsequent year of study from the same source or from one or more other specifically identified and reliable financial sources. Such evidence for one year and subsequent years could include, but is not limited to: complete copies of detailed financial account statements for each account intended to be used to fund the student's education; other immediately available cash assets; receipts and/or a letter from the school accounts office indicating tuition payments already made and any outstanding account balance; affidavits of support from a sponsor; proof of authorized private student loans;³³⁷ and/or other financial documentation.

F-1 applicants will generally need to timely file their EOS application—meaning that USCIS will need to receive the application on or before the date the authorized admission period expires. *See* new 8 CFR 214.2(f)(7)(iii)(B). This application timeframe for timely filing an EOS application will include the 30-day period of preparation for departure allowed after the completion of studies or any authorized practical training. However, if the extension application is received during the 30-day period of preparation for departure provided in 8 CFR 214.2(f)(5)(v) following the completion of studies, the alien in F-1 status may continue studying but may not continue or begin engaging in practical training or other employment until the extension request is approved and, as applicable, an EAD is issued. *See* new 8 CFR 214.2(f)(7)(iii)(B). To avoid this scenario, DHS continues to encourage nonimmigrants to file their EOS applications within the six months³³⁸ preceding the expiration of their stay.

The length of the extension granted could be up to the period of time needed to complete the program or requested practical training, not to exceed 4 years, unless the alien is a border commuter, enrolled in language training, or attending a public high school. By permitting admission only "up to" the prescribed period, USCIS and CBP are afforded discretion as to the ultimate length of time to grant the applicant and consider factors such as program length.

F-2 dependents seeking to accompany the F-1 principal student will need to file applications for an EOS

or reinstatement, as applicable. *See* new 8 CFR 214.2(f)(7)(iv). A dependent F-2 spouse and unmarried children under the age of 21 seeking to accompany the principal F-1 student during the additional period of admission will need to either be included on the primary applicant's request for extension or properly file their own EOS applications on the form designated by USCIS. If the dependent files a separate Form I-539, he or she will need to pay a separate Form I-539 filing fee.

However, if the dependent files a Form I-539A as part of the primary applicant's EOS request on a Form I-539, only one fee will be required.

USCIS generally will need to receive the extension applications on or before the expiration of the previously authorized period of admission, including the 30-day period following the completion of the course of study, as indicated on the F-2 dependent's I-94. To qualify for an EOS, the F-2 dependent will need to demonstrate the qualifying relationship with the principal F-1 student who is maintaining status, also be maintaining his or her own status, and not have engaged in any unauthorized employment. *See* new 8 CFR 214.2(f)(7)(iv). Extensions of stay for F-2 dependents will not be able to exceed the authorized admission period of the principal F-1 student. By removing D/S for family members, DHS is ensuring that a spouse who engaged in unauthorized employment would be denied EOSs and must return home. As with other nonimmigrant classifications, if a dependent is aging out before the program end date listed on the I-20, the entire family, including the J-1 principal, will receive an EOS only until the F-2's 21st birthday, which will then require the remaining family members and the principal F-1 student to apply for an EOS for the remainder of the program and for the aged out F-2 to leave the country or change status to a different nonimmigrant category.

Under new 8 CFR 214.2(f)(7)(vii), if USCIS denies the request for an extension, and the period of admission for the student and his or her dependents has expired, then the student and his or her dependents will need to immediately depart the United States. As with other nonimmigrant classifications, they will not be given any period of time to prepare for departure from the United States after the denial, and there may be significant immigration consequences for failing to depart the country immediately. For example, such aliens generally will begin to accrue unlawful presence the day after the issuance of the denial. DHS

³³⁵ *See* 9 FAM 402.5–5(G), *Adequate Financial Resources*, <https://fam.state.gov/FAM/09FAM/09FAM040205.html> (last updated Aug. 15, 2024).

³³⁶ *Id.*

³³⁷ Federal student loans are only available to U.S. citizens and permanent residents.

³³⁸ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

believes this standard provides parity across nonimmigrant classifications.

6. School Transfers and Changes in Educational Objectives

The proposed rule discussed several examples of fraudulent “pay-to-stay” schemes in which students were falsely reported as maintaining status in return for cash payments to DSOs.³³⁹ Furthermore, the D/S framework has enabled some aliens to become “professional students” who spend years enrolled in programs at the same educational level (for example, multiple associate degree programs) or complete programs at one educational level and enroll in lower educational levels (such as completing a master’s degree and then enrolling in an associate program).³⁴⁰ While admission for a fixed time period will help to address these concerns, DHS proposed limitations on program changes within and between educational levels to further strengthen the integrity of the F nonimmigrant visa classification by better ensuring that aliens are in the United States primarily to study, rather than to reside permanently in the United States. *See* new 8 CFR 214.2(f)(8)(i). The final rule retains this provision.

DHS also proposed to retain some of the current school transfer and change of educational level conditions. First, as is the case currently, aliens would need to begin classes at the transfer school or program within 5 months of transferring out of the current school or within 5 months of the program completion date on his or her current Form I–20; and second, if the alien is authorized to engage in post-completion or STEM OPT, he or she must be able to begin or resume classes within 5 months of transferring out of the school that recommended OPT or the date the OPT authorization ends, whichever is earlier. This is retained in this final rule, although, as compared the NPRM, the regulatory text in the final rule replaces the statement that the F–1 student “must be able to resume classes within 5 months. . .” with the F–1 student “must be able to begin or resume classes within 5 months. . . .” *See* new CFR 214.2(f)(8)(i)(G) and (H).

DHS retained the current provisions at 8 CFR 214.2(f)(8)(i), rendering aliens who do not pursue a full course of study ineligible to change programs or transfer schools, and clarifying that failure to pursue a full course of study includes, but is not limited to, a student whose

pattern of behavior demonstrates a repeated inability or unwillingness to complete his or her course of study. Just as delays caused by unacceptable patterns of behavior, academic probation or suspension are not acceptable reasons for program extensions and corresponding EOS of a student’s current program, neither are they an acceptable reason for failing to carry a full course load. Such aliens will have failed to maintain F status, are ineligible for a change of program and school transfers and will be required to file for a reinstatement of status, if eligible. *See* new 8 CFR 214.2(f)(8)(i).

To complete a transfer, an F–1 student must first notify the student’s current school (the “transfer-out school”) of the intent to transfer and indicate the school to which the student intends to transfer (the “transfer-in school”). Upon notification by the student, the transfer-out school will update the student’s record in SEVIS as a “transfer-out” and indicate the transfer-in school and a release date. The release date will be the current semester or session completion date, or the date of expected transfer if earlier than the completion date of the established academic cycle. The transfer-out school will retain control over the student’s record in SEVIS until the student completes the current term or reaches a release date, whichever is earlier. At the request of the student, the DSO of the current school may cancel the transfer request at any time prior to the release date. As of the release date specified by the current DSO, the transfer-in school will be granted full access to the student’s SEVIS record and will then become responsible for that student. The student should then obtain a valid Form I–20 or successor form from the transfer-in school. This language is consistent with the proposal in the NPRM, but has minor clarifying edits. *See* new 8 CFR 214.2(f)(8)(ii).

DHS has also retained this proposal to clarify to the public that a change to a higher education level can be accomplished in accordance with the transfer procedures outlined in 8 CFR 214.2(f)(8)(ii). *See* new 8 CFR 214.2(f)(8)(iii).

Finally, DHS proposed technical updates. If the new program to which the student changes or transfers will not be completed within the authorized admission period established in 8 CFR 214.2(f)(5)(i), then, consistent with the other provisions throughout this rule, the F–1 student must apply for EOS in the manner and on the form designated by USCIS, with the required fee and in accordance with form instructions, together with a valid, properly endorsed Form I–20 indicating the new program

end date, and would need to provide biometrics as authorized by 8 CFR 103.16, if required. *See* new 8 CFR 214.2(f)(8)(iv).

7. Border Commuter Students

DHS struck the sentence referencing how “duration of status” is inapplicable to border commuter students because DHS is eliminating D/S for all F nonimmigrants. *See* new 8 CFR 214.2(f)(18)(iii). This is retained in the final rule.

G. Requirements for Admission, Extension, and Maintenance of Status of J Exchange Visitors

1. Initial Admission Period and Period of Stay

a. Principal Applicants

The revisions to the J regulations at 8 CFR closely align with the changes for F nonimmigrants. Under new 8 CFR 214.2(j)(1), J exchange visitors will be able to receive an initial period of admission not to exceed the program end date as stated on the Form DS–2019, up to a period of 4 years. The NPRM provided the existing permissible initial time periods for J program categories (as opposed to the periods of admission) and noted that extensions are possible with DoS approval for all categories.³⁴¹

As with the F classification, many J exchange visitors are admitted to participate in programs shorter than 4 years. Some J exchange visitors, like most F nonimmigrants, enter as post-secondary students. Similar to the F–1 Ph.D. student, some J nonimmigrants, *i.e.*, alien physicians and professors or research scholars, may need to stay longer than a 4-year period to complete their J program. However, all categories of J nonimmigrants will be covered by the same 4-year period as for F nonimmigrants. As such, DHS strives to treat these similarly situated nonimmigrants in a consistent manner by providing them with the same maximum admission period. DHS is implementing the same 4-year maximum period of admission. *See* new 8 CFR 214.2(j)(1)(ii)(A). This will help ensure compliance by providing consistency between the J program and the F program, which have programmatic similarities in that both go through the SEVIS system and need approval by their respective DSOs or ROs for exchanges and changes.

DHS is retaining the 30-day period that J nonimmigrants are provided before the report date or start of the approved program listed on the DS–

³³⁹ 90 FR at 42094–95 (Aug. 28, 2025).

³⁴⁰ DHS analysis of data in SEVIS and valid as of May 7, 2025, and June 2, 2026.

³⁴¹ 90 FR at 42095 (Aug. 28, 2025).

2019 and the 30-day period for preparation for departure. As DHS expects these nonimmigrants to use the 30-day period of time after the program ends to prepare for departure, DHS revised the language currently in 8 CFR 214.2(j)(1)(ii) that reads, “period of 30 days for the purposes of travel or for the period designated by the Commissioner . . .,” to instead read “a period of 30 days from the program end date or the 4-year maximum period of admission, whichever is earlier, for the purposes of departure or to otherwise seek to maintain lawful status.” See new 8 CFR 214.2(j)(1)(ii)(C). DHS believes that the language more accurately reflects the purpose of the period at the end of the program and accounts for other ways J exchange visitors may seek to maintain status during this period, such as by filing an EOS or change of status application. As explained in the context of F–1s above, DHS proposes changes to clarify that all J–1 nonimmigrants will be allowed the 30-day departure period following their program end date or the 4-year maximum period of admission.

b. Dependents

Consistent with the EOS eligibility requirements for J–1 nonimmigrants found at 8 CFR 214.1(c)(4), DHS codified the policy that extensions for spouses or children who are granted J–2 status based on their derivative relationship as a spouse or child of the principal J–1 nonimmigrant may not exceed the period of authorized admission of the principal J–1. The authorized period of initial admission for J–2 dependents is subject to the same requirements as the J–1 exchange visitor and may not exceed the period of authorized admission of the principal J–1 exchange visitor. See new 8 CFR 214.2(j)(1)(ii)(B).

2. EOS

The shift from D/S to admission for a fixed time period will mean that J nonimmigrants wishing to remain in the United States beyond their authorized period of stay will need to file for an EOS with USCIS. Like other nonimmigrants applying for EOS, they will need to file an EOS application on the form and in the manner designated by USCIS, with the required fee and in accordance with filing instructions, including any biometrics required by 8 CFR 103.16. See new 8 CFR 214.2(j)(1)(iv)(A). J–1 nonimmigrants seeking a program extension will continue to first request such an extension through the RO, as provided

for under existing regulations.³⁴² If such a program extension is recommended by the RO and approved by DoS, if necessary, the J–1 must apply for an EOS with USCIS to remain in the U.S. beyond the status expiration date on their I–94.

There are times when an exchange visitor’s program status becomes inactive prior to program completion, which would result in the RO recommending a reinstatement of J–1 status to include an extension of the program beyond the end date noted on the most recent Form DS–2019 or successor form.³⁴³ A request for reinstatement must be filed in the manner and timeframe required by DoS. Once the record is corrected or reinstated, the J–1 exchange visitor must submit a request for an EOS to USCIS within 30 days of the status update. This process is clarified and corrected in this final rule in response to comments. See new 8 CFR 214.2(j)(1)(iv)(D).

A dependent J–2 spouse and children seeking to accompany the J–1 exchange visitor in eligible J–1 categories during the additional period of admission will either need to be included on the primary applicant’s request for extension or file their own EOS applications on the form designated by USCIS and may be required to provide biometrics consistent with 8 CFR 103.16. See new 8 CFR 214.2(j)(1)(iv)(E). If a J–1 exchange visitor is denied EOS, then the J–2 family members will also be denied EOS, and all will be required to leave the United States immediately. However, a J–2 family member also can be denied EOS for other reasons, including due to criminal activity or not maintaining his or her status, for example, by working when not authorized, and will be required to depart the United States, but the J–1 and other J–2 dependents will be allowed to remain in the United States if EOS is approved for them.

As with other nonimmigrant classifications, the period of stay for J–2 dependents cannot exceed the period of stay authorized for the principal J–1 exchange visitor, including any EOS granted. And, as with other nonimmigrant classifications, if a dependent is aging out before the

program end date listed on the DS–2019, the entire family, including the J–1 principal, will receive an EOS only until the J–2’s 21st birthday, which will then require the remaining family members and the principal J–1 to apply for an EOS for the remainder of the program and for the aged out J–2 to leave the country or change status to a different nonimmigrant category. Also, as with other nonimmigrant classifications, if an EOS request is denied, the aliens will need to immediately depart the United States once their authorized period of stay expires.

3. Employment and Pending EOS and Employment Authorization Applications

Like I nonimmigrants, J–1 exchange visitors in some categories are authorized to engage in employment incident to status.³⁴⁴ This means that they are authorized to work per the terms of their program, and they do not have to apply to USCIS for authorization to engage in employment. As in the past, if an alien’s J–1 status has expired, but he or she timely filed an EOS application, DHS is allowing the alien to continue engaging in activities consistent with the terms and conditions of the alien’s program, including any employment authorization, beginning on the day after the admission period expires, for up to 240 days. See new 8 CFR 214.2(j)(1)(vii)(A) and 8 CFR 274a.12(b)(20). DHS is also allowing an alien whose J–1 status has expired but who timely filed an EOS application on or before 6 months after the effective date of the final rule (or longer if extended by DHS by publication of a notice in the **Federal Register**), to engage in J–1 activities, including authorized training and employment, as permitted by the alien’s exchange visitor program, while the EOS application is pending with USCIS, for the period up to the program end date on the DS–2019 (or successor form) filed with the pending application. Such authorization is subject to any conditions and limitations of the initial authorization. See new 8 CFR 214.2(j)(1)(vii). This policy is consistent with current practice and prevents J–1 exchange visitors from being penalized on

³⁴² See 22 CFR 62.43, describing J–1 program extension procedures.

³⁴³ One example is when a sponsor issues the Form DS–2019 for one year at a time for exchange visitors on multi-year programs. Prior to the end of the first year, the sponsor should have submitted an extension prior to the Program End Date but failed to do so and now must submit a Reinstatement. If approved, the request will change the status of the exchange visitor from Inactive to Active and extend the Program End Date for another year.

³⁴⁴ See 8 U.S.C. 1101(a)(15)(J) (including teaching, instructing, lecturing, and consulting among the permissible activities of nonimmigrants in the J category for participation in programs authorized by DoS); 8 CFR 214.2(j)(1)(v) (discussing employment authorization for J exchange visitors); 22 CFR 62.16 (stating that an exchange visitor program participant may receive compensation “when employment activities are part of the exchange visitor’s program”).

account of USCIS processing times, allows the alien to participate in the program without interruption, and, as applicable, prevents disruption to U.S. institutions employing or otherwise relying on the alien. The final rule clarifies the language in 8 CFR 214.2(j)(1)(vii)(A) to more explicitly discuss the employment authorization discussed in this paragraph.

If the alien's initial date of admission passes, DHS will consider the alien's I-94 unexpired when combined with a USCIS receipt notice indicating receipt of a timely filed EOS application and a valid, properly endorsed Form DS-2019 indicating his or her program's end date. An EOS application will be considered timely filed if the date on the receipt notice for the application of EOS is on or before the date the authorized stay expires. The extension of an alien's employment authorization will terminate on the date of denial of an individual's application for an EOS. *See* new 8 CFR 214.2(j)(1)(iv)(E). DHS believes that such provision will clarify how exchange visitors will demonstrate authorization to continue engaging in employment authorized pursuant to their program and better facilitate employer compliance with I-9 employment verification requirements.

Unlike J-1 exchange visitors, J-2 spouses and eligible children may only engage in employment with authorization by USCIS. *See* new 8 CFR 214.2(j)(1)(v) and 8 CFR 274a.12(c)(5). DHS retained the current restriction on the J-2 dependent's income described in 8 CFR 214.2(j)(1)(v)(A); the J-2 nonimmigrant's income may be used to support the family's customary recreational and cultural activities and related travel, among other things, but not to support the J-1. *See* new 8 CFR 214.2(j)(1)(v).

Consistent with current regulatory requirements, if a J-2 dependent wants to engage in employment, he or she will need to file an application for employment authorization, in the manner designated by USCIS, with the required fee and in accordance with form instructions. If a J-2 dependent nonimmigrant's requested period of employment authorization exceeds his or her current admission period, the J-2 dependent will need to file an EOS application or be included as part of the J-1 principal's EOS application, in the manner designated by USCIS, with the required fee and in accordance with form instructions. The validity of the J-2 dependent's employment authorization may not exceed the authorized admission period granted to the J-2 dependent pursuant to the EOS application. *See* new 8 CFR

214.2(j)(1)(iv)(A), (j)(1)(v), and (j)(1)(vii)(C).

As noted above in the discussion concerning EOS applications for F nonimmigrants, DHS considered but declined to adopt a policy that will result in abandonment of the EOS application upon traveling outside the United States while the EOS is pending. A J-1 or J-2 alien who travels during the time the EOS is pending may not be considered to have abandoned the EOS application. *See* new 8 CFR 214.1(c)(8).

DHS will allow J-1 nonimmigrants to continue employment or authorized training while an EOS application is pending with USCIS. Specifically, J-1s who have properly filed an EOS on or before March 18, 2027, may engage in the activities consistent with pursuing the terms and conditions of the exchange program objectives, including authorized training, while the EOS is pending, up to the DS-2019 end date filed with the EOS application. If a J-1 nonimmigrant's EOS is still pending upon the end date of the DS-2019 filed with the EOS application, and the J-1 obtains a program extension from the sponsor and/or DoS, as applicable, the alien may continue engaging in activities consistent with the exchange program objectives, including authorized training, so long as the EOS application is pending, and he or she has filed a subsequent EOS request with an end date beyond the DS-2019 end date requested in the preceding EOS request. In the future, the date which is initially March 18, 2027 period may be extended, if DHS determines such an extension is necessary. *See* new 8 CFR 214.2(j)(1)(vii).

Finally, DHS made minor technical updates. First, in new 8 CFR 214.2(j)(1)(vi), DHS struck the reference to "duration of status," and updated references to the "Commissioner" to refer to USCIS, while also replacing the title with '*Automatic Extension of J-1 authorized period of stay and grant of employment authorization for aliens who are the beneficiaries of a cap-subject H-1B petition*' to eliminate the prior reference to D/S and to provide more details on the paragraph. This title differs slightly from what was proposed in the NPRM in order to include better clarity with the contents of the paragraph. Second, because 8 CFR 214.2(j)(1)(vii) is being revised to describe J nonimmigrants with pending EOS applications and their employment authorization, it is necessary to revise and reassign current 8 CFR 214.2(j)(1)(vii) and (viii) to 8 CFR 214.2(j)(1)(viii) and (ix) respectively. Third, DHS made conforming amendments to the provision which

requires exchange visitors to report legal changes to their name and any changes in their address, replacing the term 'Service' with 'USCIS' and clarifying the number of days during which changes need to be reported by revising from 10 days to 10 'calendar' days for exchange visitors to report changes in their names and addresses and from 21 days to 10 business days for the RO to update SEVIS, in order to conform with existing DoS regulations.³⁴⁵ *See* new 8 CFR 214.2(j)(1)(ix). This change is made because the differing number of days for ROs to report changes between DHS and DoS regulations may cause confusion given that the time frames are both regarding the requirement for ROs to update changes in SEVIS, and this change provides for a common timeframe. In that same provision, DHS struck the sentence which references non-SEVIS programs, as SEVIS enrollment is now a mandatory requirement.

H. Requirements for Admission, Extension, and Maintenance of Status of I Nonimmigrants

1. Definition of Foreign Media Organization

The NPRM proposed several changes affecting the I nonimmigrant classification. First, DHS proposed to define a foreign media organization as "an organization engaged in the regular gathering, production, or dissemination via print, radio, television, internet distribution, or other media, of journalistic information and has a home office in a foreign country." *See* new 8 CFR 214.2(i)(1) and the accompanying discussion in the NPRM.³⁴⁶ This definition clarifies the long-standing interpretation of "foreign information media" as "journalistic information." The definition is retained in this final rule.

2. Evidence

In order to be granted I classification, an alien will need to meet his or her burden of proof to establish eligibility for admission in that nonimmigrant classification. DHS did not change the current requirement that an alien must demonstrate that the foreign media organization that they represent has a home office in a foreign country, and that the home office will continue to

³⁴⁵ 22 CFR 62.10(d)(3) clarifies that the J-1 exchange visitor must inform the RO or ARO of address changes within "10 calendar days" of the change, and 22 CFR 62.10(d)(4) states that the reporting window for ROs or AROs to update SEVIS is "10 business days" from receiving the J-1 exchange visitor's address change notification from the J-1 exchange visitor.

³⁴⁶ 90 FR at 42097-98 and 42112 (Aug. 28, 2025).

operate in the foreign country while the alien is in the United States. *See* new 8 CFR 214.2(i)(2)(i), which is unchanged from the NPRM. A self-employed applicant will need to demonstrate that he or she intends to depart the United States within a reasonable time frame consistent with the intended purpose of travel in order to maintain the home office in another country.

Further, the alien applying for I nonimmigrant status must provide a letter from the employing foreign media organization or, if self-employed or freelancing, an attestation from the alien, that verifies the employment, establishes that the alien is a representative of that media organization, and describes the remuneration and work to be performed. *See* new 8 CFR 214.2(i)(2)(ii), which is unchanged from current practice. This provides a standard basis for DHS to evaluate whether the applicant intends to comply with the I classification and only engage in the regular gathering, production or dissemination via print, radio, television, internet distribution or other media of journalistic information and represents, as an employee or under contract, an organization with an office in a foreign country. For example, such a letter can describe the content that the foreign information media representative is covering in the United States, which must be primarily journalistic information in nature, such as the reporting on recent or important events, investigative reporting, or producing educational materials, such as documentaries. Foreign media organizations would be able to describe how the content is primarily designed to provide information rather than entertainment, such as scripted or contrived situations, such as most “reality television” shows, which do not qualify an individual for admission under the I nonimmigrant classification.³⁴⁷

3. Admission Period and EOS

Consistent with the NPRM, aliens in I nonimmigrant classification (except for I nonimmigrants from the PRC) will have admission periods not to exceed 240 days or the period of time necessary to complete their activities, whichever is shorter. *See* new 8 CFR 214.2(i)(3)(i). Further, an I nonimmigrant (except for I nonimmigrants from the PRC) “may be eligible for extensions of stay, each of up to 240 days or until the activities or

assignment consistent with the I classification are completed, whichever is shorter.” *See* new 8 CFR 214.2(i)(5)(i)(A). For, I nonimmigrants presenting passports from the PRC (other than a Hong Kong SAR passport or Macau SAR passport) would be given admission and EOS of up to 90 days or until the activities or assignments consistent with the I classification are completed, whichever is shorter, and may apply for an EOS. *See* new 8 CFR 214.2(i)(3)(ii) and 214.2(i)(5)(iii). In each instance of applying for an EOS, the I nonimmigrant must demonstrate planned work activities consistent with the I classification to justify the additional time sought. *See* new 8 CFR 214.2(i)(5). These provisions were all proposed in the NPRM, and DHS is retaining them in the final rule.

I nonimmigrants who file a Form I–539 request with USCIS to request a change in information medium are currently allowed an automatic extension of employment authorization with the same employer while a Form I–539 application is pending for a period not to exceed 240 days, 8 CFR 274a.12(b)(20), DHS believes it is appropriate to extend such period of time to most other I nonimmigrant contexts. As stated in new 8 CFR 214.2(i)(5), an I nonimmigrant may continue activities consistent with the I classification while the timely application for EOS is pending, as provided for in 8 CFR 274a.12(b)(20), for a period not to exceed 240 days or the actual additional time requested on the EOS application, whichever is shorter (with the exception of an I nonimmigrant submitting a passport from the PRC, except Hong Kong SAR and Macau SAR, who can request extensions of up to 90 days), and beginning on the date of the expiration of the authorized period of stay.

In the event that the EOS application remains pending at the end of this period (the 240 day auto-extension or 90 days for certain aliens from the PRC), the I nonimmigrant, whose status has expired, may remain in the United States so long as the EOS application is pending, and he or she has filed a subsequent EOS request to remain beyond the period requested in the preceding EOS request. The alien, however, must cease working until his or her initial/preceding EOS application is approved, and USCIS may deny an EOS application if it finds that the alien did not cease working. *See* new 8 CFR 214.2(i)(5)(i) and (iii). DHS retained these provisions in the final rule. This restriction is consistent with current regulation and practice for other nonimmigrant worker classifications.

Specifically, 8 CFR 274a.12(b)(20) permits certain classes of aliens to continue employment with the same employer for a period of time not to exceed 240 days. The nonimmigrant may alternatively choose to depart the United States and apply for a new period of admission with CBP at a port of entry. The nonimmigrant would be eligible to work immediately upon re-entry.

As noted above, an I nonimmigrant may file multiple, consecutive extension requests. Each extension request, however, must conform to the current requirements outlined in new 8 CFR 214.2(i)(5) and 8 CFR 214.2(c)(4) that the request be timely filed, and that an alien file his or her EOS while the alien maintains his or her previously accorded lawful status or prior to the expiration of his or her status.³⁴⁸ Thus, under new 8 CFR 214.2(i)(5) and 8 CFR 214.1(c)(4), if an EOS remains pending and the alien needs to continue working in the United States beyond the time period requested in that particular EOS application, then he or she must file a second EOS application before the date (240 days or 90 days for certain I nonimmigrant with a passport from the PRC (excluding Hong Kong SAR and Macau SAR passport holders) or the actual time period requested, whichever is shorter), when the preceding EOS request would have expired. When multiple, timely filed consecutive EOS applications are necessary, the alien is required to cease work activities as described above because the preceding EOS application(s) remain pending; the filing of a subsequent EOS application does not confer authorization to continue work activities until the preceding EOS application(s) are approved. Upon approval of an EOS and all preceding EOS application(s), the alien may resume work activities for the period of time remaining on the latest EOS request. At any time, the denial of an extension application requires the alien to cease work activities and depart the United States immediately. *See* new 8 CFR 214.2(i)(6). As with other nonimmigrant classifications, they will not be given any period of time to prepare for departure from the United States after the denial, and there may be significant immigration consequences for failing to depart the country immediately. For example, such aliens generally will begin to accrue unlawful presence the day after the issuance of

³⁴⁷ For more information about what qualifies as “journalistic information” *see* 9 FAM 402.11–3, *Definitions of “Information Media Representative” and “Journalistic Information,”* <https://fam.state.gov/FAM/09FAM/09FAM040211.html> (last updated Apr. 22, 2024).

³⁴⁸ Current DHS regulations allow for USCIS, in its discretion, to excuse an alien’s failure to file before the period of previously authorized status expired where the alien is able to demonstrate that certain circumstances apply to him or her: *See* generally 8 CFR 214.1(c)(4).

the denial. DHS believes this standard provides parity across nonimmigrant classifications. As with other nonimmigrant classifications, DHS encourages nonimmigrants to apply for EOS within the six months³⁴⁹ (90 days for passport holders from the PRC) preceding the expiration of their current authorized stay to avoid losing the ability to work.

Finally, DHS retained the proposed amendments to 8 CFR 214.2(i)(5)(ii), to clarify that the dependents of an I nonimmigrant may be eligible for an EOS, under the same conditions and subject to the same restrictions as the principal I nonimmigrant. DHS also added regulatory text at 8 CFR 214.2(i)(5)(iv), clarifying the meaning of “timely filing” in the context of these I EOS applications.

4. Change in Information Medium or Employer

The proposed rule continued the preexisting requirement in the regulations that aliens in I nonimmigrant status may not change the information medium or the employer they will be working with until they receive permission from USCIS. *See* new 8 CFR 214.2(i)(4). As noted in the proposed rule, aliens currently submit Form I-539, Application to Extend/Change Nonimmigrant Status, for this purpose. This provision remains unchanged in the final rule.

I. Change of Status

The final rule retains, unchanged, the two provisions added to 8 CFR part 248, which governs changes of status. In the first provision, DHS clarified that aliens who were granted a change to F or J status, before the effective date of the final rule, and are applying for admission as an F or J after the final rule’s effective date may be admitted up to the program end date as noted on the Form I-20 or DS-2019 not to exceed 4 years, plus a period of 30 days following their program end date, to prepare for departure or to otherwise seek to obtain lawful authorization to remain in the United States. *See* new 8 CFR 248.1(e). CBP may admit these aliens into the United States up to the program end date, on the Form I-20 or DS-2019 that accompanied the approved change of status prior to the alien’s departure, plus an additional 30 days, thus ensuring that they do not get more time than allocated by their program end date, since these F and J nonimmigrants

would have received an admission period for D/S on the I-94 that accompanied the change of status approval.

The second provision, retained in the final rule, codifies the long-standing policy that, when an alien timely files an application to change to another nonimmigrant status, including F or J status, but departs the United States while the application is pending, USCIS will consider the application abandoned. Under section 248 of the INA, DHS may authorize a change of status to a nonimmigrant who, among other things, continues to maintain his or her status. Thus, pursuant to a policy that has been in place for decades, the change of status application of an alien who travels outside of the United States during the pendency of his or her request for a change of status is deemed abandoned. *See* new 8 CFR 248.1(f). Note, however, if there is an underlying petition filed along with the change of status, the petition may still be approved, but the alien generally would have to obtain the necessary visa at a U.S. Embassy or Consulate abroad before applying for admission to the United States in the new nonimmigrant classification.

J. Classes of Aliens Authorized To Accept Employment

DHS made the following updates to regulations pertaining to employment authorization: First, DHS struck the reference to D/S and updated the reference to 8 CFR 214.2(f)(5)(vi) in 8 CFR 274a.12(b)(6)(v). Second, in 8 CFR 274a.12(b)(10), DHS cross referenced language in 8 CFR 214.2(i) for I nonimmigrants, which clarifies that limitations currently in the provision (stating that an alien in this status may be employed only for the sponsoring foreign news agency or bureau) allow for freelance and self-employment situations where the I nonimmigrant may not have a “sponsoring” foreign news agency or bureau, and instead will need to show, among other requirements indicated in 8 CFR 214.2(i), that they are working for a qualifying foreign media organization.

K. Severability

In the event a provision in the section is not implemented, DHS has added severability clauses to ensure that the remaining provisions be implemented as an independent rule. The changes impact provisions that are not necessarily interrelated and can function independent of one another. As such, the Departments believe that most of the provisions of this final rule can function sensibly and independently of

other provisions. Therefore, in the event that any provisions in this rule are invalidated by a reviewing court, the Departments intend the remaining provisions to remain in effect to the fullest extent possible. *See* new 8 CFR 214.2(f)(20), (j)(6), and (i)(8). These are retained in the final rule.

VI. Statutory and Regulatory Requirements

DHS developed this final rule after considering numerous statutes and executive orders related to rulemaking. The following sections summarize our analyses based on a number of these statutes or executive orders.

A. Executive Order 12866: Regulatory 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, harmonizing rules, and 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.”

This rule has been designated a “significant regulatory action” that is economically significant under section 3(f)(1) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

This rule is not an Executive Order 14192 regulatory action because it is being issued with respect to an immigration-related function of the United States. The rule’s primary direct purpose is to implement or interpret the immigration laws of the United States (as described in INA 101(a)(17), 8 U.S.C. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. *See* OMB Memorandum M-25-20, “Guidance Implementing Section 3 of Executive Order 14192, titled ‘Unleashing Prosperity Through Deregulation’” (Mar. 26, 2025).

DHS provides a summary of the Regulatory Impact Analysis (RIA) of the economic impacts below. For the full

³⁴⁹ With respect to the earliest filing date for a Form I-539, there is no prohibition on filing the form before a certain date ahead of expiration.

analysis, please *see* the RIA posted in the docket of this rule on [regulations.gov](https://www.regulations.gov).

Under the final rule changes, DHS would more frequently have opportunities to review and collect nonimmigrant information, enhancing the Government's oversight and monitoring of these aliens, resulting in costs and benefits. Over a 10-year period of analysis, DHS estimates the final rule would have annualized costs ranging from \$443.1 million to \$448.6 million (using 3 and 7 percent discount rates, respectively) when considering both U.S. and non-U.S. parties. When considering U.S. parties only, DHS estimates that annualized costs would range from \$119.9 million to \$125.1 million (using 3 and 7 percent discount rates, respectively).

Need for the Rule

The final rule would ensure an effective mechanism for DHS to periodically and directly assess whether these nonimmigrants are complying with the conditions of their classifications and U.S. immigration laws, as well as allow DHS to obtain timely and accurate information about the activities they have engaged in and plan to engage in during their temporary stay in the United States. The opportunity to assess the nonimmigrant status with timely and accurate information allows immigration officers to verify that the nonimmigrants have not obtained any criminal convictions and do not pose a threat to national security. In addition, as F, J, and I nonimmigrants would be admitted for a fixed period of admission under the final rule, they would generally begin to accrue unlawful presence following the expiration of their authorized period of admission, as noted on the Form I-94 (Arrival/Departure Record issued at the POE, and could potentially become inadmissible based on that accrual of unlawful presence under INA section 212(a)(9)(B) and (C), 8 U.S.C. 1182(a)(9)(B) and (C), upon departing the United States. These grounds of inadmissibility have important and far-reaching implications on an alien's future eligibility for a nonimmigrant or immigrant visa, admission to the United States, or adjustment of status to that of a lawful permanent resident. Therefore, these regulatory changes may deter F, J, and I nonimmigrants from failing to maintain status and deter them from engaging in fraud and abuse. By increasing DHS assessments and clarifying when unlawful presence accrual begins, the final rule would strengthen the integrity of these nonimmigrant classifications.

Affected Population

The final rule would impact F, J, and I nonimmigrants, DSOs and ROs from SEVP-certified schools and exchange visitor sponsors that run a SEVP- or DoS-designated program and foreign media representatives. Overall, approximately 2.1 million persons participated annually in the F, J, and I nonimmigrant programs combined. DHS estimated the 3-year average active nonimmigrants based on data from fiscal years 2022 to 2024. Active nonimmigrants are those present in the United States with a valid visa. Over the 3-year period, there were approximately 1.6 million F nonimmigrants, 504,000 J nonimmigrants, and 24,000 I nonimmigrants active per year.

The number of nonimmigrant EOS requests under the proposed rule depends on the unique circumstances of each nonimmigrant visa holder. For example, in situations when the nonimmigrant intends to extend their stay in the United States in furtherance of their academic training and following the proposed regulatory criteria for their visa and program, they would be expected to file an EOS. Therefore, DHS estimates the number of EOS requests over the 10-year analysis period based on the historical nonimmigrant data and criteria from the proposed regulatory provisions. Further, DHS accounts for the proposed transition period in the estimated number of EOS requests. DHS utilized event-based data to have more accurate estimations of the probability that nonimmigrants would take certain actions that require an EOS request. This allowed DHS to estimate the number of EOS requests based on how nonimmigrants act during their stay. Based on the historical data, regulatory criteria, and the transition period assumptions, DHS estimates an annual average of 393,500; 28,000; 6,000 EOS requests for F, J, and I nonimmigrants, respectively, over the ten-year period of analysis.

Costs

DHS recognizes that the final rule would incur costs. Some of the costs have been quantified based on available data, and the remaining costs are qualitative.

Quantitative Costs

Depending on each nonimmigrant's need to extend his or her stay in the United States, nonimmigrants on an F-1, F-2, J-1, J-2 and I visa would incur costs to request an EOS. The cost burden includes application fees and time for filing Form I-539 or I-539A. DHS assumes a percentage of

nonimmigrants would incur costs for additional help filing their request for EOS. DHS estimates the annualized EOS costs for the nonimmigrants would range from \$317.9 million to \$317.3 million (using 3 and 7 percent discount rates, respectively).

DHS also calculated a familiarization cost for nonimmigrants expected to be in the country when the rule goes into effect. This 1 hour of burden, which is an advising burden to meet with their DSOs and ROs, resulted in an additional year 1 cost of \$45.6 million to \$43.9 million (using 3 and 7 percent discount rates, respectively).

Further, DSOs and ROs would incur a burden for assisting additional EOS requests resulting from this final rule. When a nonimmigrant is or would be employed under OPT or CPT, DHS assumes HR staff would incur burden per EOS request to track form updates and avoid inadvertent unauthorized employment due to form discrepancies with the Form I-9. DHS estimates the annualized EOS costs for the DSOs and ROs, and HR staff would range from \$88.5 million to \$88.3 million (using 3 and 7 percent discount rates, respectively).

Additionally, DHS assumes DSOs and ROs would incur costs to familiarize themselves with the rule and to create and modify training materials, and other adaptations such as system wide briefings, systemic changes, and advising of current nonimmigrants of the rule changes. For the final rule, DHS updated the familiarization costs to 135 hours per DSO and RO based on public comments received. DHS also added 1 hour of advising burden to DSO, ROs and current nonimmigrants subject to this rule to account for the transition between the old and new rule. The 1 hour advising burden to nonimmigrants resulted in an additional cost of \$45.6 million to \$43.9 million (using 3 and 7 percent discount rates, respectively). DHS estimates the familiarization and adaptation and advising costs in year 1 to DSOs and ROs would range from \$267.9 million to \$257.8 million (using 3 and 7 percent discount rates, respectively).

Qualitative Costs

DHS acknowledges there could be other costs that the Department was not able to quantify and discusses these in the following section. Generally, DHS lacked data and information to quantify the qualitative costs below.

Federal Government Costs

DHS acknowledges there will be implementation and operational costs to the government associated with

assessing aliens at the POE for purposes of authorizing an admission period of up to 4 years. CBP officers will need training on new systems and procedures for conducting inspections at the POE consistent with the final requirements on setting a period of admission for F, J, or I nonimmigrants. DHS also acknowledges that there could be additional costs to the government to upgrade SEVIS and provide additional support services to implement the final rule. DHS anticipates there may be costs for SEVIS development, supplemental Federal staff to assist in the development, increased call center volume, and operation and maintenance of SEVIS databases and other DHS IT systems. DHS acknowledges that this rule will require efforts to update systems and train officers. However, these system updates will not incur additional costs, as the updates for SEVIS are part of regular software updates and incorporated within the budget allocations into current financial and resource allocations for SEVIS operations and maintenance. Furthermore, ADIS does not require any additional costs for new software updates as a direct result of the D/S rule. Training costs are similarly expected and incorporated within the overall training budget allocations and incur no additional cost to the U.S. taxpayer. The training for compliance with the rule will be part of regular training and training budgets and cannot be separated as a distinct cost.

Costs to Schools and Enrollments

The global market for nonimmigrant students is competitive and many U.S. schools hold an advantage over foreign institutions due to the quality of the programs they offer, however the final rule may have an impact on nonimmigrant student enrollment. The final rule affects only those F–1 and J–1 nonimmigrants who need additional time to complete their program or who wish to continue their education; however, DHS maintains that eligible students should have no difficulty with getting their EOS requests approved, which should alleviate concerns about the uncertainty of EOS approval. Schools may also incur costs for changes to their information systems and practices to implement processing under the proposed rule.

DHS expects this final rule will affect relatively few English language programs; the majority of ELT students were enrolled in programs shorter than 2 years. Some schools may choose to change their curriculum to be covered in a 2-year time period. It is possible that some language training programs would experience reduced enrollment due to the final rule.

DHS does not intend for the rule to have a significant impact on participation of other J exchange visitors or I foreign information media representatives. Equivalent U.S.-based exchange visitor programs (outside of academia) may be more difficult to find in other countries, providing less of an

incentive for nonimmigrants to choose an alternative.

Benefits

DHS expects this final rule to have qualitative benefits for national security by providing DHS additional opportunities to evaluate whether F, J, and I nonimmigrants are complying with their status requirements, or if they present a national security concern. It would deter fraud and abuse of the F, J, and I visa classifications, as requiring EOS requests at frequent intervals allow DHS to review the standing of the nonimmigrant. DHS would be able to enforce the unlawful presence provisions of the INA for those who are not complying with the terms of their visa status.

Accounting Statement

DHS has prepared a full analysis according to E.O. 12866 and E.O. 13563, which can be found in the docket for this rulemaking or by searching for RIN 1653-AA95 on www.regulations.gov. Table 1 presents the accounting statement as required by Circular A–4 for total impacts of the rule. The proposed rule would have a quantified annualized cost ranging from \$443.1 million to \$448.6 million (with 3- and 7-percent discount rates, respectively) when considering U.S. and non-U.S. parties. When considering U.S. parties only, annual costs would range from \$119.9 million to \$125.1 million (with 3- and 7-percent discount rates, respectively).

TABLE 1—OMB A–4 ACCOUNTING STATEMENT, U.S. AND NON-U.S. PARTIES
[2024\$]

Category	3-Percent discount rate	7-Percent discount rate	Source citation (RIA, preamble, etc.)
Benefits:			
Annualized Monetized \$millions/year	N/A	N/A	N/A.
Annualized Quantified	N/A	N/A	N/A.
Qualitative	- Enhance DHS's ability to enforce the unlawful presence provisions of the INA at the conclusion of F, J, and I nonimmigrants' fixed period of admission. - Deter F, J, and I nonimmigrants from engaging in fraud and abuse and strengthen the integrity of these nonimmigrant classifications. - Provide DHS with additional information to promptly detect national security concerns. - Increase DHS's ability to detect those nonimmigrants who are not complying with the terms and conditions of their status. - Ensure that immigration officers, who are U.S. Government officials, are responsible for reviewing and deciding each F, J, or I nonimmigrant's extension of stay (EOS) request.		Preamble, RIA Section A.4.
Costs:			
Annualized Monetized \$millions/year	\$443.1	\$448.6	RIA Section A.4.
Annualized Quantified	N/A	N/A	N/A.

TABLE 1—OMB A-4 ACCOUNTING STATEMENT, U.S. AND NON-U.S. PARTIES—Continued
[2024\$]

Category	3-Percent discount rate	7-Percent discount rate	Source citation (RIA, preamble, etc.)
Qualitative	• Potential burden for DHS and nonimmigrants associated with government requests for additional information or in-person interviews. • Potential reduction in enrollment of nonimmigrant students and exchange visitors and subsequent revenue effects on sponsoring institutions. • DHS costs for rule familiarization and training and additional steps at port of entries (POEs) to assess fixed periods of time for admission. • Potential burden to schools/program sponsors and DHS to update batch processing systems that facilitate exchange of data between Designated School Officials (DSOs)/Responsible Officers (ROs) and the Student and Exchange Visitor Information System (SEVIS). • Potential costs to F-1 students and schools stemming from limitations on change of education level procedures. • Potential burden on F-1 English language training (ELT) program students and schools from the restriction against ELT study beyond 24 months. • Some Employment Authorization Documents (EADs) may lapse or may not be approved if EOS requests are not approved in a timely manner.		RIA Section A.4.
<i>Transfers:</i>			
Annualized Monetized \$millions/year	N/A	N/A	N/A.
Annualized Quantified	N/A	N/A	N/A.
Qualitative	Potential reduction in fees collected by Student and Exchange Visitor Program (SEVP) and Department of State (DoS) to cover the respective program costs due to a potential reduction in international enrollment.		RIA A.4.
State, Local, and/or Tribal Government	Some public schools will incur incremental costs to comply with the final rule and a potential decline in international enrollment.		RIA A.4.
Small Business	Some small businesses will incur incremental costs to comply with the final rule.		Regulatory Flexibility Analysis.
Wages	N/A.		N/A.
Growth	N/A.		N/A.

B. Final Regulatory Flexibility Act Analysis

The RFA, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” is comprised of small business, 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. DHS has prepared a full initial regulatory flexibility analysis (IRFA), which can be found in the docket for this rulemaking or by searching for RIN 1653–AA95 on www.regulations.gov. A summary of the final regulatory flexibility analysis (FRFA) follows.

DHS performed an FRFA of the impacts on small entities from this rule in the first year of the analysis and found that it may affect an estimated 7,744 U.S. entities (6,541 SEVP-certified

institutions (schools), and 1,203 J exchange visitor program sponsors). DHS analyzed all the entities that would be affected by the rule and DHS found that 78 percent of SEVP-certified institutions and 62 percent of J exchange visitor program sponsors would be considered small entities.

Under the final rule, DSOs and ROs will have to spend approximately 135 hours for rule familiarization and adaptation in the first year after the rule takes effect. For each DSO, rule familiarization would cost \$6,735 in the first year after the rule takes effect. Further, each year DSOs/ROs will spend approximately 3 hours per F-1/J-1 EOS request to review the Form I-539 completed by the F-1/J-1 nonimmigrant, update the SEVIS record and track EOS requests, and advise the F-1/J-1 nonimmigrant about the extension process and the requirements to file an EOS with USCIS. DHS also accounted for additional advising costs

for each F school when the rule takes effect by multiplying the school-level average annual enrollment by a cost of \$50 per existing F-1 student (1 hour × \$49.89 loaded wage rate). Additionally, HR staff will spend approximately 1.5 hours per F-1 EOS request to track form updates related to each EOS request and avoid inadvertent unauthorized employment due to form discrepancies with the I-9. The DSO cost per EOS request is \$233.

DHS estimates that 73.4 percent of small schools will experience an impact less than or equal to one percent of their annual revenue. DHS estimates that the majority of small J sponsors would experience an impact less than or equal to one percent of their annual revenue.

C. Small Business Regulatory Enforcement Fairness Act of 1996

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–

121, we want to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult ICE using the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section above.

D. Congressional Review Act

This final rule is a major rule as defined by 5 U.S.C. 804, also known as the “Congressional Review Act,” as enacted in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 847, 868 *et seq.* Accordingly, this rule, if enacted as a final rule, will be effective at least 60 days after the date on which Congress receives a report submitted by DHS under the Congressional Review Act, or 60 days after the final rule’s publication, whichever is later.

E. Unfunded Mandates Reform Act

The Unfunded Mandate Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on state, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by state, local, and tribal governments, in the aggregate, or by the private sector. The value equivalent of \$100 million in 1995 adjusted for inflation to 2024 levels by the Consumer Price Index for All Urban Consumers is \$193 million. This rule exceeds the \$100 million expenditure threshold in the first year of implementation (adjusted for inflation) and therefore DHS is providing this UMRA analysis.

1. An Identification of the Provision of Federal Law Under Which the Rule Is Being Promulgated

The authority of the Secretary for these regulatory amendments is found in various sections of the INA, 8 U.S.C. 1101 *et seq.*, and the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.* The Authority sections for 8 CFR parts 214, 248, and 274a provide a detailed list of the specific authorities. General authority for issuing the final rule is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the

Secretary to administer and enforce the immigration and nationality laws. Further authority for the regulatory amendments in the final rule is found in Section III, Subpart A.

2. A Qualitative and Quantitative Assessment of the Anticipated Costs and Benefits of the Federal Mandate, Including the Costs and Benefits to State, Local, and Tribal Governments or the Private Sector, as Well as the Effect of the Federal Mandate on Health, Safety, and the Natural Environment

The affected population of the rule are the F, J, and I visa holders, and the educational institutions and sponsors responsible for the visa holders. The major costs associated with this rule are the familiarization and advising burden incurred in year 1, EOS filing costs for visa holders, and DSO/RO burden for assisting with EOS requests. The familiarization and advising burden applies to the full population, however in different amounts. The DSOs/ROs are expected to take on more familiarization burden as they are expected to advise the F and J nonimmigrants. The DSO/RO burden for EOS requests will be borne by the educational institutions and sponsors, while the EOS filing costs will be borne by the visa holders. Familiarization costs are only accrued in the first year, and the advising burden for educational institutions and sponsors responsible for F and J visa holders is scaled to the number of F and J visa holders. Institutions that choose to engage with large numbers of F and J visa holders will incur more costs related to familiarization and adaptation. These familiarization and adaptation costs are expected to decrease after first year the rule is in effect. Educational institutions and sponsors will only accrue EOS processing costs if they enroll nonimmigrants who remain in the country beyond their program length or 4 years, whichever is shorter. Nonimmigrants who remain in the country for their allotted program length (if less than 4 years) or 4 years will not be required to file an EOS request, and not incur costs related to this rule. Only the visa holders filing EOS requests will incur these costs. DHS presents the impacts of these provisions more fully in the RIA, which is available in the docket for this final rule on www.regulations.gov.

DHS does not believe that this rule will have any impact on health or safety. The impact of this rule on environmental issues is discussed more fully in Review under the National Environmental Policy Act (NEPA), Section VI, subpart J of this final rule.

3. Estimates by the Agency, if and to the Extent That the Agency Determines That Accurate Estimates Are Reasonably Feasible of Future Compliance Costs of the Federal Mandate and Any Disproportionate Budgetary Effects of the Federal Mandate Upon Any Particular Regions of the Nation or Particular State, Local, or Tribal Governments, Urban or Rural or Other Types of Communities, or Particular Segments of the Private Sector

DHS has provided compliance costs of the main provisions that may indirectly trigger Federal mandates in the full RIA discussion of each provision published with this final rule as well as in the FRFA. DHS reiterates that state and private sector entities make the cost-benefit decisions of whether to expend finances to engage with foreign nonimmigrants participating in the F, J, or I visa programs, and that nonimmigrant visa holders make the decision to incur costs associated with this rule if they choose to apply for an EOS.

4. Estimates by the Agency of the Effect on the National Economy, Such as the Effect on Productivity, Economic Growth, Full Employment, Creation of Productive Jobs, and International Competitiveness of United States Goods and Services, if and to the Extent That the Agency in Its Sole Discretion Determines That Accurate Estimates Are Reasonably Feasible and That Such Effect Is Relevant and Material

DHS has provided discussions of the effect of this rule on the economy in Section IV, Subsection Q of the final rule and in the final rule RIA available in the docket.

5. A Description of the Extent of the Agency’s Prior Consultation With Elected Representatives (Under Section 204) of the Affected State, Local, and Tribal Governments; a Summary of the Comments and Concerns That Were Presented by State, Local, or Tribal Governments Either Orally or in Writing to the Agency; and a Summary of the Agency’s Evaluation of those Comments and Concerns

DHS did not consult with elected representatives of the affected State, local, and tribal governments. After the publication of the proposed rule, DHS did receive public comments from state and local educational institutions and responded to those comments. These comments were concerned with the impacts of this rule on higher education, including enrollment impacts, costs of EOS requests, and additional burden on DSOs. These comments were

summarized in Section IV of this rule, and impacts on higher education were specifically summarized and responded to in Section IV.B.4.

F. Paperwork Reduction Act—Collection of Information

Under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995) (PRA), all Departments are required to submit to OMB, for review and approval, any reporting or recordkeeping requirements inherent in a rule. To conform with the requirements set forth by the PRA, on August 28, 2025, at 90 FR 42070, DHS, USCIS and ICE requested comments on the following information collections. Several comments were received on these information collections during the comment period. ICE responded to these comments above in Section IV above. Each of the forms will require non-substantive edits to comply with this rulemaking. Accordingly, ICE has submitted PRA Change Worksheet, Form OMB 83–C, and amended information collection instruments to OMB for review and approval in accordance with the PRA. Any change in the number of respondents and public burden is reflected below. At this time, the following forms are not open for comment.

ICE Forms I–20 and I–17

Overview of information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Student and Exchange Visitor Information System (SEVIS).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–20 and I–17, ICE.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary Non-profit institutions and individuals or households. SEVIS is an internet-based data entry, collection and reporting system. It collects information on SEVP-certified school via the Form I–17, “Petition for Approval of School for Attendance by Nonimmigrant Student,” and collects information on the F and M nonimmigrant students that the SEVP-certified schools admit into their programs of study via the Forms I–20s: “Certificate of Eligibility for Nonimmigrant (F–1) Students Status—For Academic and Language Students” and “Certificate of Eligibility for Nonimmigrant (M–1) Students Status—For Vocational Students.” Revisions to the SEVIS collections include substantive and non-substantive

changes to SEVIS to support additional recordkeeping and reporting requirements associated with recommendations for an F–1 student EOS. The revision is to add fields to facilitate a DSO recommendation for an F nonimmigrant student’s EOS, update the list of educational levels, and update the Form I–20 instructions page.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information requests Form I–17 and Form I–20 is 20,890. The estimated hour burden per response is 42.8 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection of information in hours is 894,106.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$49,956,309.

USCIS Forms I–539 and I–539A

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Extend/Change Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–539 and I–539A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form will be used for nonimmigrants to apply for an EOS, for a change to another nonimmigrant classification, or for obtaining V nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–539 (paper) is 459,860 and the estimated hour burden per response is 1.667 hours; the estimated total number of respondents for the information collection Form I–539 (e-file) is 197,083 and the estimated hour burden per response is 1 hours; the estimated total number of respondents for the information collection Supplement A is 207,600 and the estimated hour burden per response is .35 hours; the estimated total number of respondents providing biometrics is 864,543 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection of information in hours is 2,047,845.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$83,736,379.

USCIS Form I–765

Under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–12, DHS must submit to OMB, for review and approval, any reporting requirements inherent in a rule unless they are exempt. Although this rule does not impose any new reporting or recordkeeping requirements under the PRA for this information collection, this rule will require non-substantive edits to USCIS Form I–765, Application for Employment Authorization. Accordingly, USCIS has submitted a Paperwork Reduction Act Change Worksheet, Form OMB 83–C, and amended information collection instruments to OMB for review and approval in accordance with the PRA.

G. Executive Order 13132: Federalism

This final rule 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. DHS does not expect that this final rule will impose substantial direct compliance costs on State and local governments or preempt State law. Therefore, in accordance with section 6 of Executive Order 13132, *Federalism*, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

H. Executive Order 12988: Civil Justice Reform

This final rule meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, *Civil Justice Reform*, to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

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

DHS has analyzed this final rule under Executive Order 13211, *Actions Concerning Regulations That*

Significantly Affect Energy Supply, Distribution, or Use. DHS has determined that it is not a “significant energy action” under that order because it is a “significant regulatory action” under Executive Order 12866 but is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

J. National Environmental Policy Act (NEPA)

DHS and its components analyze final actions to determine whether the National Environmental Policy Act of 1969 (“NEPA”), 42 U.S.C. 4321 *et seq.*, applies to them and, if so, what degree of analysis is required. DHS Directive 023–01 Rev. 01³⁵⁰ and Instruction Manual 023–01–001–01 Rev. 01 (Instruction Manual)³⁵¹ establish the policies and procedures that DHS and its components use to comply with NEPA.

NEPA allows Federal agencies to establish categories of actions (“categorical exclusions”) that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment (EA) or environmental impact statement (EIS).³⁵² An agency is not required to prepare an EA or EIS for a proposed action “if the proposed agency action is excluded pursuant to one of the agency’s categorical exclusions.” See 42 U.S.C. 4336(a)(2), 4336e(1). The Instruction Manual, Appendix A, Table 1, lists the DHS Categorical Exclusions.³⁵³

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.³⁵⁴ DHS is amending its regulations to eliminate the practice of admitting F–1

nonimmigrant students, I nonimmigrant representatives of information media, and J–1 exchange visitors (and F–2/J–2 family members) for D/S. The final rule would provide for nonimmigrants seeking entry under F, J, or I visas to be admitted for the period required to complete their academic program, foreign information media employment, or exchange program, not to exceed the periods of time defined in this final rule. The final rule would also require nonimmigrants seeking to continue their studies, foreign information media employment, or exchange program beyond the admission period granted at entry to apply for extension.

DHS has analyzed this final rule under MD 023–01 Rev. 01 and IM 023–01–001–01 Rev. 01. DHS has determined that this final rulemaking action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This final rule completely fits within the Categorical Exclusion found in IM 023–01–001–01 Rev. 01, Appendix A, Table 1, number A3(d): “Promulgation of rules. that interpret or amend an existing regulation without changing its environmental effect.” This final rule is not part of a larger action. This final rule presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, this final rule is categorically excluded from further NEPA review.

DHS seeks any comments or information that may lead to the discovery of any significant environmental effects from this final rule.

K. Executive Order 13175: 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.

L. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

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*.

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

Executive Order 13045, *Protection of Children from Environmental Health Risks and Safety Risks*, requires agencies to consider the impacts of environmental health risk or safety risk that may disproportionately affect children. DHS has reviewed this final rule and determined that even though this rule is an economically significant rule, it would not create an environmental risk to health or risk to safety that might disproportionately affect children. Therefore, DHS has not prepared a statement under this executive order.

N. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards will be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (*e.g.*, 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.

O. Family Assessment

DHS has determined that this action will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 248

Aliens, Reporting and recordkeeping requirements.

³⁵⁰ Dep’t of Homeland Sec., *Implementation of the National Environmental Policy Act*, Directive 023–01, Revision 01 (Oct. 31, 2014), https://www.dhs.gov/sites/default/files/publications/mgmt/environmental-management/mgmt-dir_023-01-implementation-national-environmental-policy-act_revision-01.pdf.

³⁵¹ Dep’t of Homeland Sec., *Implementation of the National Environmental Policy Act (NEPA)*, Instruction Manual 023–01–001–01, Rev 01 (Nov. 6, 2014).

³⁵² See 42 U.S.C. 4336c.

³⁵³ See Appendix A, Table 1.

³⁵⁴ Dep’t of Homeland Sec., Instruction Manual, *supra* note 351.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Penalties, Reporting and recordkeeping requirements, Students.

Regulatory Amendments

For the reasons stated in the preamble, DHS amends parts 214, 248, and 274a of chapter I, subchapter B, of title 8 of the Code of Federal Regulations as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1188, 1221, 1281, 1282, 1301–1305, 1357, and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

■ 2. Section 214.1 is amended by:

- a. Adding paragraph (a)(4);
- b. Revising paragraphs (b) heading, (b)(1) introductory text, (b)(2) introductory text, and (b)(3) introductory text;
- c. Removing paragraph (b)(4);
- d. Revising paragraphs (c)(2) and (c)(3)(v); and
- e. Adding paragraphs (c)(8) and (m).

The additions and revisions read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) * * *

(4) *Requirements for admission of aliens under section 101(a)(15)(F) and (J).* Aliens applying for admission as F or J nonimmigrants after September 15, 2026, will be inspected and may be admitted into the United States, if in possession of a valid Form I–20 or Form DS–2019, or successor form, and otherwise eligible, and subject to the following:

(i) *Aliens applying for admission as F nonimmigrants.* (A) Aliens seeking admission to the United States, including those seeking admission with a properly filed pending application for an extension of stay, as an F nonimmigrant after a previously authorized period of admission as an F nonimmigrant expired, may be admitted for a maximum period of 4 years or the length of program as specified on Form I–20, whichever is shorter, plus

additional 30 day periods for arrival and departure as provided in § 214.2(f)(5)(i);

(B) Aliens seeking admission to the United States as an F nonimmigrant with a properly filed pending application for extension of stay as an F nonimmigrant may, if they have time remaining on the period of stay authorized prior to departure, be admitted for a period up to the unexpired period of stay authorized prior to the alien's departure, plus an additional 30 days as provided in § 214.2(f)(5)(v), subject to the requirements in paragraph (c)(8) of this section, or if the alien seeks admission with a Form I–20 for a program end date beyond their previously authorized period of admission, the alien may be admitted for the period specified in § 214.2(f)(5), subject to the requirements in paragraph (c)(8) of this section; and

(C) Aliens seeking admission to the United States as an F nonimmigrant with an approved extension of stay for F nonimmigrant status may be admitted until the expiration of the approved extension of stay, plus an additional 30 days, as provided in § 214.2(f)(5)(v).

(ii) *Aliens applying for admission as J nonimmigrants.* (A) Aliens seeking admission to the United States, including those seeking admission with a properly filed, pending application for an extension of stay as a J nonimmigrant after a previously authorized period of admission as a J nonimmigrant expired, may be admitted for the period specified in § 214.2(j)(1)(ii);

(B) Aliens seeking admission to the United States as a J nonimmigrant with a properly filed pending extension of stay as a J nonimmigrant may, if they have time remaining on the period of stay authorized prior to departure, be admitted for a period up to the unexpired period of stay authorized prior to the alien's departure, plus an additional 30 days as provided in § 214.2(j)(1)(ii)(C), subject to the requirements in paragraph (c)(8) of this section; and

(C) Aliens seeking admission to the United States as a J nonimmigrant with an approved extension of stay in J nonimmigrant status may be admitted up to the expiration of the approved extension of stay, plus an additional 30 days as provided in § 214.2(j)(1)(ii)(C).

(iii) *Post-completion optional practical training (OPT) and Science, Technology, Engineering and*

Mathematics (STEM) OPT extension.

Aliens seeking admission to the United States as an F nonimmigrant to pursue post-completion OPT or a STEM OPT extension may be admitted until the end date of the approved employment authorization for post-completion OPT or STEM OPT, or if the Application for Employment Authorization, Form I–765 (or successor form) for post-completion OPT or STEM OPT is still pending with USCIS, as evidenced by a notice issued by USCIS indicating receipt of such application, until the Designated School Official's recommended employment end date for post-completion OPT or STEM OPT specified on the Form I–20, subject to the requirements in paragraphs (c)(8) of this section and 8 CFR 274a.12(b)(6)(iv), plus a 30-day period as provided in § 214.2(f)(5)(v).

(b) *Admission of nonimmigrants under section 101(a)(15)(F), (J), or (M) whose visa validity is considered automatically extended to complete unexpired periods of previous admission or extension of stay—(1) Section 101(a)(15)(F).* The inspecting immigration officer may admit, up to the unexpired period of stay authorized prior to the alien's departure, any nonimmigrant alien whose nonimmigrant visa validity is considered automatically extended pursuant to 22 CFR 41.112(d) and who is applying for admission under section 101(a)(15)(F) of the Act, if the alien:

* * * * *

(2) *Section 101(a)(15)(J).* The inspecting immigration officer may admit, up to the unexpired period of stay authorized prior to the alien's departure, any nonimmigrant alien whose nonimmigrant visa validity is considered automatically extended pursuant to 22 CFR 41.112(d) and who is applying for admission under section 101(a)(15)(J) of the Act, if the alien:

* * * * *

(3) *Section 101(a)(15)(M).* The inspecting immigration officer may admit, up to the unexpired period of stay authorized prior to the alien's departure, any nonimmigrant alien whose nonimmigrant visa validity is considered automatically extended pursuant to 22 CFR 41.112(d) and who is applying for admission under section 101(a)(15)(M) of the Act, if the alien:

* * * * *

(c) * * *

(2) *Filing for an extension of stay.* Any other nonimmigrant who seeks to extend his or her stay beyond the currently authorized period of admission must apply for an extension of stay by filing an extension request in the manner and on the form prescribed

by USCIS, together with the required fees and all initial evidence specified in the applicable provisions of § 214.2, and in the form instructions, including the submission of any biometrics required by 8 CFR 103.16. More than one person may be included in an application if the co-applicants are all members of a single-family unit and either all hold the same nonimmigrant status, or one holds a nonimmigrant status, and the other co-applicants are his or her spouse and/or children who hold derivative nonimmigrant status based on his or her status. Extensions granted to members of a family unit must be for the same period of time. The shortest period granted to any member of the family will be granted to all members of the family. In order to be eligible for an extension of stay, nonimmigrant aliens in K-3/K-4 status must do so in accordance with § 214.2(k)(10).

(3) * * *

(v) Any nonimmigrant admitted for duration of status, except those who fall under paragraph (m) of this section;

* * * * *

(8) *Abandonment of extension of stay and pending employment authorization applications for F, I, and J nonimmigrant aliens.* (i) If an alien in F, I, or J nonimmigrant status timely files an application for an extension of stay, USCIS will not consider the application abandoned if the alien departs the United States while the application is pending, provided that when the alien seeks admission, the previously authorized period of admission has not expired, and the alien seeks admission for the balance of the previously authorized admission period.

(ii) An application for extension of stay in F, I, or J nonimmigrant status may be deemed abandoned if an alien departs the United States and seeks admission with a Form I-20 or DS-2019 for a program end date beyond their previously authorized period of admission while the application for an extension of stay is pending. USCIS will not consider as abandoned any corresponding applications for employment authorization.

(iii) When an alien described in paragraph (c)(8)(i) or (ii) of this section departs, the alien should travel with a copy of their Form I-797C, Notice of Action, or successor form, which confirms the receipt of either their Form I-539, Application to Extend/Change Nonimmigrant Status, or Form I-765, Application for Employment Authorization, along with proposed length of stay as evidenced by the Form

I-20, DS-2019, or letter of employment for a foreign media organization.

* * * * *

(m) *Transition period from duration of status to a fixed admission date—*(1) *Transition from duration of status admission to a fixed admission period for aliens properly maintaining F and J status on September 15, 2026.* Aliens with F or J status who are properly maintaining their status on September 15, 2026, and who were admitted for duration of status are authorized to remain in the United States in F or J nonimmigrant status until the later date of either the expiration date on an Employment Authorization Document, Form I-766, or successor form, or the program end date noted on their Form I-20 or Form DS-2019, as applicable, not to exceed a period of 4 years from September 15, 2026, plus the departure period of 60 days for F nonimmigrants, which is November 14, 2030, and 30 days for J nonimmigrants, which is October 15, 2030. Subject to 8 CFR 274a.14, any authorized employment or training continues until the program end date on such F or J nonimmigrant's Form I-20 or DS-2019, as applicable and as endorsed by the designated school official or responsible officer for employment or training, or expiration date on the alien's Employment Authorization Document, Form I-766, or successor form. Aliens who need additional time to complete their current program of study, including requests for post-completion optional practical training (OPT) and the Science, Technology, Engineering and Mathematics (STEM) OPT extension, or exchange visitor program, including academic training, or would like to start a new program of study or exchange visitor program must apply for an extension of stay with USCIS in accordance with paragraph (c)(2) of this section for an admission period to a fixed date.

(i) Notwithstanding this paragraph (m)(1), an F-1 student recommended for post-completion OPT who files before his or her period of admission expires, including the 60 day departure period, an Application for Employment Authorization, Form I-765, or successor form on the form and in the manner designated by USCIS, with the required fee, as described in the form's instructions, on or before March 18, 2027, is not required to file an Application to Extend/Change Nonimmigrant Status, Form I-539, or successor form for the requested period of post-completion OPT. An F-1 student recommended for STEM OPT who files, prior to the expiration of his or her

current OPT Employment Authorization Document, Form I-766, or successor form, an Application for Employment Authorization, Form I-765, or successor form on or before March 18, 2027, is not required to file an Application to Extend/Change Nonimmigrant Status, Form I-539, or successor form for the requested period of STEM OPT. If the alien's application for post-completion OPT or STEM OPT employment authorization is approved, the alien will be authorized to remain in the United States in F status until the expiration date of the Employment Authorization Document, plus 60 days. If the employment authorization application is denied, the F-1 student would continue to be authorized to remain in the United States until the program end date listed on their Form I-20, valid on September 15, 2026, plus 60 days, as long as he or she continues to pursue a full course of study and otherwise meets the requirements for F-1 status, or until the end date of the Employment Authorization Document for post-completion OPT, as long as he or she continues to meet the requirements for F-1 status, plus 60 days.

(ii) An F-1 student described in this paragraph (m)(1) who departs the United States before filing the application for post-completion OPT or STEM OPT, and is admitted to the United States with a fixed period of admission is required to file both an Application for Employment Authorization, Form I-765, or successor form and an Application to Extend/Change Nonimmigrant Status, Form I-539, or successor form pursuant to § 214.2(f)(11)(i)(B)(2) or (f)(11)(i)(C). An alien described in this section who departs the United States while the Application for Employment Authorization, Form I-765, or successor form is pending or once approved will be admitted pursuant to paragraph (a) of this section.

(iii) DHS reserves the discretion to extend the period exempting the filing of the Application to Extend/Change Nonimmigrant Status, Form I-539, or successor form beyond March 18, 2027, in 6-month increments by publication of a notification in the **Federal Register**.

(2) *Pending employment authorization applications with USCIS on September 15, 2026, filed by F-1 students.* F-1 students described in paragraph (m)(1) of this section who have timely and properly filed applications for employment authorization pending with USCIS on September 15, 2026, do not have to file for an extension or re-file such applications for employment

authorization, unless otherwise requested by USCIS.

(i) If the F–1 student's application for post-completion OPT or STEM OPT employment authorization is approved, the F–1 student will be authorized to remain in the United States in F status until the expiration date of the Employment Authorization Document, plus 60 days. If the employment authorization application is denied, the F–1 student would continue to be authorized to remain in the United States until the program end date listed on their Form I–20, plus 60 days, as long as he or she continues to pursue a full course of study and otherwise meets the requirements for F–1 status.

(ii) F–1 students with pending employment authorization applications, other than post-completion OPT and STEM OPT, who continue to pursue a full course of study and otherwise meet the requirements for F–1 status, continue to be authorized to remain in the United States until the program end date listed on the Form I–20, plus 60 days, regardless of whether the employment authorization application is approved or denied.

(3) *Transition from duration of status admission to a fixed admission period for aliens with I status present in the United States* on September 15, 2026. Except for those aliens described in § 214.2(i)(3)(ii), aliens in I nonimmigrant status who are properly maintaining their status on September 15, 2026, and who were admitted for duration of status are authorized to remain in the United States in I nonimmigrant status for a period necessary to complete their activity, not to exceed May 13, 2027, with the exception of aliens in I nonimmigrant status presenting with passports described in § 214.2(i)(3)(ii), who are authorized to remain in the United States in I nonimmigrant status for a period necessary to complete their activity, not to exceed December 14, 2026. Aliens who need additional time to complete their employment beyond May 13, 2027, or December 14, 2026, as applicable, must apply for an extension of stay with USCIS in accordance with paragraph (c)(2) of this section and § 214.2(i)(5).

(4) *Severability*. The provisions in this paragraph (m) are intended to be independent severable parts. In the event that any provision in this paragraph (m) is not implemented, DHS intends that the remaining provisions be implemented as an independent rule.

■ 3. Section 214.2 is amended by:

■ a. In table 1 to the section, revising entry (j);

- b. In table 2 to paragraph (f):
- i. Revising entries (5) and (8); and
- ii. Adding entry (20);
- c. Revising paragraph (f)(5) heading and paragraphs (f)(5)(i) and (ii);
- d. Redesignating paragraphs (f)(5)(iii) through (vi) as paragraphs (f)(5)(iv) through (vii), respectively;
- e. Adding a new paragraph (f)(5)(iii);
- f. Revising newly redesignated paragraphs (f)(5)(v) and (vii);
- g. Adding paragraph (f)(5)(viii);
- h. Revising paragraphs (f)(7) and (8) and (f)(10)(ii)(D);
- i. In paragraph (f)(11)(i)(B)(2), removing the number “60” and adding, in its place, the number “30”;
- j. In paragraph (f)(11)(i)(D), removing the number “60” and adding, in its place, the number “30”;
- k. In paragraph (f)(18)(iii), removing the words “duration of status and” from the last sentence;
- l. Adding paragraph (f)(20);
- m. Revising paragraphs (i), (j) heading, and (j)(1)(ii) and (iv) through (viii); and
- n. Adding paragraphs (j)(1)(ix) and (j)(6).

The revisions and additions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

Table 1 to § 214.2—Section Contents

* * * * *

(j) Exchange visitors

* * * * *

(f) * * *

Table 2 to Paragraph (f)—Paragraph Contents

* * * * *

(5) Period of stay

* * * * *

(8) School transfer and change of educational objectives

* * * * *

(20) Severability

* * * * *

(5) *Period of stay*—(i) *General*. An F–1 student is admitted for a fixed period of time, which is the period necessary to complete the course of study indicated on the Form I–20, or successor form, not to exceed a period of 4 years, plus additional times noted in this paragraph (f)(5)(i). A continuing F–1 student may be granted additional time to complete their program of study, as described in paragraphs (f)(7) and (f)(8)(iv) of this section, begin a new program of study, as described in paragraphs (f)(5)(ii)(D) and (f)(7) of this section, or following the completion of studies to engage in post-completion optional practical training (OPT) and the Science, Technology, Engineering and Mathematics (STEM) extension of

OPT, as described in paragraph (f)(5)(i)(D) of this section. An F–1 student described in this section may be admitted for a period of up to 30 days before the indicated report date or program start date listed on the Form I–20 or successor form. An alien described in this paragraph (f)(5)(i) may remain in the United States for an additional 30 days as provided in paragraph (f)(5)(v) of this section. The 30-day period before the indicated report date or program start date and 30 additional days following the program end date or the 4-year maximum period of admission do not count toward the maximum length of stay. The admission periods described in this paragraph (f)(5)(i) are subject to the following exceptions:

(A) F–1 students whose course of study is in an English language training program are restricted to a maximum of admission period of 24 months, plus an additional 30-day period of stay for the purposes of departure or to otherwise seek to maintain lawful status.

(B) Border commuter students under the provisions in paragraph (f)(18) of this section may be admitted for the applicable period described under paragraph (f)(18).

(C) F–1 students attending a public high school, which may also include a charter school or other similar school funded by U.S. taxpayers, are restricted to an aggregate of no more than 12 months to complete their course of study, including any school breaks and annual vacations.

(D) Students with pending employment authorization applications who are admitted based on the designated school official's recommended employment end date for post-completion OPT or STEM OPT as specified on their Form I–20, with a notice issued by USCIS indicating receipt of the Application for Employment Authorization, Form I–765, or successor form for post-completion OPT or STEM OPT, who cease employment pursuant to an Employment Authorization Document (EAD) that expires before the alien's fixed date of admission as noted on their Arrival/Departure Record, Form I–94, or successor form, will be considered to be in the United States in a period of authorized stay from the date of the expiration noted on their EAD until the fixed date of admission as noted on their Form I–94.

(E) The authorized period of stay for F–2 dependents may not exceed the authorized period of stay of the principal F–1 student.

(ii) *School transfer and change of educational objectives*. (A) An F–1 student at any level below the graduate

degree level may not transfer or change educational objectives, *i.e.*, majors or educational levels, within the first academic year of a program of study, unless an exception is authorized by SEVP for extenuating circumstances that may include, but are not limited to, a school closure or a school's prolonged inability to hold in-person classes due to a natural disaster, a student needing to change schools to complete elementary or secondary education, or other cause. An F-1 student at the graduate degree level or above may not change educational objectives at any point during their program of study. An F-1 student at the graduate degree level or above may not transfer at any point during their program of study, unless an exception is authorized by SEVP for extenuating circumstances that may include, but are not limited to, a school closure or a school's prolonged inability to hold in-person classes due to a natural disaster or other cause.

(B) An F-1 student who has completed a program in the United States at one educational level and begins a new program at a higher educational level is considered to be maintaining F-1 status if otherwise complying with requirements under this paragraph (f).

(C) An alien who has completed a program after September 15, 2026, in the United States as an F-1 student at one educational level may not maintain, be admitted, or otherwise be provided F-1 status through a program at the same educational level or a lower educational level.

(D) When seeking a change in educational objectives, F-1 students referenced in paragraphs (f)(5)(ii)(A) through (C) of this section must, if seeking an extension of stay, apply for an extension of stay on the form designated by USCIS, with the required fee and in accordance with the form instructions, including any biometrics required by 8 CFR 103.16.

(E) Until September 14, 2028, DHS may delay or suspend the implementation of paragraphs (f)(5)(ii)(A) through (C) of this section, in its discretion, if it determines that implementation is infeasible for any reason. If DHS delays or suspends any provisions in paragraphs (f)(5)(ii)(A) through (C) governing the change in educational objectives, DHS will make an announcement of the delay or suspension by publication of a notification in the **Federal Register** and on SEVP's website at <https://www.studyinthestates.dhs.gov> (or successor uniform resource locator). DHS thereafter will announce the implementation dates of a delayed or

suspended educational objective provision on the SEVP website at <https://www.studyinthestates.dhs.gov> (or successor uniform resource locator), at least 30 calendar days in advance.

(iii) *Report date on Form I-20 or successor form.* When determining the report date on the Form I-20 or successor form, the designated school official may choose a reasonable date to accommodate a student's need to be in attendance for required activities at the school prior to the actual start of classes. Such required activities may include, but are not limited to, research projects and orientation sessions. However, for purposes of employment, the designated school official may not indicate a report date more than 30 days prior to the start of classes.

* * * * *

(v) *Period of preparation for departure or to otherwise maintain lawful status in the United States.* An F-1 student who has completed a course of study and any authorized practical training will be allowed an additional 30-day period from the program end date or the 4 year maximum period of admission, or the end date of the approved employment authorization for post-completion OPT or STEM OPT, as applicable, to prepare for departure from the United States, or to otherwise seek to maintain lawful status, including timely filing an extension of stay application in accordance with paragraph (f)(7) of this section and § 214.1 or timely filing a change of status application in accordance with 8 CFR 248.1(a). The 30-day period will be reflected on the F-1 student's Arrival/Departure Record, Form I-94, or successor form. However, if the F-1 student ends his or her study or training prior to expiration of his or her period of admission, the F-1 student, and any eligible dependents, must, within 30 days from the end date of the study or training, depart the United States or otherwise seek to maintain lawful status. An F-1 student authorized by the designated school official to withdraw from classes will be allowed a 15-day period from the date of the withdrawal to depart the United States. An F-1 student who fails to maintain a full course of study or otherwise fails to maintain status is not eligible for any additional period of time for departure and must leave the country immediately.

* * * * *

(vii) *Extension of status and grant of employment authorization.* (A) The status, and any employment authorization granted under 8 CFR 274a.12(c)(3)(i)(B) or (C), of an F-1 student who is the beneficiary of an H-

1B petition subject to section 214(g)(1)(A) of the Act (8 U.S.C. 1184(g)(1)(A)) requesting a change of status will be automatically extended until April 1 of the fiscal year for which such H-1B status is being requested or until the validity start date of the approved petition, whichever is earlier, where such petition:

- (1) Has been timely filed;
- (2) Requests an H-1B employment start date in the fiscal year for which such H-1B status is being requested consistent with paragraph (h)(2)(i)(I) of this section; and
- (3) Is nonfrivolous.

(B) The automatic extension of an F-1 student's status and employment authorization under paragraph (f)(5)(vii)(A) of this section shall automatically terminate upon the rejection, denial, revocation, or withdrawal of the H-1B petition filed on such F-1 student's behalf, or upon the denial or withdrawal of the request for change of nonimmigrant status, even if the H-1B petition filed on the F-1 student's behalf is approved for consular processing.

(C) In order to obtain the automatic extension of stay and employment authorization under paragraph (f)(5)(vii)(A) of this section, the F-1 student, consistent with 8 CFR part 248, must not have violated the terms or conditions of his or her nonimmigrant status.

(D) An automatic extension of an F-1 student's status under paragraph (f)(5)(vii)(A) of this section also applies to the status of any F-2 dependent aliens.

(viii) *Automatic extension of the authorized period of stay and employment authorization while extension of stay and employment authorization applications are pending.* An F-1 student whose status as indicated on the Arrival/Departure Record, Form I-94, or successor form has expired will be considered to be in a period of authorized stay if he or she has timely filed an extension of stay application pursuant to paragraph (f)(7) of this section until USCIS issues a decision on the extension of stay application. Subject to paragraphs (f)(9)(i) and (ii) and (f)(10)(i) of this section and 8 CFR 274a.12(b)(6)(i) and (iii) and (c)(3)(iii), an F-1 student's current on-campus, curricular practical training (CPT), and severe economic hardship authorized employment is automatically extended during the pendency of the extension of stay application, but such automatic extension may not exceed 240 days beginning from the end date of his or her period of admission as indicated on

the alien's Arrival/Departure Record, Form I-94, or successor form. However, severe economic hardship employment authorization resulting from emergent circumstances under paragraph (f)(5)(vi) of this section is automatically extended for up to 240 days or until the end date stated in the **Federal Register** notification announcing the suspension of certain requirements, whichever is earlier. If an F-1 student files an extension of stay application during the 30-day period provided in paragraph (f)(5)(v) of this section, he or she does not receive an automatic extension of authorized employment, including on-campus, CPT, and severe economic hardship, and must wait for approval of the extension of stay application (and employment authorization application, if required) before engaging in CPT or employment. For purposes of employment eligibility verification (Form I-9) under 8 CFR 274a.2(b)(1)(v), for CPT under paragraph (f)(10)(i) of this section, on-campus employment under paragraph (f)(9)(i) of this section, and severe economic hardship employment authorization resulting from emergent circumstances under paragraph (f)(5)(vi) of this section, the alien's authorized employment period, which ends 30 days before their Form I-94 or successor form admit until date, or Employment Authorization Document, Form I-766 or successor form, based on severe economic hardship, when combined with a notice issued by USCIS indicating receipt of an extension of stay application, is considered unexpired for up to 240 days or until USCIS issues a decision on the extension of stay application, or for CPT, until the CPT end date authorized by the designated school official on the Form I-20 or successor form, whichever is earlier, or for severe economic hardship employment based on emergent circumstances under paragraph (f)(5)(vi) of this section, the end date stated in the **Federal Register** notification announcing suspension of certain requirements, whichever is less.

* * * * *

(7) *Extension of stay*—(i) *Eligibility*. USCIS may grant an extension of stay to an F-1 student who has maintained his or her F-1 status, but who is unable to complete his or her program by the end of his or her authorized period of admission. Such student may be eligible for an extension if the designated school official issues a new Form I-20 or successor form certifying that the student is eligible under this paragraph (f)(7)(i). An F-1 student may be granted an extension if it is established that the student:

(A) Has continually maintained lawful status;

(B) Is currently pursuing a full course of study; and

(C) Has one of the following:

(1) A currently issued Form I-20, or successor form, indicating additional time is left to complete his or her program of study; or

(2) Documentation demonstrating the request for an extension is based on one of the following reasons:

(i) A compelling academic reason, such as a change of major or research topic or unexpected research problems. Unexpected research problems are those caused by an unexpected change in faculty advisor, need to refine an investigatory topic based on initial research, research funding delays, and similar issues. Delays including, but not limited to, those caused by academic probation or suspension or a student's repeated inability or unwillingness to complete his or her course of study are not acceptable reasons for an extension;

(ii) A documented illness or medical condition that is a compelling medical reason, such as a serious injury, that is supported by medical documentation from a licensed medical doctor, a licensed doctor of osteopathy, a licensed psychologist, or a licensed clinical psychologist; or

(iii) Circumstances beyond the student's control, including a natural disaster, national health crisis, or the closure of an institution.

(ii) *SEVIS update*. The Form I-20 or successor form must be endorsed with the designated school official recommendation and new program end date for submission to USCIS.

(iii) *USCIS application*—(A) *Form*. An F-1 student must file an extension of stay application using the form and in the manner designated by USCIS, including submitting the updated, properly endorsed Form I-20 or successor form; submitting evidence of sufficient funds to cover expenses; appearing for any biometrics collection required by 8 CFR 103.16; and remitting the appropriate fee. The F-1 student must be maintaining his or her status and must never have engaged in any unauthorized employment.

(B) *Timely filing*. An extension of stay application is considered timely filed if the receipt date, pursuant to 8 CFR 103.2(a)(7), is on or before the date the authorized period of stay expires, which includes the 30-day period provided in paragraph (f)(5)(v) of this section. USCIS must receive the extension application on or before the expiration of the authorized period of stay, including the 30-day period provided in paragraph (f)(5)(v) of this section that is allowed

after the completion of studies or any authorized practical training. If the extension of stay application is received during the 30-day period provided in paragraph (f)(5)(v) of this section, the F-1 student is authorized to continue a full course of study but may not continue or begin engaging in practical training or other employment.

Notwithstanding § 214.1(c)(4), USCIS must receive the extension of stay application on or before the expiration of the previously authorized period of stay.

(iv) *Dependents*. An F-2 spouse and unmarried children under the age of 21 seeking to accompany the principal F-1 student during the additional period of admission must either be included on the principal F-1 student's application for an extension of stay or file their own extension of stay application on the form designated by USCIS. The application must be submitted using the form and in the manner designated by USCIS, including submitting the updated, properly endorsed Form I-20, or successor form; submitting evidence of sufficient funds to cover expenses; appearing for any biometrics collection required by 8 CFR 103.16; and remitting the appropriate fee. The F-2 dependents must demonstrate the qualifying relationship with the principal F-1 student, be maintaining his or her status, and must not have engaged in any unauthorized employment.

(v) *Practical training*. If seeking an extension of stay to engage in any type of practical training, the alien in F-1 status also must have a valid, properly endorsed Form I-20 and be eligible to receive the specific type of practical training requested.

(vi) *Period of stay*. If an application for extension is granted, the F-1 student and the student's F-2 spouse and children, if applicable, are to be given an extension of stay for the period of time necessary to complete the program as listed on the F-1 student's Form I-20, or successor form, or requested practical training, not to exceed 4 years. The 30-day period before the indicated report date or program start date and 30 additional days following the program end date or the 4-year maximum period of admission do not count toward the maximum length of an extension. Extensions of stay for F-2 dependents may not exceed the authorized admission period of the principal F-1 student.

(vii) *Denials*. If an F-1 student's extension of stay application is denied and the F-1 student's authorized admission period has expired, the F-1 student and his or her dependents must immediately depart the United States.

(viii) *Late requests of extension of current program end date.* If the designated school official enters an extension of the program end date in SEVIS after the end date noted on the most recent Form I-20 or successor form has passed, the F-1 student must file a request for reinstatement of F-1 status in the manner and on the form designated by USCIS, with the required fee, including any biometrics required by 8 CFR 103.16. F-2 dependents seeking to accompany the F-1 principal student must file applications for an extension of stay or reinstatement, as applicable.

(8) *School transfer and change of educational objectives—(i) Eligibility.* An F-1 student may change educational objectives or transfer to SEVP-certified schools if he or she is maintaining status as described in paragraphs (f)(5)(ii)(A) through (D) of this section. “Educational objectives” refers to an F-1 student’s educational level or major. An F-1 student changing educational objectives or transferring to an SEVP-certified school also must meet the following requirements:

(A) The student is currently maintaining status;

(B) To be eligible to transfer, the student must:

(1) Have been pursuing a full course of study, unless a reduced course load was properly authorized under this paragraph (f);

(2) Have completed a degree program; or

(3) Be currently completing or have completed post-completion or STEM optional practical training (OPT);

(C) The student is not currently in a graduate level program of study, unless an exception has been authorized by SEVP for extenuating circumstances under paragraph (f)(5)(ii)(A) of this section;

(D) The student has completed his or her first academic year of a program of study at the school that initially issued his or her Form I-20 or successor form, unless an exception has been authorized by SEVP for extenuating circumstances under paragraph (f)(5)(ii)(A) of this section;

(E) The student has not been placed on academic probation or school suspension;

(F) The student does not have a pattern of behavior demonstrating a repeated inability or unwillingness to complete his or her course of study;

(G) The student will begin classes at the transfer school or program within 5 months of transferring out of the current school or within 5 months of the program completion date on his or her

current Form I-20, or successor form, whichever is earlier; and

(H) If the F-1 student is authorized to engage in post-completion or STEM OPT, he or she must be able to begin or resume classes within 5 months of transferring out of the school that recommended the post-completion or STEM OPT or the date the post-completion or STEM OPT authorization ends, whichever is earlier.

(ii) *Transfer procedure.* An F-1 student must first notify the student’s current school (“transfer-out school”) of the intent to transfer and indicate the school to which the student intends to transfer (the “transfer-in school”). Upon notification by the student, the transfer-out school will update the student’s record in SEVIS as a “transfer-out” and indicate the transfer-in school and a release date. The release date will be the current semester or session completion date, or the date of expected transfer if earlier than the completion date of the established academic cycle. The transfer-out school will retain control over the student’s record in SEVIS until the student completes the current term or reaches the release date, whichever is earlier. At the request of the student, the designated school official of the current school may cancel the transfer request at any time prior to the release date. As of the release date specified by the current designated school official, the transfer-in school will be granted full access to the student’s SEVIS record and then becomes responsible for that student. The student should then obtain a valid Form I-20 or successor form from the transfer-in school.

(iii) *Change of education level procedures.* A change of education level can be accomplished according to the transfer procedures outlined in paragraph (f)(8)(ii) of this section.

(iv) *Extension of stay.* If the new program to which the student transferred will not be completed within the authorized period of stay established in paragraph (f)(5)(i) of this section, the F-1 student must apply to USCIS for an extension of stay in the manner and using the form designated by USCIS, with the required fee and in accordance with form instructions, including any biometrics required by 8 CFR 103.16, together with a valid, properly endorsed Form I-20 or successor form indicating the new program end date. Upon approval of the extension of stay application, USCIS will transmit the approval to SEVIS. If the application is denied, the student is out of status, and the student’s record must be terminated in SEVIS.

* * * * *

(10) * * *

(ii) * * *

(D) *Extension of stay for post-completion optional practical training (OPT).* Unless described in § 214.1(m)(1)(i), an F-1 student recommended for post-completion OPT must apply for an employment authorization and either apply for an extension of stay with USCIS or seek admission through CBP after travel abroad and may not engage in post-completion OPT unless such employment authorization is granted. If the application for post-completion OPT is granted along with an extension of stay or admission through CBP after travel abroad, the student extension will include the additional 30-day period provided in paragraph (f)(5)(v) of this section for departure following the expiration of the time approved to complete post-completion OPT.

* * * * *

(20) *Severability.* The provisions in paragraph (f) of this section are intended to be independent severable parts. In the event that any provision in this paragraph (f) is not implemented, DHS intends that the remaining provisions be implemented as an independent rule.

* * * * *

(i) *Representatives of information media—(1) Foreign media organization.* A foreign information media organization is an organization engaged in the regular gathering, production, or dissemination via print, radio, television, internet distribution, or other media, of journalistic information and has a home office in a foreign country.

(2) *Evidence.* Aliens applying for I nonimmigrant status must:

(i) Demonstrate that the foreign media organization that the alien represents has a home office in a foreign country, and that the home office will continue to operate in the foreign country while the alien is in the United States; and

(ii) Provide a letter from the employing foreign media organization or, if self-employed or freelancing, an attestation from the alien, that verifies the employment, establishes that the alien is a representative of that media organization, and describes the remuneration and work to be performed.

(3) *Admission—(i) Length of admission.* Generally, aliens seeking admission in I nonimmigrant status may be admitted for a period of time necessary to complete the planned activities or assignments consistent with the I classification, not to exceed 240 days unless paragraph (i)(3)(ii) of this section applies.

(ii) *Foreign nationals travelling on a passport issued by the People’s Republic*

of China (with the exception of Hong Kong Special Administrative Region passport holders and Macau Special Administrative Region passport holders). An alien who presents a passport from the People's Republic of China (with the exception of Hong Kong Special Administrative Region passport holders and Macau Special Administrative Region passport holders), may be admitted until the activities or assignments consistent with the I classification are completed, not to exceed 90 days.

(4) *Change in activity.* Aliens admitted pursuant to section 101(a)(15)(I) of the Act may not change the information medium or employer until they obtain permission from USCIS. Aliens must request permission by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, as appropriate.

(5) *Extensions of stay—(i) Eligibility; effect of timely filing.* (A) Aliens in I nonimmigrant status may be eligible for extensions of stay, each of up to 240 days or until the activities or assignments consistent with the I classification are completed, whichever is shorter (except for aliens who present a passport from the People's Republic of China, with the exception of Hong Kong Special Administrative Region passport holders and Macau Special Administrative Region passport holders, who may be eligible for extensions of stay, each up to 90 days or until the activities or assignments consistent with the I classification are completed, whichever is shorter).

(B) To request an extension of stay, aliens in I nonimmigrant status must file an application to extend their stay by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, and provide all the evidence required in paragraph (i)(2) of this section, as appropriate. An alien whose I nonimmigrant status, as indicated on the alien's Arrival/Departure Record, Form I-94, has expired but who has timely filed an extension of stay application is authorized to continue engaging in activities consistent with the I classification on the day after the Form I-94 expired, for a period of up to 240 days, as provided in 8 CFR 274a.12(b)(20). Such authorization shall be subject to any conditions and limitations of the initial authorization.

(C) If an extension of stay application remains pending at the end of this 240-day period, the I nonimmigrant alien,

whose status has expired, may remain in the United States so long as the extension of stay application is pending, he or she has timely filed a subsequent extension of stay request to remain beyond the period requested in the preceding request, and he or she does not otherwise violate the terms of his or her authorized period of stay. The alien, however, must cease working until his or her initial extension of stay application is approved. USCIS will deny the extension of stay application if the alien did not cease working after the 240-day period and before the extension of stay request was approved.

(ii) *Dependents accompanying or following to join the principal I representative of foreign information media.* A spouse or unmarried children under the age of 21 of an alien in I nonimmigrant status may be eligible for extensions of stay. The dependent applicant must either be included on the primary applicant's request for an extension of stay or file his or her own extension of stay application on the form designated by USCIS in accordance with paragraph (i)(5)(i) or (iii) of this section. The dependents must demonstrate the qualifying relationship with the principal I representative of foreign information media, be maintaining status, and must not have engaged in any unauthorized employment. Extensions of stay for I dependents may not exceed the authorized admission period of the principal I representative of foreign information media.

(iii) *Aliens with a passport from People's Republic of China.* (A) In the case of an alien who presents a passport issued by the People's Republic of China (other than a Hong Kong Special Administrative Region passport or a Macau Special Administrative Region passport), an extension of stay may be authorized until the activities or assignments consistent with the I classification are completed, not to exceed the maximum period of stay of 90 days. To request an extension of stay, these aliens must file an application to extend their stay by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, as appropriate. Notwithstanding paragraph (i)(5)(i) of this section and 8 CFR 274a.12(b)(20), an alien in I nonimmigrant status who is described in paragraph (i)(3)(ii) of this section whose status, as indicated on the alien's Arrival/Departure Record, Form I-94, has expired but who has timely filed an extension of stay application is authorized to continue engaging in

activities consistent with the I classification and continue employment with the same employer on the day after the status indicated on the Form I-94 expired, for a period of up to 90 days. Such authorization shall be subject to any conditions and limitations of the initial authorization.

(B) If an extension of stay application remains pending at the end of this 90-day period, the I nonimmigrant alien, whose status has expired, may remain in the United States so long as the extension of stay application is pending, he or she has timely filed a subsequent extension of stay request to remain beyond the period requested in the preceding request, and he or she does not otherwise violate the terms of his or her authorized period of stay. The alien, however, must cease working until his or her initial extension of stay application is approved. USCIS may deny the extension of stay application if the alien did not cease working after the 90-day period and before the extension of stay request was approved.

(iv) *Documentation.* The facially expired Arrival/Departure Record, Form I-94, or successor form of an alien described in paragraphs (i)(5)(i) through (iii) of this section is considered unexpired when combined with a USCIS receipt notice indicating receipt of a timely filed extension of stay application. An application is considered timely filed if the receipt notice for the application is on or before the date the admission period expires. Such extension may not exceed the earlier of 240 days (90 days for aliens who present a passport issued by the People's Republic of China (with the exception of Hong Kong Special Administrative Region passport holders and Macau Special Administrative Region passport holders)) as provided in 8 CFR 274a.12(b)(20), or the date of denial of the alien's application for an extension of stay.

(6) *Denials.* If an alien's extension of stay application is denied and the alien's authorized admission period has expired, the alien and his or her dependents must immediately depart the United States.

(7) *Change of status.* An alien seeking to change from a different nonimmigrant status to, if eligible, an I nonimmigrant status as described in this section, may be granted a period of stay until the activities or assignments consistent with the I classification are completed, not to exceed the maximum period of stay stated in paragraph (i)(3) of this section. To request a change from a different nonimmigrant status to an I nonimmigrant status as described in this section, an alien must file an

application to change his or her status by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, as appropriate.

(8) *Severability.* The provisions in this paragraph (i) are intended to be independent severable parts. In the event that any provision in this paragraph (i) is not implemented, DHS intends that the remaining provisions be implemented as an independent rule.

(j) *Exchange visitors*—(1) * * *

(ii) *Admission period and period of stay*—(A) *J-1 exchange visitor.* A J-1 exchange visitor may be admitted for the duration of the exchange visitor program, as stated by the program end date noted on Form DS-2019 or successor form, not to exceed a period of 4 years.

(B) *J-2 accompanying dependents.* The authorized period of initial admission for a J-2 spouse and unmarried children under the age of 21 may not exceed the period of authorized admission of the principal J-1 exchange visitor.

(C) *Period of stay.* A J-1 exchange visitor and J-2 spouse and unmarried children under the age of 21 may be admitted for a period up to 30 days before the report date or start of the approved program listed on Form DS-2019 or successor form. The dependents accompanying a J-1 exchange visitor are eligible for admission in J-2 status if the exchange visitor is admitted in J-1 status. A J-1 exchange visitor and J-2 accompanying dependents may remain in the United States for a period of 30 days from the program end date or the 4-year maximum period of admission, whichever is earlier, for the purposes of departure or to otherwise seek to maintain lawful status. The 30-day period will be reflected on the alien's Arrival/Departure Record, Form I-94 or successor form. If the program end date is shortened, the J-1 exchange visitor and any J-2 accompanying dependents must leave the United States within 30 days from the new program end date or otherwise seek to maintain lawful status in that 30-day period. The 30-day period before the indicated report date or program start date and 30 additional days following the program end date or the 4-year maximum period of admission do not count towards the maximum period of admission.

* * * * *

(iv) *Extension of stay.* A program end date as indicated on the Form DS-2019 or successor form, standing alone, does not allow aliens with J status to remain in the United States in lawful status. An

alien in J-1 status seeking to extend his or her stay beyond the currently authorized period of admission must apply for an extension of stay, including if a sponsor issues a Form DS-2019 or successor form extending an alien's program end date for any reason, including for a request for reinstatement, academic training, change of program, or program extension or the alien requires additional time to complete his or her program.

(A) *Form.* To request an extension of stay, an alien in J status must file an extension of stay application on the form and in the manner designated by USCIS, including submitting the valid Form DS-2019 or successor form, appearing for any biometrics collection required by 8 CFR 103.16, and remitting the appropriate fee.

(B) *Timely filing.* An extension of stay application is considered timely filed if the receipt date, pursuant to 8 CFR 103.2(a)(7), is on or before the date the authorized admission period expires. USCIS must receive the extension of stay application on or before the expiration of the authorized period of admission, which includes the 30-day period of preparation for departure. If the extension application is received during the 30-day period provided in paragraph (j)(1)(ii)(C) of this section following the completion of the exchange visitor program, the alien in J-1 status may continue to participate in his or her exchange visitor program.

(C) *Length of extensions.* Subject to the restrictions in the regulations at 22 CFR part 62, extensions of stay may be granted for a period up to the length of the program, as listed on the Form DS-2019, or successor form, not to exceed 4-years, unless the J-1 exchange visitor is otherwise restricted by regulations at 22 CFR part 62. The 30-day period before the indicated report date or program start date and 30 additional days following the program end date or the maximum period of admission do not count towards the maximum length of an extension.

(D) *Late requests for extension of current program end date.* If the responsible officer must update the program status or program end date for an exchange visitor after the program end date listed on the most recent Form DS-2019 (or its successor), the sponsor is required to submit the necessary correction or reinstatement in the manner and timeframe required by the Department of State. Once the record is corrected or reinstated, the J-1 exchange visitor must submit a request for an extension of stay to USCIS within 30 days of the status update.

(E) *Dependents.* A J-2 spouse and unmarried children under the age of 21 seeking to accompany the J-1 exchange visitor during the additional period of admission must either be included on the primary applicant's request for extension or file their own extension of stay applications on the form designated by USCIS, including any biometrics required by 8 CFR 103.16. USCIS must receive the extension of stay applications on or before the expiration of the previously authorized period of admission, including the 30-day period following the completion of the program provided in paragraph (j)(1)(ii)(C) of this section, as indicated on the J-2 dependent's Form I-94 or successor form. J-2 dependents must demonstrate the qualifying relationship with the principal J-1 exchange visitor, be maintaining status, and not have engaged in any unauthorized employment. Extensions of stay for J-2 dependents may not exceed the authorized admission period of the principal J-1 exchange visitor.

(F) *Denials.* If an alien's extension of stay application is denied, and the alien's authorized admission period has expired, he or she and his or her dependents must immediately depart the United States.

(v) *Employment of J-2 dependents.* The accompanying spouse or unmarried children under the age of 21 of a J-1 exchange visitor may only engage in employment if authorized by USCIS. The employment authorization is valid only if the J-1 is maintaining status, and the J-2 employment authorization dates may not exceed the J-1 principal alien's authorized stay as indicated on Form I-94. An application for employment authorization must be filed in the manner prescribed by USCIS, together with the required fee and any additional evidence required in the filing instructions. Income from the J-2 dependent's employment may be used to support the family's customary recreational and cultural activities and related travel, among other things. Employment will not be authorized if this income is needed to support the J-1 principal exchange visitor. If the requested period of employment authorization exceeds the current admission period, the J-2 dependent must file an extension of stay application or be included in the J-1 principal's extension of stay application, in addition to the application for employment authorization, in the manner designated by USCIS, with the required fee and in accordance with form instructions.

(vi) *Automatic extension of J-1 authorized period of stay and grant of*

employment authorization for aliens who are the beneficiaries of a cap-subject H-1B petition. USCIS may, by notification in the **Federal Register**, at any time it determines that the H-1B numerical limitation as described in section 214(g)(1)(A) of the Act will likely be reached prior to the end of a current fiscal year, extend for such a period of time as deemed necessary to complete the adjudication of the H-1B petition, the status of any J-1 alien on behalf of whom an employer has timely filed an H-1B petition requesting change of status. The alien, in accordance with 8 CFR part 248, must not have violated the terms of his or her nonimmigrant stay and not be subject to the 2-year foreign residence requirement at section 212(e) of the Act. Any J-1 exchange visitor whose status has been extended shall be considered to be maintaining lawful nonimmigrant status for all purposes under the Act, provided that the alien does not violate the terms and conditions of his or her J nonimmigrant stay. An extension made under this paragraph (j)(1)(vi) also applies to the J-2 dependent alien.

(vii) *Pending extension of stay applications and employment authorization.* (A) An alien whose J-1 status, as indicated on the alien's Arrival/Departure Record, Form I-94, has expired but who has timely filed an extension of stay application is authorized to continue engaging in authorized employment and activities consistent with pursuing the terms and conditions of the alien's program objectives and including authorized training, beginning on the day after the admission period expires, for a period of up to 240 days as provided in 8 CFR 274a.12(b)(20). Notwithstanding 8 CFR 274a.12(b)(20), an alien whose J-1 status, as indicated on the alien's Arrival/Departure Record, Form I-94, has expired but who has timely filed an extension of stay application on or before March 18, 2027, is authorized to continue engaging in authorized employment and activities consistent with pursuing the terms and conditions of the alien's program objectives, including authorized training and activities pursuant to a new or transferred program, while the extension of stay application is pending with USCIS, not to exceed the program end date on the Form DS-2019 (or successor form) filed with the pending application. Such authorization may be subject to any conditions and limitations of the initial authorization. If the extension of stay application remains pending beyond the Form DS-2019 (or successor form) end date filed

with the application, the alien, whose status has expired, may remain in the United States and continue engaging in activities consistent with pursuing the terms and conditions of the alien's program objectives and including authorized training, but not including employment, so long as the extension of stay application is pending and he or she has filed a subsequent extension of stay request with a Form DS-2019 (or successor form) indicating an end date beyond the Form DS-2019 (or successor form) end date requested in the preceding extension of stay request. DHS reserves the discretion to extend the period permitting an alien in J-1 status to continue engaging in activities consistent with pursuing the terms and conditions of the alien's program objectives and including authorized training, up to the end date of the Form DS-2019 (or successor form) so long as the extension of stay application is pending, beyond March 18, 2027, in 6-month increments by publication of a notification in the **Federal Register**. Consistent with paragraph (j)(1)(iv)(E) of this section, the denial of an extension of stay application requires the alien to cease activities and depart the United States immediately.

(B) The facially expired Arrival/Departure Record, Form I-94, or successor form of an alien described in paragraph (j)(1)(vii)(A) of this section is considered unexpired when combined with a USCIS receipt notice indicating receipt of a timely filed extension of stay application and a valid Form DS-2019, or successor form, indicating the duration of the program. An application is considered timely filed if the receipt notice for the application is on or before the date the admission period expires. Such extension may not exceed the earlier of 240 days, as provided in 8 CFR 274a.12(b)(20), or for those extension of stay applications filed on or before March 18, 2027, the end date of the Form DS-2019 (or successor form) filed with the application, or the date of denial of the alien's application for an extension of stay.

(C) An alien in J-2 status whose admission period has expired (as indicated on his or her Form I-94) may not engage in employment until USCIS approves his or her application for employment authorization.

(viii) *Use of SEVIS.* The use of the Student and Exchange Visitor Information System (SEVIS) is mandatory for designated program sponsors. All designated program sponsors must issue a SEVIS Form DS-2019 to any exchange visitor requiring a reportable action (e.g., program extensions and requests for employment

authorization), or for any aliens who must obtain a new nonimmigrant J visa. As of 2003, the records of all current or continuing exchange visitors must be entered in SEVIS.

(ix) *Current name and address.* A J-1 exchange visitor must inform DHS and the responsible officer of the exchange visitor program of any legal changes to his or her name or of any change of address within 10 calendar days of the change, in a manner prescribed by the program sponsor. A J-1 exchange visitor enrolled in a SEVIS program can satisfy the reporting requirement in 8 CFR 265.1 by providing a notice of a change of address within 10 calendar days to the responsible officer, who in turn shall enter the information in SEVIS within 10 business days of notification by the exchange visitor. In cases where an exchange visitor provides the sponsor a mailing address that is different than his or her actual physical address, he or she is responsible for providing the sponsor his or her actual physical location of residence. The exchange visitor program sponsor is responsible for maintaining a record of, and must provide upon request from DHS, the actual physical location where the exchange visitor resides.

(6) *Severability.* The provisions in this paragraph (j) are intended to be independent severable parts. In the event that any provision in this paragraph (j) is not implemented, DHS intends that the remaining provisions be implemented as an independent rule.

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

■ 4. The authority citation for part 248 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1258; 8 CFR part 2.

■ 5. Section 248.1 is amended by:

- a. Redesignating paragraph (e) as paragraph (g); and
- b. Adding a new paragraph (e) and paragraph (f).

The additions read as follows:

§ 248.1 Eligibility.

(e) *Admission of aliens under section 101(a)(15)(F) and (J) previously granted duration of status.* Aliens who were granted a change to F or J status prior to September 15, 2026, and who departed the United States and are applying for admission on or after September 15, 2026, will be inspected and may be admitted into the United States up to the program end date as noted on the Form I-20 or Form DS-

2019 not to exceed a period of 4 years. To be admitted into the United States, all aliens must be eligible for the requested status and possess the proper documentation, including a valid passport, valid nonimmigrant visa, if required, and valid Form I-20 or Form DS-2019 or successor form.

(f) *Abandonment of change of status application.* If an alien timely files an application to change to another nonimmigrant status but departs the United States while the application is pending, USCIS will consider the change of status application abandoned.

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 6. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1105a, 1324a; 48 U.S.C. 1806; 28 U.S.C. 2461; 8 CFR part 2.

■ 7. Section 274a.12 is amended by:

■ a. In paragraph (b)(6)(v):

■ i. Removing the words “duration of”; and

■ ii. Removing the citation “8 CFR 214.2(f)(5)(vi)” and adding, in its place, the citation “8 CFR 214.2(f)(5)(vii)”; and

■ b. Revising paragraphs (b)(10) and (c)(3)(iii).

The revisions read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(b) * * *

(10) An alien who is a foreign information media representative in I status under 8 CFR 214.2(i) may be employed pursuant to the requirements of 8 CFR 214.2(i). Employment authorization does not extend to the dependents of a foreign information media representative.

* * * * *

(c) * * *

(3) * * *

(iii) Is seeking employment because of severe economic hardship pursuant to 8 CFR 214.2(f)(9)(ii)(C) and has an Employment Authorization Document, Form I-766 or successor form, based on severe economic hardship pursuant to 8 CFR 214.2(f)(9)(ii)(C), and whose timely filed application for employment authorization and application for

extension of stay, both filed on applicable forms and in the manner designated by USCIS, with the required fees, as described in the form's instructions, are pending, is authorized to engage in employment beginning on the expiration date of the Employment Authorization Document issued under paragraph (c)(3)(i)(B) of this section and ending on the date of USCIS' written decision on the current Application for Employment Authorization, Form I-765, or successor form, but not to exceed 240 days. For this same period, such Employment Authorization Document, Form I-766 or successor form, is automatically extended and is considered unexpired when combined with a Certificate of Eligibility for Nonimmigrant (F-1/M-1) Students, Form I-20 or successor form, endorsed by the Designated School Official recommending such an extension.

* * * * *

Markwayne Mullin,

Secretary, U.S. Department of Homeland Security.

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Part III

Commodity Futures Trading Commission

17 Part 23

Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; Final Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038-AF36

Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (“Commission”) is amending the margin requirements for uncleared swaps applicable to swap dealers and major swap participants that are not subject to the margin rules of a prudential regulator. The amendment revises the definition of “margin affiliate” in the Commission’s regulations to provide that certain collective investment vehicles (“investment funds” or “funds”) that receive start-up capital from a sponsor entity (“seeded funds”) would be deemed not to have any margin affiliates or to constitute margin affiliates of another entity for the purposes of calculating certain thresholds that trigger the requirement to exchange initial margin for uncleared swaps (“Seeded Funds Amendment”). The Seeded Funds Amendment relieves swap dealers and major swap participants subject to the Commission’s uncleared swaps margin rules from the requirement to post and collect initial margin with certain eligible seeded funds for a period of up to three years from the date on which the eligible seeded fund’s asset manager begins making investments on behalf of the fund (“trading inception date”). The Commission is also eliminating a provision disqualifying securities issued by certain pooled investment funds (“money market and similar funds”) whose asset managers transfer fund assets through securities lending, securities borrowing, repurchase agreements, reverse repurchase agreements, and similar arrangements from being used as eligible initial margin collateral for uncleared swaps, thereby expanding the scope of assets that qualify as eligible collateral (“Eligible Collateral Amendment”). Additionally, the Commission is amending the haircut schedule for eligible margin collateral for uncleared swaps to address the haircuts applicable to money market and similar funds (“Haircut Schedule Amendment”).

DATES: The Final Rule is effective August 17, 2026.

FOR FURTHER INFORMATION CONTACT:

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I. Introduction

A. Statutory and Regulatory Background

Section 4s(e) of the Commodity Exchange Act (“CEA” or “Act”)¹ requires the Commission to adopt rules establishing minimum initial and

variation margin requirements for all swaps² that are: (i) entered into by a swap dealer (“SD”)³ or major swap participant (“MSP”)⁴ for which there is no prudential regulator⁵ (collectively, “covered swap entities” or “CSEs”);⁶ and (ii) not cleared by a registered derivatives clearing organization (“uncleared swaps”).⁷ To offset the greater risk to the SD or MSP and the financial system arising from the use of uncleared swaps, these margin requirements must: (i) help ensure the safety and soundness of the SD or MSP; and (ii) be appropriate for the risk associated with the uncleared swaps held by the SD or MSP.⁸ In 2016, the Commission promulgated Commission Regulations 23.150 through 23.161 (“CFTC Margin Rule”) to implement section 4s(e).⁹

² CEA section 1a(47), 7 U.S.C. 1a(47) (swap definition); Commission Regulation 1.3, 17 CFR 1.3 (further definition of a swap). A swap includes, among other things, an interest rate swap, commodity swap, credit default swap, and currency swap.

³ CEA section 1a(49), 7 U.S.C. 1a(49) (swap dealer definition); Commission Regulation 1.3 (further definition of swap dealer).

⁴ CEA section 1a(32), 7 U.S.C. 1a(32) (major swap participant definition); Commission Regulation 1.3 (further definition of major swap participant).

⁵ CEA section 1a(39), 7 U.S.C. 1a(39) (defining the term “prudential regulator” to include the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the Farm Credit Administration; and the Federal Housing Finance Agency). The definition of “prudential regulator” further specifies the entities for which these agencies act as prudential regulators. The prudential regulators published final margin requirements in November 2015. *See generally* Margin and Capital Requirements for Covered Swap Entities, 80 FR 74840 (Nov. 30, 2015) (“Prudential Regulators Margin Rule”). The Prudential Regulators Margin Rule is substantially similar to the CFTC Margin Rule.

⁶ CEA section 4s(e)(1)(B), 7 U.S.C. 6s(e)(1)(B). SDs and MSPs for which there is a prudential regulator must meet the margin requirements for uncleared swaps established by the applicable prudential regulator. CEA section 4s(e)(1)(A), 7 U.S.C. 6s(e)(1)(A).

⁷ CEA section 4s(e)(2)(B)(ii), 7 U.S.C. 6s(e)(2)(B)(ii). In Commission Regulation 23.151, the Commission further defined this statutory language to mean all swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that the Commission has exempted from registration as provided under the CEA. 17 CFR 23.151.

⁸ CEA section 4s(e)(3)(A), 7 U.S.C. 6s(e)(3)(A).

⁹ *See generally* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016) (“Final Margin Rule”) (adopting the CFTC Margin Rule). The CFTC Margin Rule became effective April 1, 2016 and is codified in part 23 of the Commission’s regulations. 17 CFR 23.150–23.159, 23.161. In May 2016, the Commission amended the CFTC Margin Rule to add Commission Regulation 23.160, 17 CFR 23.160, providing rules on its cross-border application. *See generally* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Cross-Border Application of the Margin Requirements, 81 FR 34818 (May 31, 2016).

¹ 7 U.S.C. 6s(e) (capital and margin requirements).

The CFTC Margin Rule imposes initial margin (“IM”) requirements on uncleared swaps entered into by CSEs and certain specified counterparties.¹⁰ More specifically, Commission Regulation 23.152 requires CSEs to collect and post IM with each counterparty that is an SD, MSP, or financial end user (“FEU”) with material swaps exposure (“MSE”).¹¹ Commission Regulation 23.151 defines the term FEU by listing entities, persons, and arrangements whose business is financial in nature, including certain funds.¹²

Commission Regulation 23.161 establishes a phase-in schedule for compliance with the CFTC Margin Rule.¹³ Under the schedule, which commenced on September 1, 2016 and concluded on September 1, 2022, entities were required to comply with the IM requirements with respect to their uncleared swaps in staggered phases, starting with entities with higher average aggregate notional amount of uncleared swaps, non-cleared security-based swaps, foreign exchange forwards, and foreign exchange swaps (“AANA”), and then successively those

with lesser AANA.¹⁴ The AANA is calculated at a group level (*i.e.*, taking into consideration the AANA of the CSE combined with its margin affiliates,¹⁵ and the AANA of the counterparty combined with its margin affiliates). During the last phase of compliance, which started on September 1, 2022, CSEs and covered counterparties¹⁶ that had not come into scope of the IM requirements in prior phases of the phase-in schedule, including FEUs with MSE of more than \$8 billion, became subject to the IM requirements.

Under the phase-in approach, an investment fund with MSE comes within the scope of the IM requirements if it undertakes an uncleared swap with a CSE. The CSE and the fund, however, are not required to post and collect IM for their uncleared swaps until the IM threshold amount of \$50 million has been exceeded.¹⁷ The IM threshold amount is calculated based on the credit exposure from uncleared swaps between the CSE and its margin affiliates on the one hand, and the fund and its margin affiliates on the other.

The CFTC Margin Rule provides that the IM requirements may be satisfied with only specified types of margin collateral. Commission Regulation 23.156(a)(1) lists the permitted collateral that CSEs may post or collect as IM with covered counterparties, including cash, certain securities issued by the U.S. government or other sovereign entities, certain publicly traded debt or equity securities, securities issued by money market and similar funds, and gold.¹⁸

Under Commission Regulation 23.156(a)(1)(ix), the securities of money market and similar funds¹⁹ qualify as

eligible collateral if the investments of such funds are limited to securities that are issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of Treasury, and immediately-available cash funds denominated in U.S. dollars;²⁰ or to securities denominated in a common currency and issued by, or fully guaranteed as to the payment of principal and interest by, the European Central Bank, or a sovereign entity that is assigned no higher than a 20 percent risk weight under the capital rules applicable to SDs subject to regulation by a prudential regulator, and immediately-available cash denominated in the same currency.²¹ Also, the asset managers of the money market and similar fund may not transfer the assets of the fund through securities lending, securities borrowing, repurchase agreements, or other means (“repurchase or similar arrangements”) that involve the fund having rights to acquire the same or similar assets from the transferee (“asset transfer restriction”).²²

B. Market Participant Feedback

In January 2020, the CFTC’s Global Markets Advisory Committee (“GMAC”) established a subcommittee of market participants to consider issues raised by the implementation of margin requirements for uncleared swaps, to identify challenges associated with forthcoming implementation phases, and to prepare a report with recommendations (“GMAC Subcommittee”).²³ The subcommittee

Regulation 23.156(a)(1)(ix) does not fully coincide with the regulatory definition of money market funds (“MMFs”) in Rule 2a–7 under the Investment Company Act (17 CFR 270.2a–7), for simplicity purposes, these funds will be referred to as “money market and similar funds.” The securities of money market and similar funds may also be used as collateral for variation margin (“VM”) for uncleared swaps between a CSE and a financial end user, provided that the securities qualify as eligible collateral under Commission Regulation 23.156(a)(1)(ix). 17 CFR 23.156(b)(1)(ii). VM (or variation margin), as defined in Commission Regulation 23.151, is the collateral provided by a party to its counterparty to meet the performance of its obligations under one or more uncleared swaps between the parties as a result of a change in the value of such obligations since the trade was executed or the last time such collateral was provided. 17 CFR 23.151.

²⁰ 17 CFR 23.156(a)(1)(ix)(A).

²¹ 17 CFR 23.156(a)(1)(ix)(B).

²² 17 CFR 23.156(a)(1)(ix)(C).

²³ Membership of the GMAC Subcommittee on Margin Requirements was comprised of a wide range of industry participants that had expertise in, and experience with, margin requirements for uncleared swaps and the impact of the requirements on the marketplace and market participants. The Subcommittee included

¹⁰ IM (or initial margin) is the collateral (calculated as provided by Commission Regulation 23.154) that is collected or posted in connection with one or more uncleared swaps pursuant to Commission Regulation 23.152. IM is intended to secure potential future exposure following default of a counterparty (*i.e.*, adverse changes in the value of an uncleared swap that may arise during the period of time when the swap is being closed out). Final Margin Rule, 81 FR 636 at 683.

¹¹ 17 CFR 23.152. Commission Regulation 23.151 provides that MSE for an entity means that the entity and its margin affiliates have an average month-end aggregate notional amount of uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps with all counterparties for March, April, or May of the current calendar year that exceeds \$8 billion, where such amount is calculated only for the last day of the month. 17 CFR 23.151.

¹² 17 CFR 23.151. Commission Regulation 23.151 contains a full list of entities subject to the FEU definition as well as a list of entities excluded from the definition. Among other entities, persons, and arrangements, whose business is financial in nature, the definition of FEU includes counterparties that are not an SD or MSP and are: (i) investment companies registered with the Securities and Exchange Commission (“SEC”) under the Investment Company Act of 1940; (ii) private funds as defined in section 202(a) of the Investment Advisers Act of 1940; (iii) entities that would be investment companies under section 3 of the Investment Company Act of 1940 but for section 3(c)(5)(C); (iii) entities that are deemed not to be investment companies under section 3 of the Investment Company Act of 1940 pursuant to SEC Investment Company Act Rule 3a–7; (iv) commodity pools; and (v) entities, persons, or arrangements that are, or hold themselves out as being, entities, persons, or arrangements that raise money from investors, accept money from clients, or use their own money primarily for investing, or trading, or facilitating the investing or trading, in loans, securities, swaps, funds, or other assets.

¹³ 17 CFR 23.161.

¹⁴ *Id.*

¹⁵ Commission Regulation 23.151 provides that a company is a “margin affiliate” of another company if: (i) either company consolidates the other on financial statements prepared in accordance with U.S. Generally Accepted Accounting Principles (“U.S. GAAP”), the International Financial Reporting Standards (“IFRS”), or other similar standards; (ii) both companies are consolidated with a third company on financial statements prepared in accordance with such principles or standards; or (iii) for a company that is not subject to such principles or standards, if consolidation would have occurred if the consolidation principles or standards in prong (i) or (ii) had applied. 17 CFR 23.151.

¹⁶ The term “covered counterparty” is defined in Commission Regulation 23.151 as an FEU with MSE or a swap entity, including an SD or MSP, that enters into swaps with a CSE. 17 CFR 23.151.

¹⁷ Commission Regulation 23.151 defines the term “IM threshold amount” to mean an aggregate credit exposure of \$50 million resulting from all uncleared swaps between an SD and its margin affiliates (or an MSP and its margin affiliates) on the one hand, and the SD’s (or MSP’s) covered counterparty and its margin affiliates on the other. 17 CFR 23.151.

¹⁸ 17 CFR 23.156(a)(1).

¹⁹ Although the scope of the eligible pooled investment funds described in Commission

issued a report with its recommendations in May 2020 (“Margin Subcommittee Report” or “Report”), and the GMAC voted to adopt the Margin Subcommittee Report and recommended to the Commission that it consider adopting the Report’s recommendations.²⁴

Among other matters, the Margin Subcommittee Report asserted that the current criteria for determining whether a counterparty comes within the scope of the IM requirements unduly penalizes certain funds. As a result of accounting consolidation principles, a fund will generally be consolidated with its sponsor entity during the period in which the start-up capital provided by the sponsor entity exceeds that of third-party investors and represents up to 100 percent of the ownership interest in the fund (“seeding period” or “seed period”). Such fund, referred to as a seeded fund, is considered a margin affiliate of the sponsor entity during the seeding period.²⁵ As such, the seeded fund is required to calculate AANA on an aggregate basis with the sponsor entity and the sponsor entity’s margin affiliates. Although the seeded fund may individually have small amounts of AANA, due to its affiliation with the sponsor entity and its margin affiliates, the fund may have MSE, on a collective basis with the sponsor entity and its margin affiliates, and, therefore, may come within the scope of the IM requirements. As such, a CSE that undertakes uncleared swaps with the seeded fund is required to exchange IM with the fund.

The Report noted that regulators in other major financial markets, including Australia, Canada, the European Union (“EU”), and Japan, have adopted the Basel Committee on Banking Supervision and Board of the International Organization of Securities Commissions’ (“BCBS–IOSCO”) Framework for margin requirements for non-centrally cleared derivatives

representatives of SDs, FEUs, asset managers, and third-party service providers, among other market participants. The full list of members is available at <https://www.cftc.gov/About/AdvisoryCommittees/GMAC>.

²⁴ *Recommendations to Improve Scoping and Implementation of Initial Margin Requirements for Non-Cleared Swaps*, Report to the CFTC’s Global Markets Advisory Committee by the Subcommittee on Margin Requirements for Non-Cleared Swaps (May 2020), https://www.cftc.gov/media/3886/GMAC_051920MarginSubcommitteeReport/download.

²⁵ The concept of a seeded fund refers to an investment fund capitalized by a sponsor as a separate entity to test specified investment strategies and establish a performance track record before attracting unaffiliated investors.

(“BCBS–IOSCO Framework”)²⁶ without further requiring seeded funds to be consolidated with the sponsor and to be treated as a margin affiliate of the sponsor.²⁷

The Margin Subcommittee Report also recommended that the Commission eliminate the asset transfer restriction in paragraph (C) of Commission Regulation 23.156(a)(1)(ix). The Report stated that “the ability to use redeemable securities in a pooled investment fund, more typically referred to as a money market fund (“MMF”), as eligible collateral in the U.S. has been severely restricted by [such] condition.”²⁸ The Report also stated that MMFs use repurchase or similar arrangements to earn returns on cash and other high quality assets, to avoid any cash drag on performance, to diversify their investments, and to mitigate their potential exposure to their custodian’s insolvency and any consolidation issues with respect to any cash held at the custodian.²⁹ MMF asset managers, as fiduciaries, determine the types of investments and transactions that are in the best interest of the MMF and its investors.³⁰ The Report further stated that nearly all U.S. MMFs engage in some form of repurchase or similar arrangements, and cited research that found that, given the asset transfer restriction, the securities of only four U.S. MMFs would qualify as eligible collateral.³¹

II. Summary of the Proposal

On August 8, 2023, the Commission proposed to amend Commission Regulations 23.151 and 23.156 to provide a limited exemption to SDs and MSPs from the requirement to exchange IM with certain start-up investment funds and to eliminate a provision that disqualifies money market and similar funds engaging in repurchase or similar transactions from being eligible as IM

²⁶ BCBS/IOSCO, Margin requirements for non-centrally cleared derivatives (April 2020), <https://www.bis.org/bcb/publ/d499.pdf>. The BCBS–IOSCO Framework, which was established in 2013 and most recently amended in 2020, sets out minimum standards for margin requirements for non-centrally cleared derivatives. In connection with the requirement for all covered entities to exchange IM with a threshold not to exceed €50 million applied at the level of the consolidated group, the Framework specifies that “investment funds that are managed by an investment advisor are considered distinct entities that are treated separately when applying the threshold as long as the funds are distinct legal entities that are not collateralized by or are otherwise guaranteed or supported by other investment funds or the investment advisor in the event of fund insolvency or bankruptcy.”

²⁷ Margin Subcommittee Report at pp. 7 and 29.

²⁸ *Id.* at p. 6.

²⁹ *Id.* at p. 27.

³⁰ *Id.*

³¹ *Id.* at p. 24.

collateral for uncleared swaps (“Proposal”).³² The Proposal also specifies the haircut to be applied to shares of money market and similar funds held as initial margin collateral for uncleared swaps by adding a footnote to the haircut schedule in Commission Regulation 23.156(a)(3).

The comment period for the Proposal closed on October 10, 2023. The Commission received 14 comment letters from various interested parties, including investor advocacy groups, trade associations, an asset management firm, and individual members of the public.³³ As more fully discussed below, the majority of commenters expressed support for the Proposal, generally noting that the proposed amendments represented appropriate revisions to Commission regulations. Commenters that opposed the Proposal generally expressed a concern that the proposed amendments would weaken margin requirements and undermine systemic stability in the derivatives markets. In consideration of the public feedback, the GMAC Subcommittee recommendations, and the Commission’s experience administering the CFTC Margin Rule, the Commission is adopting the proposed amendments, subject to the changes discussed below.

A. Seeded Funds Amendment

1. Proposal

The Commission proposed to revise the definition of “margin affiliate” in Commission Regulation 23.151 to provide that a seeded fund that meets certain requirements (described in further detail below) (“eligible seeded fund”) would be deemed not to have any margin affiliates for the purpose of calculating the fund’s MSE and the IM threshold amount, for a period of up to

³² *Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants*, 88 FR 53409 (Aug. 8, 2023).

³³ The following entities and individuals submitted comment letters: American Council of Life Insurers (“ACLI”); Better Markets, Inc. (“Better Markets”); Mr. Bill Harrington, Croatan Institute (“Harrington”); Mr. Chris Barnard (“Barnard”); Senator Elizabeth Warren (“Senator Warren”); Federated Hermes, Inc. (“Federated Hermes”); Investment Company Institute (“ICI”); Managed Funds Association (“MFA”); Mr. Paul Patrick Uy (“Uy”); the International Swap and Derivatives Association (“ISDA”); Securities Industry and Financial Markets Association (“SIFMA”), and the Asset Management Group of the Securities Industry and Financial Markets Association (“SIFMA AMG”) (collectively, “Associations” or “Associations Joint Letter”). The comment letters are available at <https://comments.cftc.gov/PublicComments/CommentList.aspx?id=7419>. Four additional comment letters were either blank or did not include substantive comments on the Commission’s Proposal: comments from Andrew Robinson, Choochat Jumpathong, Curtis Higgins, and Natasha Delgado.

three years from the eligible seeded fund's trading inception date ("eligible seeded fund exception"). The Commission also proposed to define in Commission Regulation 23.151 the term "eligible seeded fund" to establish conditions that investment funds must meet to qualify for the eligible seeded fund exception.

Under the CFTC Margin Rule, a company is a "margin affiliate" of another company if, based on U.S. GAAP, IFRS, or other similar accounting standards, the financial results of both companies are required to be prepared and reported on financial statements on a consolidated basis, or the financial results of both companies are required to be prepared and reported on financial statements on a consolidated basis with a third party.³⁴ The proposed amendments to the definition of "margin affiliate" would provide that an eligible seeded fund would be deemed not to have margin affiliates solely for the purposes of calculating the fund's MSE and the IM threshold amount for a period of up to three years after the fund's trading inception date, notwithstanding the required consolidated financial reporting of the fund with another entity under applicable accounting standards.

In adopting the CFTC Margin Rule, the Commission modified the proposed definition of "margin affiliate," which relied on the concept of legal control as a criterion for affiliation, to the current definition based on accounting and financial reporting consolidation principles, in consideration of a concern that the proposed definition may have been over-inclusive.³⁵ The Commission noted that the accounting and financial reporting consolidation analysis typically results in a positive outcome (consolidation) at a higher level of an affiliation relationship than the 25 percent voting interest standard of the legal control test.³⁶ The Commission recognized, however, that financial reporting consolidation between a seeded fund and the sponsor may occur during the seeding period or other periods in which the sponsor may hold an outsized portion of the fund's ownership interest.³⁷ The Commission stated that during those periods, when an entity may hold up to 100 percent of the ownership interests of an investment fund, it was appropriate to treat the investment fund as an

affiliate.³⁸ The Commission further stated that such treatment may be likewise justified for a sponsor or asset manager and a special purpose entity created for asset management when accounting standards, such as GAAP and IFRS variable interest standards, require the consolidation of the financial reporting for such entities even though the manager might not hold an interest comparable to a majority equity or voting control share given the level of influence and exposure typically retained by the manager.³⁹

As noted in the Proposal, after the adoption of the CFTC Margin Rule, SIFMA AMG (on behalf of its members that are asset managers) requested relief from the margin affiliate treatment, consistent with the subsequent arguments made in the Margin Subcommittee Report described above.⁴⁰ While acknowledging that a sponsor of a seeded investment fund has influence beyond that of a passive, unaffiliated investor, SIFMA AMG urged that a seeded fund not be consolidated with its sponsors in applying the CFTC's margin requirements because there are structural and contractual safeguards that limit the sponsor's influence and exposure with respect to the seeded fund.⁴¹ SIFMA AMG noted that each seeded fund is a distinct legal entity that is managed by an investment manager pursuant to an investment advisory agreement that, among other things, requires the assets of the fund to be managed in accordance with specified investment guidelines, objectives, and strategies, and not capriciously at the desire of the fund sponsor.⁴² Further, the Margin Subcommittee Report noted that neither the sponsor, nor its consolidated entities, controls or has transparency into the management or trading of the seeded fund.⁴³ Moreover, the Report stated that, typically, the sponsor or affiliate of a seeded fund does not guarantee the obligations of the seeded fund nor participate in, or control the management of, the fund.⁴⁴ The Report further noted that the sponsor's exposure to the seeded fund is generally capped at its investment,

similar to any other passive investor in a third-party instrument or vehicle.⁴⁵

To address market participants' concerns, and based on its experience administering the CFTC Margin Rule, the Commission proposed the eligible seeded fund exception. The proposed eligible seeded fund exception would effectively relieve CSEs that enter into uncleared swaps with an eligible seeded fund from the requirement to exchange IM with such fund for a period of up to three years after the fund's trading inception date. In addition, uncleared swaps entered into between a CSE and an eligible seeded fund during the three-year period would continue to be relieved from the IM requirement after expiration of such period.⁴⁶ At the end of the three-year period, an eligible seeded fund that meets the accounting standards for consolidation due to a sponsor entity holding a significant equity stake in the fund would be deemed to have margin affiliates. As a result, a CSE would be required to exchange IM with the seeded fund for swaps entered into following the expiration of the three-year period if the fund and its margin affiliates, on a consolidated group basis, have MSE and the IM threshold amount for the fund and its margin affiliates has been exceeded.

As discussed in the Proposal, the proposed eligible seeded fund exception was intended to address challenges confronted by seeded funds that have limited individual swaps exposure, but, due to their affiliation with an entity or group of entities, have on a collective basis sufficient AANA to meet the MSE threshold, therefore requiring CSEs undertaking uncleared swaps with the funds to post and collect IM with such funds.⁴⁷ To limit the relief to only such funds, the proposed treatment was applicable only to seeded funds that have one or more margin affiliates that are already subject to the IM requirements and post and collect IM pursuant to Commission Regulation 23.152. The Commission further noted that notwithstanding the proposed eligible seeded fund exception, CSEs would still be required to include the uncleared swaps that they undertake

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Proposal at 53414 (referencing Letter by SIFMA AMG to the Commission and the Prudential Regulators Regarding Final Margin Rules for Uncleared Swap Transactions (Jan. 19, 2016) ("SIFMA AMG 2016 Letter") at p. 3 and Margin Subcommittee Report at p. 16).

⁴¹ SIFMA AMG 2016 Letter at p. 3.

⁴² *Id.*

⁴³ Proposal at 53415 and Margin Subcommittee Report at p. 16.

⁴⁴ Margin Subcommittee Report at pp. 6 and 16.

⁴⁵ *Id.* at p. 16.

⁴⁶ The Commission noted, however, that if at any point during the three-year period from the fund's trading inception date, the fund's AANA, calculated on an individual entity basis, exceeds the MSE threshold and the fund, individually, with its counterparty and the counterparty's margin affiliates crosses the IM threshold amount, the exchange of IM would be required.

⁴⁷ Proposal at 53413.

³⁴ 17 CFR 23.151 (definition of "margin affiliate").

³⁵ Final Margin Rule, 81 FR 636 at 646–647.

³⁶ *Id.* at 647.

³⁷ *Id.*

with eligible seeded funds for purposes of calculating their own AANA.

Market participants, including the members of the GMAC Margin Subcommittee, argued that absent relief, seeded funds experience a performance drag given that a portion of their investment assets are committed to, and segregated as, IM and also incur operational costs that are not commensurate with the size of their uncleared swaps activity and the risks of their swaps. In addition, the overall ability of seeded funds to attract new investors may be compromised as a result.⁴⁸

In its Report, the GMAC Margin Subcommittee discussed the costs that seeded funds incur from being consolidated with their sponsor entities and treated as margin affiliates of their sponsor entities, including the cost of setting up and maintaining margin accounts and establishing custodial arrangements to segregate IM collateral under Commission Regulation 23.157.⁴⁹ The seeded funds are also required to engage in negotiation of complex margin documentation and develop compliance infrastructures to handle the exchange of IM.⁵⁰ The Report further observed that, given their typically small size and limited swaps, seeded funds are likely to encounter difficulties in establishing the necessary margin documentation and processes, as CSEs and custodians, which face competing demands for resources and services to operationalize the exchange of IM, may prioritize larger counterparties.⁵¹

The Margin Subcommittee Report also stated that although seeded funds may be consolidated with other entities for financial statement reporting purposes, they are legally and operationally distinct and, as a result, may not be able to share information about their exposure for purposes of managing the group-wide \$50 million IM threshold amount above which IM for uncleared swaps must be exchanged. The Report indicated that potential confidentiality obligations may prevent the different affiliates within the seeded fund's consolidated group from sharing uncleared swaps exposure information. As an example, the Report noted that because of regulatory wall issues, such as confidentiality requirements, an

insurance company that sponsors a seeded fund would not share information about the fund's trading activity with an affiliate engaging in swap transactions for purposes of hedging general insurance risk.⁵²

Finally, the Report stated that seeded funds that do not otherwise hold assets qualifying as eligible IM collateral under Commission Regulation 23.156⁵³ need to hold larger cash reserves, which would be unavailable to implement the fund's investment strategy, or would need to incur the costs of converting fund assets into eligible IM collateral. The operational costs and potential difficulties arising in the execution of margin documentation could also either negatively impact a seeded fund's performance or inhibit its ability to trade, defeating the purpose of the original seed capital.⁵⁴

In proposing the eligible seeded fund exception, the Commission noted that the exception is consistent with the approach in other jurisdictions such as Australia, Canada, and the EU, which have adopted provisions that permit investment funds to be treated as distinct, separate entities for purposes of calculating the relevant IM thresholds, subject to conditions similar to those proposed by the Commission.⁵⁵ As discussed in the Proposal, the proposed approach is also consistent with the BCBS-IOSCO Framework, which

provides that an investment fund should be treated as a separate legal entity when applying the IM threshold amount provided that it is a distinct legal entity that is not collateralized or otherwise guaranteed or supported by other investment funds or the investment advisor in the event of the fund's insolvency or bankruptcy.⁵⁶ In addition, both the BCBS-IOSCO Framework and the frameworks of the jurisdictions whose rules the Commission considered in connection with the Proposal provide that investment funds are to be considered distinct legal entities for purposes of the calculation of IM thresholds on a permanent basis, and not for a temporary start-up period.

The Commission recognized, however, that the proposed amendments are a departure from the approach adopted by the prudential regulators, whose margin requirements for uncleared swaps include a definition of margin affiliate that is equivalent to the current definition in the CFTC Margin Rule. Furthermore, the prudential regulators have reserved the right to include any entity as an affiliate or a subsidiary based on the conclusion that an entity may provide significant support to, or may be materially subject to the risks of losses of, another entity.⁵⁷

The Commission also proposed to amend Commission Regulation 23.151 by adding a definition for the term "eligible seeded fund." "Eligible seeded fund" was proposed to be defined as a collective investment vehicle that received a part or all of its start-up capital from a parent and/or affiliate (each, a sponsor entity) and that meets certain specified conditions.

A seeded fund would meet the proposed definition of eligible seeded fund if, among other conditions: (i) the fund is a distinct legal entity from each sponsor entity; (ii) the fund is managed by an asset manager pursuant to an agreement that requires the fund's assets to be managed in accordance with a specified written investment strategy; (iii) the fund's asset manager has independence in carrying out its management responsibilities and exercising its investment discretion, and to the extent applicable, has independent fiduciary duties to other investors of the fund; and (iv) the fund's written investment strategy includes a written plan for reducing each sponsor entity's ownership interests in the fund that stipulates divestiture targets over

⁵² Margin Subcommittee Report at p. 33.

⁵³ *Id.*

⁵⁴ *Id.* at p. 31.

⁵⁵ Margin Subcommittee Report at p. 29. As noted in the Report, Canada has excluded investment funds from consolidated margin calculations via the Office of the Superintendent for Financial Institutions of Canada Guideline E-22 Margin Requirements for Non-centrally Cleared Derivatives effective as of June 2017, Section 1.1. Scope of Applicability, Footnote 2, available at <https://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gl-ld/Pages/e22.aspx>; the EU adopted a similar approach via Commission Delegated Regulation No. 2016/2251 of October 4, 2016, Supplementing Regulation (EU) No. 648/2012 of the European Parliament and of the Council of July 4, 2012 on OTC Derivatives, Central Counterparties and Trade Repositories with Regard to Regulatory Technical Standards for Risk-Mitigation Techniques for OTC Derivative Contracts Not Cleared by a Central Counterparty, 2016 O.J. L340/11, Articles 28(3); 29(3) and 39(2), available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2016.340.01.0009.01.ENG; and the Australian Prudential Regulatory Authority noted, in paragraph 25 of Prudential Standard CPS 226 (available here https://www.apra.gov.au/sites/default/files/prudential_standard_cps_226_margining_and_risk_mitigation_for_non-centrally_cleared_derivatives.pdf) that for purposes of calculating the IM threshold, an investment fund may be treated separately from the investment adviser and other investment vehicles, provided certain conditions are met. The Margin Subcommittee Report also noted that Japan has adopted a similar approach, however, the Commission could not verify that assertion because the Report did not provide a citation to the relevant Japanese rules.

⁵⁶ BCBS-IOSCO Framework, Footnote 10, *supra* note 26. See also Proposal at 53412–53413.

⁵⁷ See Prudential Regulators Margin Rule at 74859–60.

⁴⁸ Margin Subcommittee Report at p. 32.

⁴⁹ For purposes of clarity, these arguments, as well as the proposed rule amendments, pertain only to the margin requirements for uncleared swap transactions. The proposed amendments would not impact any potential margin requirements that a seeded fund would have to meet in connection with futures contracts or cleared swap transactions.

⁵⁰ Margin Subcommittee Report at p. 32.

⁵¹ *Id.*

the three-year period after the seeded fund's trading inception date. Additionally, to meet the proposed "eligible seeded fund" definition, in respect of any of the seeded fund's obligations, a seeded fund must not be collateralized, guaranteed, or otherwise supported, directly or indirectly, by any sponsor entity, any margin affiliate of any sponsor entity, other collective investment vehicles, or the seeded fund's asset manager. These proposed conditions were designed to ensure that the sponsor entity does not retain a level of influence or exposure that is materially above that of other minority or passive investors and that the seeded fund follows a genuine plan to emerge from the seeding phase by attracting unaffiliated investors.

To ensure that the three-year period contemplated by the eligible seeded fund exception is not reinstated or extended, due to rollovers of fund assets or similar activities, the proposed definition required that the seeded fund not receive any of its assets, directly or indirectly, from an eligible seeded fund that has relied on the proposed exception.

Furthermore, the Proposal was intended to be limited to those seeded funds that, absent amendments to the CFTC Margin Rule, would have to exchange IM due to their consolidation with a group that collectively exceeds the thresholds triggering compliance with the IM requirements. To target funds that are "seeded" by parent or affiliated entities that have MSE and thus cause the seeded funds to come within the scope of the IM requirements, the proposed definition of "eligible seeded fund" required that at least one of the seeded fund's margin affiliates must be subject to the IM requirements and must be required to post and collect IM pursuant to Commission Regulation 23.152.

Finally, the proposed definition of "eligible seeded fund" provided that the seeded fund must not be a securitization vehicle. This condition was designed to further limit the proposed treatment of seeded funds only to funds subject to the Margin Subcommittee Report's recommendation.

2. Comments

The Commission received eight substantive comments addressing the proposed eligible seeded fund exception.⁵⁸ Four comment letters

supported the Proposal,⁵⁹ and four letters opposed it.⁶⁰

Comments supportive of the Proposal noted that, among other benefits, the proposed amendments would place U.S. seeded funds on a better competitive footing relative to non-U.S. seeded funds.⁶¹ More generally, commenters supported the Commission's efforts to more closely align the CFTC Margin Rule with the BCBS-IOSCO Framework and the margin framework of other global jurisdictions.⁶² ICI and ACLI further stated, consistent with arguments advanced by the GMAC Subcommittee, that seeded funds pose limited risk to swap counterparties given the models notional value of their swaps and of their capitalization level.⁶³ MFA similarly noted that the proposed changes were consistent with the CFTC Margin Rule's approach of imposing margin requirements commensurate with risk of uncleared swaps.⁶⁴ To address the Commission's concerns regarding potential systemic risk resulting from uncollateralized swap exposures, commenters noted that under the Proposal, CSEs and their eligible seeded fund counterparties would remain subject to the requirement to exchange VM.⁶⁵

In support of the Proposal, ICI described the utility of seeded funds as a tool to implement and test new investment strategies prior to making them accessible to the public.⁶⁶ ICI argued that requiring a seeded fund to exchange IM with its counterparty (typically a CSE) is not only unnecessary to accomplish the regulatory objectives underlying the uncleared swaps margin requirements, but also undermines the ability to use seeded funds as a means for innovation in, and development of, new regulated fund products.⁶⁷ ICI and ACLI also discussed the regulatory framework and safeguards supporting an argument that seeded funds should be treated separately from the corporate group for purposes of calculating the IM compliance thresholds.⁶⁸ In this regard, commenters noted that seeded funds must operate in accordance with the regulatory regime administered by the

SEC under the Investment Company Act of 1940 ("1940 Act") and other federal securities laws. Among other requirements, commenters noted that funds registered as management companies are subject to oversight by an independent board of directors, conflict of interest protections through prohibitions on affiliated transactions, and strict restrictions on leverage.⁶⁹ Further, ICI pointed out that the manager of the seeded fund is a fiduciary that must act in the best interest of the fund at all times and is legally obligated to manage the fund's assets in accordance with a specified investment strategy, policies and limitations.⁷⁰ ACLI asserted that unregistered funds relying on an exemption from registration under Section 3(c)(1) or 3(c)(7) of the 1940 Act present similar features.⁷¹ Commenters also emphasized that outside of the seed capital, seeded funds are not guaranteed or supported by other funds, the fund manager, or other sponsors.⁷²

In addition to expressing general support, commenters recommended several changes to the Proposal. ISDA, SIFMA, SIFMA AMG, and ACLI sought revisions to the condition in the proposed definition of "eligible seeded fund" that none of the sponsor entity's margin affiliates controls or has transparency into the management or trading of the fund.⁷³ Commenters argued that the condition is overly broad and would make it impossible for many genuinely independent seeded funds whose asset manager is part of the sponsor's corporate group to rely on the seeded funds exception. ISDA, SIFMA, and SIFMA AMG noted that many seeded funds are operated by functionally independent asset managers that have the same ultimate parent as the sponsor of such seeded funds, and accordingly, are subject to accounting consolidation with the sponsor of the seeded funds.⁷⁴ ACLI similarly explained that insurance companies typically seed funds managed by their affiliated asset managers.⁷⁵ ACLI asserted that "the trading decisions of those affiliated asset managers are generally independent of the sponsoring entity and subject to the asset manager's investment discretion, a written investment strategy, and an

⁵⁹ ACLI at p. 1; Associations Joint Letter at pp. 1–11; ICI at pp. 2–5; and MFA at p. 1.

⁶⁰ Senator Warren at pp. 1–2; Better Markets at p. 2; Uy; and Harrington.

⁶¹ ICI at p. 3, MFA at p. 1.

⁶² MFA at p. 1.

⁶³ ICI at p. 4; ACLI at pp. 3, 6, Margin Subcommittee Report at p. 31.

⁶⁴ MFA at p. 2.

⁶⁵ ACLI at pp. 7–8, 10.

⁶⁶ ICI at p. 3.

⁶⁷ *Id.*

⁶⁸ ACLI at pp. 4–5; ICI at pp. 3–4.

⁶⁹ ICI at pp. 3–4 (referencing Sections 10(a), 17(a), and 18 of the 1940 Act).

⁷⁰ ICI at p. 4.

⁷¹ ACLI at p. 5.

⁷² ICI at p. 4; ACLI at p. 5.

⁷³ Associations Joint Letter at pp. 2, 5–6; ACLI at pp. 5–6.

⁷⁴ Associations Joint Letter at p. 6.

⁷⁵ ACLI at p. 6.

⁵⁸ ACLI, Associations Joint Letter, Better Markets, Harrington, ICI, MFA, Senator Warren, Uy.

independent fiduciary duty to the fund.”⁷⁶

Commenters also criticized the proposed condition that “[o]ne or more of the seeded fund’s margin affiliates is required to post and collect initial margin pursuant to § 23.152.”⁷⁷ Commenters argued that this requirement would effectively prevent seeded funds without an SD or MSP affiliate from relying on the seeded funds exception because the CFTC Margin Rule only directly obligates CSEs to post IM to, and to collect IM from, counterparties.⁷⁸ Another commenter raised a similar issue and asked the Commission to clarify that the proposed condition does not require a seeded fund to have a margin affiliate that is a CSE.⁷⁹

ICI, ISDA, SIFMA, and SIFMA AMG also expressed concerns that the proposed condition, even if revised to clarify that the condition does not require the seeded fund to have a margin affiliate that is a CSE, would in practice lead to disparate treatment.⁸⁰ In this regard, ISDA, SIFMA, and SIFMA AMG noted that a revised condition would still create inequity between (i) seeded funds whose affiliates are in-scope of the Commission’s margin rules and (ii) seeded funds whose affiliates are not in-scope of the Commission’s margin rule and are complying with prudential regulators’ margin rules. In their comment letter, ISDA, SIFMA, and SIFMA AMG noted that it is possible for a fund group to have swaps whose notional values are required to be counted towards the MSE calculation with counterparties who are not subject to the CFTC Margin Rule, including SDs subject to, and complying with, the prudential regulators’ margin rules.⁸¹ This creates an inequity as, pursuant to the terms of the proposed condition, at least one of seeded fund’s margin affiliates must be subject to the margin rules of the Commission. Commenters also asserted that the condition is not necessary to meet the regulatory objective of the Proposal because the other proposed conditions would ensure that targeted seeded funds are the only eligible funds to take advantage of this exception.⁸²

Commenters also recommended that the Commission revise the Proposal to eliminate the requirement that the eligible seeded fund’s sponsor entity

and other margin affiliates continue to include the eligible seeded fund’s exposure in the calculation of their MSE and the IM threshold amount, unless they independently qualify for the proposed eligible seeded fund exception.⁸³ Commenters noted that as a result of the requirement, the seeded fund would have to share information about its uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps with such entities to allow them to determine: (i) whether they have MSE and (ii) if they have MSE, the amount of IM that they would hypothetically post, for purposes of determining whether the IM threshold amount of its margin affiliates has been exceeded.⁸⁴ The commenters argued that the challenges associated with the threshold monitoring and the requisite information sharing between the seeded funds and their affiliated entities would continue to prevent many seeded funds from accessing the uncleared swaps market or incentivize fund groups to set up seeded funds offshore.⁸⁵ ISDA, SIFMA, and SIFMA AMG asserted that if the requirement was adopted as proposed, the margin affiliates that must take into account the fund’s exposure would become economically responsible for the seeded fund.⁸⁶ In support of their argument, the commenters discussed a situation where entities in a sponsor group have uncleared swaps with a CSE and no uncleared swaps with the CSE’s margin affiliates, and the sponsor’s group would not have breached the IM threshold amount but for the exposure of the eligible seeded funds.⁸⁷ In such case, the commenters argued, the CSE could become obligated to collect IM from the sponsor and its margin affiliates that are not eligible seeded funds even though the CSE does not have sufficient credit exposure from the sponsor and those margin affiliates to generate an IM amount that is greater than the IM threshold.⁸⁸ Further, the eligible seeded funds’ IM exposure amount would need to be included in

the IM threshold amount of the sponsor and the sponsor’s IM documentation would need to be amended to cover the eligible seeded funds. ACLI similarly argued that “[r]equiring members of the seeded fund’s corporate group to deduct the funds’ IM from their shared IM threshold would require significant operational support, sharing of information across affiliates in ways that are difficult to achieve, and frequent amendments to trading documents to account for funds’ trading behavior, which is outside the control of the other corporate entities in the group.”⁸⁹ In response to the Commission’s concerns that not including the seeded fund’s exposure in the sponsor’s MSE calculation and IM threshold amount may incentivize the sponsor to create seeded funds merely to reduce its own exposure and circumvent the applicability of the IM requirements, ACLI argued that there are contractual, structural, fiduciary, financial, and regulatory safeguards that would prevent the limited seeded fund exception from creating opportunities for the fund’s sponsor to avoid or evade its requirements in any material respect.⁹⁰ ACLI recognized that many of these safeguards are reflected in the proposed definition of “eligible seeded fund.”⁹¹ ICI also stated its belief that it would not be feasible for the proposed exception to be used to circumvent the applicability of the IM requirements, “given the established and specific purposes for seeded funds” and “the significant regulatory framework that applies to them.”⁹² In support of their argument in favor of deeming eligible seeded funds not to constitute margin affiliates of any other entity, commenters noted that such approach would be consistent not only with the Margin Subcommittee’s recommendation—which itself is based on the BCBS–IOSCO Framework—but also harmonize the CFTC Margin Rule with the margin rules adopted by regulators in other jurisdictions.⁹³ ISDA, SIFMA, and SIFMA AMG referred to the margin rules in the EU and the United Kingdom (“UK”), which provide that

⁸³ Under the Proposal, the eligible seeded fund exception would apply only for purposes of calculating MSE and the IM threshold amount of the eligible seeded fund. Proposal at 53413. Commenters recommended that the proposed exception be revised such that eligible seeded funds are not only deemed to not have margin affiliates but are also deemed not to constitute margin affiliates of any other entity, during the seeding period. ACLI at p. 3, Associations Letter at pp. 7–11, ICI at p. 5.

⁸⁴ Associations Joint Letter at p. 7.

⁸⁵ *Id.* at p. 8.
⁸⁶ *Id.* at p. 9.
⁸⁷ *Id.*
⁸⁸ *Id.*

⁸⁹ ACLI at p. 3.

⁹⁰ *Id.* at p. 9.

⁹¹ *Id.* at p. 5. ACLI highlighted that seeded funds are: (i) separate legal entities, created for a bona fide business and economic purpose; (ii) typically overseen by an independent board (or equivalent); (iii) managed by an investment advisor having fiduciary duties to the entity in accordance with specified, written, investment program; and (iv) not collateralized by or otherwise supported by the fund sponsor or any other entity beyond the initial seed capital contribution.

⁹² ICI at p. 5.

⁹³ Associations Joint Letter at p. 9; ICI at p. 3; MFA at pp. 1–2; and ACLI at p. 3.

⁷⁶ *Id.*

⁷⁷ Proposal at 53427.

⁷⁸ Associations Joint Letter at p. 6.

⁷⁹ ACLI at p. 4.

⁸⁰ ICI at pp. 4–5; Associations Joint Letter at p. 7.

⁸¹ Associations Joint Letter at p. 7.

⁸² Associations Joint Letter at p. 7.

investment funds “shall be considered distinct entities and treated separately when applying” the thresholds based on IM amount, and the calculation of AANA when “the funds are distinct segregated pools of assets for the purposes of the fund’s insolvency or bankruptcy” and “the segregated pools of assets are not collateralized, guaranteed, or otherwise financially supported by other investment funds or their managers.”⁹⁴ Commenters also asserted that the approach would be consistent with the Volcker Rule, which generally prohibits banking entities from investing in “covered funds” but allows such entities to make seed investments and retain de minimis investments in covered funds, provided that any seed investment is reduced to a de minimis (3 percent) per fund amount after a seeding period that can reach up to three years.⁹⁵ In this regard, ISDA, SIFMA, and SIFMA AMG noted that they were not aware of any concerns raised by the Commission or the banking or market regulators that market participants are creating seeded funds to evade the Volcker Rule or foreign uncleared swaps margin rules.⁹⁶

Finally, ACLI argued that eligible seeded funds should not be subject to an inflexible requirement of a written plan for reducing the sponsor’s ownership interest, as proposed in condition (5) of the “eligible seeded fund” definition.⁹⁷ ACLI asserted that there are already sufficient incentives for the sponsor of a seeded fund to divest its ownership interest over the near term that make this additional requirement burdensome and unnecessary.⁹⁸ In this connection, ACLI noted that the well understood purpose of a seeded fund is for it to ultimately become a non-seeded fund that is funded predominantly if not exclusively by external investors.⁹⁹ ACLI also discussed the administrative and financial burdens that seeded funds represent for the sponsor, including accounting consolidation compliance and capital charges on the equity ownership interest.¹⁰⁰ Finally, ACLI argued that adherence to a written plan could undermine the needed flexibility

to manage divestment in a way that would not impact the fund’s net asset value (“NAV”) or trigger NAV-based early termination events.¹⁰¹

Commenters that opposed the Proposal, including Better Markets and Senator Warren, expressed concern over any relaxation of the IM requirements.¹⁰² Better Markets argued that the Proposal conflicts with the statutory mandate in the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) that the Commission impose IM requirements on “all” non-cleared derivatives.¹⁰³ Better Markets asserted that the interpretation of the term “all” precludes a reading of the statute that would allow exclusions from the mandatory IM requirement for “some” non-cleared derivatives.¹⁰⁴ Better Markets and Senator Warren also highlighted the potential lack of consistency within U.S. regulatory regimes, pointing to the Proposal’s failure to align with the prudential regulators’ definition of margin affiliate.¹⁰⁵ Better Markets argued that the misalignment carries the potential to sow confusion and operational difficulties for market participants.¹⁰⁶ Finally, another commenter expressed concern that the Proposal would incentivize parties to engage in high-risk transactions with insufficient collateralization.¹⁰⁷ Another commenter, Harrington, generally opposed the Proposal, arguing that it would create systemic exposures and is harmful to the public.¹⁰⁸

3. Discussion

The Commission has considered the comments and is adopting the Proposal, subject to certain revisions discussed below.

a. Commission Regulation 23.151—Amendments to the Definition of “Margin Affiliate”

The Commission is adopting the proposed amendments to the definition of “margin affiliate” in Commission Regulation 23.151 to include an “eligible seeded fund exception.” The definition of “margin affiliate” will thus provide that for a period of up to three years from the fund’s trading inception date, an eligible seeded fund will be

deemed not to have any margin affiliates or to constitute a margin affiliate of another entity. The Commission notes, however, that notwithstanding the eligible seeded fund exception, a CSE will still be required to count the notional value of uncleared swaps, non-cleared security-based swaps, foreign exchange forwards, and foreign exchange swaps that the CSE undertakes with a counterparty that is an eligible seeded fund for purposes of calculating the CSE’s own AANA.

After considering the public comments, the Commission continues to believe that the Seeded Funds Amendment will contribute to global harmonization with respect to the treatment of investment funds, preventing potential reductions in liquidity or trading disruptions due to non-U.S. funds’ limiting their trading activities to non-U.S. counterparties to take advantage of approaches to consolidation that exist in other jurisdictions.¹⁰⁹ While adopting an approach that is consistent with the treatment of investment funds in other jurisdictions, the Commission is including additional safeguards, including a maximum three-year limit on the availability of the “eligible seeded fund exception,” to more narrowly tailor the relief to start-up investment funds, consistent with the Margin Subcommittee Report’s recommendations.

Further, the Commission believes that adopting the Seeded Funds Amendment would support the CFTC Margin Rule’s objective of imposing margin requirements that are commensurate with the risk of uncleared swaps entered into by CSEs.¹¹⁰ In this connection, the Commission continues to believe, as discussed in the Proposal and as asserted by the GMAC Subcommittee in the Margin Subcommittee Report, that seeded investment funds do not pose significant risks to their swap counterparties or the financial system given that typically an individual fund’s capitalization does not exceed \$50–100 million and the aggregate notional exposure of the swaps entered into by the fund is limited.¹¹¹ The Commission’s preliminary risk assessment is supported by commenters who asserted that seeded funds do not pose systemic risk during the seeding

⁹⁴ Associations Joint Letter at p. 10 (referencing Articles 28(3), 29(3), and 29(2) of Commission Delegated Regulation No. 2016/2251 with regard to Regulatory Technical Standards for Risk-Mitigation Techniques for OTC Derivative Contracts Not Cleared by a Central Counterparty, 2016 O.J. L340/11 (the “EMIR RTS”)).

⁹⁵ Associations Joint Letter at p. 10; ICI at p. 5 fn. 18 (both referring to section 619 of the Dodd-Frank Act, commonly known as the “Volcker Rule”).

⁹⁶ Associations Joint Letter at p. 11.

⁹⁷ ACLI at p. 4.

⁹⁸ ACLI at p. 11.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Better Markets at pp. 2, 6–7; Senator Warren at pp. 1–2; Uy; Harrington at pp. 24–27.

¹⁰³ Better Markets at pp. 6–7.

¹⁰⁴ *Id.* at p. 7.

¹⁰⁵ Better Markets at pp. 7–8; Senator Warren at p. 2.

¹⁰⁶ Better Markets at p. 8.

¹⁰⁷ Uy.

¹⁰⁸ Harrington at pp. 24–27.

¹⁰⁹ Proposal at 53412.

¹¹⁰ See Section 4s(e)(3)(A)(2) of the CEA (directing the Commission to adopt margin requirements “appropriate to the risks associated with” the uncleared swaps held by the SD or the MSP). 7 U.S.C. 6s(e)(3)(A).

¹¹¹ Proposal at 53413.

period, as they tend to be small.¹¹² As stated in the Proposal, given the seeded funds' modest size and limited individual swaps activity, the Commission believes that affording relief to seeded funds at the early stages of formation from coming within the scope of the IM requirements is consistent with the CFTC Margin Rule's risk-based approach.¹¹³

As noted in section II.A.2, some commenters expressed concerns with the Proposal's compliance with the Dodd-Frank Act amendments to the CEA.¹¹⁴ Better Markets criticized the Commission for exceeding its discretionary authority under the Dodd-Frank Act by providing an exception to the application of IM requirements.¹¹⁵ Additionally, a commenter raised concerns about the risk of transactions occurring with insufficient collateralization.¹¹⁶

The Commission recognizes the risk-management and systemic stability benefits of the margin requirements mandated by the CEA but believes that a limited, risk-based exception to the IM requirements is not inconsistent with the CEA mandate. Existing exemptions from the margin requirements confirm Congress's intent to establish a risk-based framework for the margin requirements.¹¹⁷ The Commission has also used its discretionary authority in the past to establish risk-based parameters for determining the applicability of the margin

requirements, including by setting forth IM compliance thresholds.¹¹⁸

The Commission notes that the eligible seeded funds exception incorporates structural and regulatory safeguards, further discussed below, designed to provide only a limited, narrowly tailored relief. The Commission also continues to believe that existing safeguards already present (and not being amended) in the CEA and Commission regulations mitigate the increase in uncollateralized credit risk resulting from swap transactions between CSEs and seeded funds that are relieved from the IM requirements. In this regard, the Commission emphasizes that uncleared swap transactions between CSEs and eligible seeded funds remain subject to the VM requirements, which requires a CSE to settle with its counterparties the cumulative mark-to-market change in the value of swaps on a daily basis.¹¹⁹ The daily exchange of VM prevents losses from accruing on open swap positions of the CSE and swap counterparties beyond the minimum transfer amount applicable to the transaction, thereby mitigating the magnitude of the potential loss in the event of a default.¹²⁰ Moreover, section 4s(j)(2) of the CEA mandates CSEs to adopt a robust and professional risk management system adequate for the management of their swap activities and Commission Regulation 23.600 requires that CSEs, in establishing the risk management program to monitor and manage risks associated with their swaps activities, must account for credit risk and must set risk tolerance limits.¹²¹

The Commission is also adopting, as proposed, a maximum three-year limit to the availability of the eligible seeded fund exception to each individual

seeded fund.¹²² The exception is applicable only for a period of up to three years from an eligible seeded fund's trading inception date. At the expiration of the three-year period, a fund that meets the accounting standards for consolidation due to a sponsor entity holding an equity stake in the fund, will be deemed to have margin affiliates. As a result, a CSE would be required to exchange IM with the fund for any swaps entered into following the expiration of the three-year period if, on a consolidated basis with its margin affiliates, the fund has MSE and the IM threshold amount has been exceeded. In addition, if the fund's AANA at any point during the three-year period from the fund's trading inception date, calculated on an individual entity basis, exceeds the MSE threshold and the fund, individually with its CSE counterparty and the CSE's margin affiliates, crosses the IM threshold amount, the CSE would be required to post IM to, and collect IM from, the fund for swaps entered into following the fund's exceeding of the MSE and IM thresholds.

The three-year limit is designed to cover the period during which the fund is establishing a performance track record and attracting unaffiliated investors. Market participants have noted that after three years, investment funds have typically established a sufficient performance record to attract third-party investors and are no longer subject to consolidation with their sponsor entity for AANA calculation purposes.¹²³ The Seeded Funds Amendment would thus advance responsible financial innovation by promoting the creation of new funds by allowing eligible seeded funds to test the viability of investment strategies without having to commit their relatively limited capital to meet IM requirements.¹²⁴ Following the expiration of the three-year period, a seeded fund that has margin affiliates that already have AANA with a counterparty CSE and its margin affiliates that exceeds the MSE amount is required to exchange IM with the CSE for any of the fund's swap entered into commencing immediately after the end of the three-year period, subject to the

¹¹² ACLI at p. 6; ICI at p.4.

¹¹³ Proposal at 53413 (citing the Margin Subcommittee Report's discussion of the results of an informal sampling conducted in 2018 among the members of SIFMA AMG and ACLI, which found that of the 33 funds identified by the respondents as exceeding the thresholds for IM compliance due to their derivatives notional exposures being consolidated with entities with MSE, none would be within the scope of the IM requirements absent consolidation with their sponsor entity, given that the average gross notional exposure for each seeded fund was \$32 million).

¹¹⁴ Better Markets at pp. 2, 6–7; Senator Warren at p. 1.

¹¹⁵ Better Markets at p. 6.

¹¹⁶ Uy.

¹¹⁷ On January 12, 2015, the Terrorism Risk Insurance Program Reauthorization Act of 2015 ("TRIPRA") amended the Dodd-Frank Act to exempt certain transactions of certain commercial end users and others from the Commission's capital and margin requirements. Public Law 114–1, 129 Stat. 3. Specifically, section 302 of Title III of TRIPRA amended sections 731 and 764 of the Dodd-Frank Act to provide that the Commission's rules on margin requirements under those sections shall not apply to a swap in which a counterparty: (1) qualifies for an exception under section 2(h)(7)(A) of the CEA (commercial end user exception); (2) qualifies for an exemption issued under section 4(c)(1) of the CEA for cooperative entities as defined in such exemption; or (3) satisfies the criteria in section 2(h)(7)(D) of the CEA (treasury affiliate exemption).

¹¹⁸ See e.g., Commission Regulation 23.151, which provides a threshold of \$8 billion before a SD is within scope of the CFTC Margin Rule and further provides CSEs and covered counterparties that are in-scope for the margin requirements with a \$50 million threshold before IM must be exchanged.

¹¹⁹ 17 CFR 23.153.

¹²⁰ See definition of "variation margin" in Commission Regulation 23.151 (providing that variation margin means collateral provided by a party to its counterparty to meet the performance of its obligation under one or more uncleared swaps between the parties as a result of a change in value of such obligation since the trade was executed or the last time such collateral was provided). 17 CFR 23.151. "Minimum transfer amount" is defined in Commission Regulation 23.151 as a combined initial and variation margin amount under which no actual transfer amount is required. The minimum transfer amount is \$500,000. 17 CFR 23.151. A CSE and a counterparty that is a swap entity or an FEU may agree to have separate minimum transfer amount for IM and VM (to be reflected in the margin documentation). 17 CFR 23.158(a).

¹²¹ 7 U.S.C. 6s(j); 17 CFR 23.600.

¹²² Proposal at 53413.

¹²³ Margin Subcommittee Report at p. 30. This position is consistent with the policy approach taken by the prudential regulators and the Commission in the regulations implementing the requirements of section 619 of the Dodd-Frank Act, commonly referred to as the "Volcker Rule," which also recognize the concept of "seeding period" with a maximum duration of three years. 17 CFR 255.12; 17 CFR 75.12.

¹²⁴ ICI at p. 4.

fund's and the fund's margin affiliates collective IM threshold amount.¹²⁵

In addition, a fund and its margin affiliates that collectively do not have AANA with a CSE and its margin affiliates that exceeds the MSE at the end of the fund's three-year seeding period must add the notional amount of each swap entered into with the CSE that is open at the end of the three-year seed period to its group's MSE calculation in accordance with Commission Regulation 23.151 (definition of "material swaps exposure").¹²⁶

Furthermore, a seeded fund and its margin affiliates are subject to "change in status" requirements set forth in Commission Regulation 23.161(c).¹²⁷ Thus, for example, pursuant to the MSE definition in Commission Regulation 23.151 and the "change in status" provision of Commission Regulation 23.161, if a seeded fund's margin affiliates are collectively below the MSE threshold of \$8 billion AANA as of the last day of March, April, and May of 2025, a CSE that engaged in swaps with the fund's margin affiliates was not required to exchange IM with the margin affiliates commencing on September 1, 2025. If, however, the seeded fund's three-year exemption period expired on or after June 30, 2025, the MSE of the seeded fund and its margin affiliates would be based on the collective AANA computed based on the notional value of the uncleared swaps, non-cleared security-based swaps, foreign exchange forwards, and foreign exchange swaps of the former seeded fund that were entered at any point in time and remain open on the calculation dates of March, April, and May 2026. If, as a result of the collective calculation, the former seeded fund and its margin affiliates change their status with respect to the margin requirements (e.g., the group collectively has MSE of more than \$8 billion in AANA on September 1, 2026 and the former seeded fund's and its margin affiliates status therefore changes from FEUs without MSE to FEUs with MSE), the fund's CSE counterparty will be

required to comply with the stricter margin requirements for any uncleared swaps entered into with the fund and its margin affiliates commencing on September 1, 2026 as provided in Commission Regulation 23.161(c).¹²⁸

The Commission has also determined not to require the eligible seeded fund's sponsor entity or other affiliates to include the notional value of the seeded fund's uncleared swaps, non-cleared security-based swaps, foreign exchange forwards, and foreign exchange swaps or the exposure of the seeded fund's uncleared swaps in the calculation of the sponsor entity's or affiliates' MSE and IM threshold amounts, respectively, during the three-year seed period. To that effect, the Commission is not adopting the proposed provision specifying that the eligible seeded fund exception would apply "only for purposes of calculating the fund's material swaps exposure and the initial margin threshold amount." For the avoidance of doubt, the Commission is also specifying that during the three-year seeding period, an eligible seeded fund would not be deemed "to constitute a margin affiliate of another entity." In reaching these decisions, the Commission considered commenters' concerns about the challenges that sponsor entities and other affiliates would encounter if they were required to include the notional value of the relevant financial products to determine whether they have MSE and to deduct the eligible seeded fund's IM from the shared IM threshold amount.¹²⁹ As described by commenters, these challenges include operational costs, difficulties around information sharing across affiliates, and burdens associated with frequent amendments of IM documentation to account for the funds' trading behavior.¹³⁰ Commenters asserted that the challenges are particularly salient in the context of calculating the IM threshold, because to determine whether the eligible seeded fund's sponsor entity and affiliates have breached the IM threshold, the IM amount that the seeded fund would have to collect or post must be determined on a real-time basis using a model-based or standardized approach.¹³¹ Commenters further argued that even if margin affiliates were to rely on their CSE counterparties

for those calculations, it is likely that CSEs would determine the cost-and-benefit analysis would not make it economical to enter into swaps with the relevant margin affiliates.¹³²

Commenters concluded that if the Commission retains the requirement that an eligible seed fund be treated as a margin affiliate of its sponsor group for the calculation of MSE and the IM threshold, the Proposal's objective to "prevent[] potential reductions in liquidity or trading disruptions" would not be achieved.¹³³

The Commission also considered the structural, fiduciary, and regulatory safeguards that preclude sponsors from using seeded funds to avoid or evade the IM requirements. As stated in the Proposal, the requirement for the sponsor and other affiliates to include an eligible seeded fund's exposure in the calculation of their MSE and IM threshold amount was proposed to prevent the eligible seeded fund exception from serving as an incentive for a sponsor entity to create seeded funds merely to reduce its own exposure and circumvent the applicability of the IM requirements.¹³⁴ After considering public comments, however, the Commission is satisfied that other safeguards exist to prevent such result. Some of the safeguards, including the requirement that seeded funds be separate legal entities created for a bona fide business and economic purpose, are built into the definition of "eligible seeded fund" discussed below. Other features contributing to the funds' independence result from the regulatory framework applicable to investment funds under the 1940 Act. Seeded funds that are registered management companies under the 1940 Act are overseen by an independent board of directors and managed by a registered investment adviser that has fiduciary duties to the fund.¹³⁵ In addition, investment funds relying on an exemption from SEC registration as investment companies under Section 3(c)(1) or 3(c)(7) of the 1940 Act are private funds subject to mandatory criteria intended to limit participants to sophisticated and institutional investors. For example, Section 3(c)(1) funds are generally limited to no more than 100 beneficial owners that meet

¹²⁵ Swaps between the CSE and the fund that were entered into prior to the termination of the three-year seed period are not subject to IM requirements after the three-year period.

¹²⁶ 17 CFR 23.151. In accordance with Commission Regulation 23.151, MSE is determined as of September 1 of any year based on the AANA for March, April, and May of that year. Therefore, if a seeded fund's three-year exemption period terminates prior to September 1, the fund and its margin affiliates MSE calculation performed on September 1 must include the notional value of the fund's and its margin affiliates' swaps that are open as of the previous March, April, and May month-end dates.

¹²⁷ 17 CFR 23.161(c).

¹²⁸ 17 CFR 23.161(c). To further clarify, a CSE is not required to post or collect IM for swaps entered into with the fund and its margin affiliates prior to the calculation date of September 1.

¹²⁹ ACLI at pp. 3, 6–7; Associations Joint Letter at pp. 7–8.

¹³⁰ ACLI at pp. 3, 6–7; Associations Joint Letter at pp. 7–8.

¹³¹ Associations Joint Letter at p. 8.

¹³² *Id.*

¹³³ Associations Joint Letter at p. 9.

¹³⁴ Proposal at 53413.

¹³⁵ Section 10(a) of the 1940 Act, 15 U.S.C. 80b–1 *et seq.*; SEC, Commission Interpretation Regarding the Standard of Conduct for Investment Advisers, 84 FR 33669 (July 12, 2019).

“accredited investor” standards.¹³⁶ Section 3(c)(7) funds are generally limited to investors that are “qualified purchasers.”¹³⁷ Furthermore, both Section 3(c)(1) and Section 3(c)(7) funds are subject to strict solicitation and marketing restrictions or requirements with respect to the public offering of their securities.¹³⁸ The Commission believes that with such governance, offering, and investor participation limitations, the risk that sponsoring entities would establish multiple investment funds solely to avoid initial margin requirements on swaps for a limited period of three years, or earlier if a fund exceeds the AANA and initial margin threshold amount, is impractical as it would involve a sponsor and funds expending excessive resources on redundant legal, operational, and administrative costs.

One commenter indicated that most seeded funds operate as pooled investment vehicles and rely on one of two de minimis usage exemptions from registration as a commodity pool operator under Commission Regulation 4.5 (with respect to registered investment funds) or Commission Regulation 4.13(a)(3) (with respect to unregistered investment funds).¹³⁹ If a seeded fund relying on this exemption exceeds one of the de minimis thresholds, the fund operator would be required to register with the Commission.¹⁴⁰ Registration would trigger additional oversight from the Commission and allow for “greater capabilities to ensure that the seeded fund is not being used to evade the requirements of the [CFTC Margin Rule].”¹⁴¹

Finally, regarding the comment that a misalignment with the prudential regulators’ definition of margin affiliate may cause confusion and operational difficulties for market participants,¹⁴² the Commission notes that market

participant representatives supported the Commission’s adoption of the Proposal even in the absence of a parallel action by the prudential regulators.¹⁴³ According to commenters, the burden on market participants to make documentation and operational changes to accommodate different requirements under two U.S. regimes would not be significant because current documentation and systems can continue to be used in connection with prudentially regulated SDs.¹⁴⁴

b. Commission Regulation 23.151—Definition of “Eligible Seeded Fund”

The Commission proposed to define the term “eligible seeded fund” in Commission Regulation 23.151 as a collective investment vehicle that received all or part of its start-up capital from a parent and/or affiliate (each, a sponsor entity) and that meets certain specified conditions. The Commission’s proposed conditions to the “eligible seeded fund” definition were as follows: (1) the seeded fund must be a distinct legal entity from each sponsor entity; (2) one or more of the seeded fund’s margin affiliates must post and collect IM with a counterparty pursuant to Commission Regulation 23.152; (3) the seeded fund must be managed pursuant to an agreement that requires the seeded fund’s assets to be managed in accordance with a specified written investment strategy; (4) the seeded fund’s assets manager must have independence in carrying out its management responsibilities and exercising its investment discretion, and, to the extent applicable, must have independent fiduciary duties to other investors in the fund, such that no sponsor entity or any of the sponsor entity’s margin affiliates controls or has transparency into the management or trading of the seeded fund; (5) the seeded fund’s investment strategy must follow a written plan for reducing each sponsor entity’s ownership interest in the seeded fund that stipulates divestiture targets over the three-year period after the date on which the seeded fund’s asset manager first begins to make investments on behalf of the fund; (6) in respect of any of the seeded fund’s obligations, the seeded fund must not be collateralized, guaranteed, or otherwise supported, directly or indirectly, by any sponsor entity, any margin affiliate of any sponsor entity, other collective investment vehicle, or the seeded fund’s asset manager; (7) the seeded fund must not have received any

of its assets, directly or indirectly, from an eligible seeded fund that has previously relied on the eligible seeded fund exception; and, (8) the seeded fund must not be a securitization vehicle. After considering the comments received, the Commission is adopting the term “eligible seeded fund” as proposed, subject to the revisions discussed below. The Commission did not receive comments regarding proposed conditions (1) and (3) and is adopting the conditions as proposed. As such, an “eligible seeded fund” must be a distinct legal entity from each sponsor entity and must be managed by an asset manager pursuant to an agreement that requires the fund’s assets to be managed in accordance with a specified written investment strategy.

The Commission is also adopting condition (4) of the proposed definition subject to limited revisions. Proposed condition (4) required “[t]he seeded fund’s asset manager [to have] independence in carrying out its management responsibilities and exercising its investment discretion, and, to the extent applicable, [have an] independent fiduciary duty to other investors in the fund, such that no sponsor entity or any of the sponsor entity’s margin affiliates controls or has transparency into the management or trading of the seeded fund.” The Commission is revising the final condition to require “[t]he seeded fund’s asset manager [to have] independence in carrying out its management responsibilities and exercising its investment discretion, and, to the extent applicable, [have an] independent fiduciary duty to the fund and other investors in the fund, such that no sponsor entity or any of the sponsor entity’s margin affiliates, *except for the fund’s asset manager in the exercise of its management responsibilities*, controls or has transparency into the management or trading of the seeded fund.” The Commission is revising condition (4) by adding the provision “except for the fund’s asset manager in the exercise of its management responsibilities” to address commenters’ concerns that the condition would otherwise make it impossible for many genuinely independent seeded funds operated by an independent asset manager that has the same ultimate parent as the sponsor to rely on the exception.¹⁴⁵ The “eligible seeded fund” definition would thus allow seeded funds to have sponsor-affiliated asset managers while ensuring the fund’s independence. The

¹³⁶ 15 U.S.C. 80a–3(a)(1). An “accredited investor” includes a natural person with a net worth of more than \$1 million (not including a primary residence) and annual income of over \$200,000 (or \$300,000 jointly with a spouse or spouse equivalent), and includes non-natural persons with more than \$5 million in total assets. 17 CFR 230.501(a).

¹³⁷ 15 U.S.C. 80a–3(a)(1) and (7). A “qualified purchaser” is an investor that meets certain financial and sophistication standards including, for example, an individual that owns \$5 million or more in investments or an entity that owns and invests on a discretionary basis at least \$25 million in investments.

¹³⁸ 17 CFR 230.506.

¹³⁹ 17 CFR 4.5 and 4.13(a)(3); ACLI at p. 5.

¹⁴⁰ 17 CFR 4.5(c)(2)(iii) and 4.13(a)(3)(ii) (exempted registrants under either section have the option to select an aggregate initial margin test or a net notional test).

¹⁴¹ ACLI at p. 5.

¹⁴² Better Markets at p. 8.

¹⁴³ ACLI at p. 11; Associations Joint Letter at pp. 4, 16–17.

¹⁴⁴ Associations Joint Letter at p. 16.

¹⁴⁵ Associations Joint Letter at pp. 5–6; ACLI at p. 4.

Commission is also adding the words “to fund,” after “independent fiduciary duty,” in recognition that the asset manager’s fiduciary duty applies with respect to the fund and only indirectly with respect to other investors in the fund.

The Commission is not adopting condition (2) of the proposed “eligible seeded fund” definition, which provided that “one or more of the seeded fund’s margin affiliates [must be] required to post and collect [IM] pursuant to § 23.152.” Consistent with the Margin Subcommittee Report, the Commission proposed condition (2) to target seeded funds that become subject to the requirement to exchange IM due to the seeded funds’ affiliation with entities that are already required to post and collect IM with CSEs. The Commission, however, did not intend for the eligible seeded fund exception to be applicable only to funds that have a CSE in the corporate group. Rather, the Commission’s intent was to designate as “eligible” seeded funds only those seeded funds that are “seeded” by parent entities that have MSE and thus cause the seeded fund to come within the scope of the IM requirements. The Commission recognizes commenters’ concerns, however, that the proposed condition may lead to disparate treatment between seeded funds depending on the composition of their corporate group as discussed in Section II.A.2 above.¹⁴⁶ The Commission also believes, as further discussed below, that the other conditions in the adopted definition of “eligible seeded fund” would be sufficient to ensure that only the bona fide seeded funds discussed in the Margin Subcommittee Report would benefit from the exception.

The Commission is not adopting proposed condition (5), which would require that the seeded fund’s investment strategy follow a written plan for reducing each sponsor entity’s ownership interest in the seeded fund that stipulates divestiture targets over the three-year period from inception.¹⁴⁷ The Commission concurs with commenters that there are sufficient regulatory and market incentives for the sponsor entity to reduce its ownership stake in a seeded fund, including the three-year limit on the eligible seeded fund exception, the risk-based capital charges on the equity interest in seeded funds to which a sponsor may be subject, and the goal of the asset manager to implement a successful investment strategy that attracts third

party investments.¹⁴⁸ The Commission is also convinced by the argument that divestment must be flexible and managed so as to not materially impact the fund’s NAV.¹⁴⁹

The Commission is adopting remaining conditions (6), (7), and (8) of the proposed eligible seeded fund definition as proposed.¹⁵⁰ Proposed condition (6) provided that an eligible seeded fund must not be collateralized, guaranteed, or otherwise supported, directly or indirectly, by any sponsor entity, any margin affiliate of any sponsor entity, other collective investment vehicle, or the seeded fund’s asset manager, in respect of any of the seeded fund’s obligations. Proposed condition (7) provided that the seeded fund must not have received any of its assets, directly or indirectly, from an eligible seeded fund that has relied on the eligible seeded fund exception. Finally, proposed condition (8) provided that the seeded fund must not be a securitization vehicle.¹⁵¹

The condition imposing financial independence of the fund (condition (4) of the final definition), along with the requirements related to the fund’s legal, structural, and practical independence (conditions (1), (2), and (3) of the final definition), correspond to features that commenters consistently highlighted as justifying a separate treatment of seeded funds. As discussed in the Proposal, these conditions seek to ensure that eligible seeded funds are sufficiently independent and risk-remote from other entities in their group such that treating them separately for purposes of determining whether the thresholds for compliance with the IM requirements have been met is warranted.¹⁵² Conditions (1), (2), and (3) also seek to ensure that funds that qualify as eligible seeded funds have a bona fide business and economic purpose, meaning that the funds are not created for the sole purpose of evading the IM compliance thresholds.

In particular, the requirements that the fund is managed in accordance with a written investment strategy, by an asset manager that maintains independence in carrying out its management responsibilities and exercising its investment discretion, and that has independent fiduciary duties to the fund and, to the extent applicable, other investors in the fund, seek to ensure that no sponsor entity or an affiliate of a sponsor entity has control

or transparency into the management or trading of the seeded fund. Furthermore, the condition that the fund’s assets are managed by an independent investment manager in accordance with a specified written investment strategy aims to reserve the benefit of the eligible seeded fund exception to seeded funds that have a genuine economic purpose and intentions to emerge from the seeding phase as a viable collective investment vehicle.¹⁵³

In addition, the financial independence condition seeks to account for the potential risk that the seeded fund’s uncollateralized exposure may lead the sponsor entity or the asset manager to incur risks, increasing the potential for contagion and systemic risk. In proposing the condition, the Commission recognized that the sponsor of a seeded fund or its asset manager may be motivated to provide financial assistance to the seeded fund whose uncleared swaps may be uncollateralized as a result of the eligible seeded fund exception.¹⁵⁴ As discussed in the Proposal, the Commission was also concerned that the sponsor entity or the asset manager may also be inclined to provide financial assistance to the fund because of reputational or other concerns even in the absence of a guarantee or formal commitment, and at the risk of exhausting its own resources, raising the risk of contagion and systemic risk, in particular during times of widespread financial stress.¹⁵⁵ The Commission

¹⁵³ Proposal at 53413. In this connection, the Commission also noted in the Proposal that this position is consistent with the policy approach taken by the prudential regulators and the Commission in the regulations implementing the requirements of section 619 of the Dodd-Frank Act, commonly referred to as the “Volcker Rule.” The implementing regulations recognize the concept of a seeding period and exempt banking entities that acquire and retain an ownership interest in a covered fund (as the concept is defined under the implementing regulations) from some of the prohibitions of the Rule during the seeding period, under certain conditions. See 12 CFR 248.12(a)(1) and (2). The conditions include that the covered fund must actively seek unaffiliated investors to reduce, through redemption, sale, dilution, or other methods, the aggregate amount of all ownership interests of the banking entity in the covered fund to the amount permitted under the regulations. 12 CFR 248.12(a)(2)(i). Also, the aggregate value of all ownership interests of the banking entity and its affiliates in all covered funds acquired and retained under the relevant exemptions must not exceed 3 percent of the tier 1 capital of the banking entity. 12 CFR 248.12(a)(2)(iii). Although the Commission is not adopting identical conditions, the Commission is incorporating several requirements to achieve the same purpose as appropriate in the context of the CFTC Margin Rule, including the requirement that an eligible seeded fund be managed pursuant to a specified written investment strategy.

¹⁵⁴ Proposal at 53415.

¹⁵⁵ *Id.*

¹⁴⁸ ACLI at pp. 10–11.

¹⁴⁹ ACLI at p. 11.

¹⁵⁰ Proposal at 53427.

¹⁵¹ *Id.*

¹⁵² Proposal at 53415.

¹⁴⁶ Associations Joint Letter at 7.

¹⁴⁷ *Id.*

believes that condition (4) of the final eligible seeded fund definition, which seeks to ensure the fund's genuine independence, serves as an effective safeguard against financial contagion. In addition, the Commission believes that financial distress at a seeded fund that, by its nature, is in its initial stages of investment, would not cause significant reputational harm to the sponsor or asset manager, as many seeded funds that fail to develop successful trading strategies never reach the public markets.

Further, condition (5) that the seeded fund has not received, directly or indirectly, any of its assets from an eligible seeded fund seeks to ensure that the three-year period of the eligible seeded fund exception is not reinstated as a result of rollovers of fund assets or similar activities.¹⁵⁶

Finally, condition (6), which excludes securitization vehicles from the eligible seeded fund exception, is designed to further limit the proposed treatment of seeded funds only to funds subject to the Margin Subcommittee Report's recommendation.¹⁵⁷ The Commission maintains, as was noted in the adopting release for the CFTC Margin Rule, that there are sufficient reasons to keep securitization vehicles within the scope of the IM requirements.¹⁵⁸

These conditions collectively seek to achieve the goals of the Proposal, namely, to address challenges confronted by seeded funds, while providing appropriate safeguards to ensure that the eligible seeded fund exception remains narrowly tailored.¹⁵⁹

¹⁵⁶ *Id.* at 53422.

¹⁵⁷ *Id.* at 53414.

¹⁵⁸ As noted in the Proposal, despite receiving multiple comments from industry representatives to exclude securitization vehicles from the definition of FEU, and recommendations subsequent to the adoption of the CFTC Margin Rule, the Commission has maintained the position that there are sufficient reasons to keep these entities within the scope of the IM requirements. The Commission stated in the preamble to the final CFTC Margin Rule that the relevant IM compliance thresholds would address concerns related to the applicability of the IM requirements to these entities. Proposal at 53414; Final Margin Rule, 81 FR 636 at 683. The Commission continues to believe that it is not prudent to extend the eligible seeded fund exception to securitization vehicles.

¹⁵⁹ The Commission will also rely on tools that already exist under the CEA and the Commission regulations to address evasion concerns. Specifically, Commission Regulation 23.402(a)(ii) requires CSEs to have written policies and procedures to prevent the evasion, or participation in or facilitation of an evasion, of any provision of the CEA or the Commission regulations. Further, section 4b of the CEA prohibits any person entering into a swap with another person from cheating, defrauding, or willfully deceiving, or attempting to cheat, defraud, or deceive, the other person.

B. Eligible Collateral Amendment—Elimination of the Asset Transfer Restriction

1. Proposal

The Commission proposed to amend Commission Regulation 23.156(a)(1)(ix) to eliminate the requirement that only shares of funds that prohibit the transfer of fund assets through repurchase or similar arrangements that involve the funds having the right to acquire the same or similar assets from the transferees (the asset transfer restriction) qualify as eligible margin collateral. In adopting the CFTC Margin Rule, the Commission added redeemable shares in money market and similar funds to the list of eligible collateral in response to comments arguing for the inclusion of MMF securities as eligible collateral for IM.¹⁶⁰ The Commission explained that the addition of money market and similar fund shares to the list of eligible collateral would provide flexibility while maintaining a level of safety, noting that to qualify, such fund shares would need to meet the conditions in Commission Regulation 23.156(a)(1)(ix).

Commission Regulation 23.156(a)(1)(ix) limits eligible money market and similar funds to funds investing in: (i) securities that are issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury, and immediately-available cash denominated in U.S. dollars; or (ii) securities denominated in a common currency and issued, or fully guaranteed, by the European Central Bank or a sovereign entity that is assigned no higher than a 20 percent risk weight under the capital rules applicable to SDs subject to regulation by a prudential regulator, and immediately-available cash funds denominated in the same currency.¹⁶¹ Eligible money market and similar funds are also subject to the asset transfer restriction in paragraph (C) of Commission Regulation 23.156(a)(1)(ix), which has the effect of disqualifying shares of money market and similar funds where the funds have the authority to transfer fund assets through repurchase or similar arrangements.¹⁶² As discussed above, market

participants, and the GMAC Margin Subcommittee, have requested the Commission to eliminate the asset transfer restriction in paragraph (C), noting that it disqualifies the securities of most money market and similar funds and, therefore, significantly restricts the ability of CSEs and covered counterparties to use such forms of collateral.¹⁶³

MMFs are regulated, short-term investment vehicles that are subject to government regulations and oversight in the jurisdiction where the MMF is organized. In the United States, MMFs are subject to SEC regulations, such as SEC Rule 2a-7.¹⁶⁴ SEC Rule 2a-7 imposes several liquidity requirements, including (i) a general liquidity requirement;¹⁶⁵ (ii) restrictions on acquiring illiquid securities;¹⁶⁶ (iii) a minimum daily liquid asset requirement;¹⁶⁷ and (iv) a weekly liquid assets requirement.¹⁶⁸ These liquidity requirements are designed to ensure that a fund is able to accommodate investor redemptions, especially during times of market turmoil. SEC Rule 2a-7 also imposes diversification requirements, which restrict a fund from investing more than a certain percentage of its assets into the same entity.¹⁶⁹ The diversification requirements are designed to prevent a fund's overexposure to a single issuer.

In the European Union, money market funds are subject to European Union

¹⁶³ Margin Subcommittee Report at p. 23.

¹⁶⁴ 17 CFR 270.2a-7.

¹⁶⁵ 17 CFR 270.2a-7(d)(4) requires an MMF to hold securities that are sufficiently liquid to meet reasonably foreseeable shareholder redemptions.

¹⁶⁶ 17 CFR 270.2a-7(d)(4)(i) restricts an MMF from investing more than 5% of its total assets in illiquid securities. An illiquid security is defined in 17 CFR 270.2a-7(a)(18) as a security that cannot be sold or disposed of in the ordinary course of business within seven calendar days at approximately the value ascribed to it by the fund.

¹⁶⁷ 17 CFR 270.2a-7(d)(4)(iii) restricts an MMF from acquiring any security (other than a daily liquid asset) if, immediately after the acquisition, the fund would have invested less than 25% of its total assets in daily liquid assets. A daily liquid asset is an asset that can be converted into cash within one business day.

¹⁶⁸ 17 CFR 270.2a-7(d)(4)(iii) restricts an MMF from acquiring any security (other than a weekly liquid asset) if, immediately after the acquisition, the fund would have invested less than 50% of its total assets in weekly liquid assets. A weekly liquid asset is an asset that can be converted into cash within five business days or securities issued by US government instrumentalities with a remaining maturity date of 60 days or less.

¹⁶⁹ 17 CFR 270.2a-7(d)(3)(i) contains the following diversification restrictions: (i) a non-single state fund may not invest more than 5% of its total assets in securities issued by the same entity (which is subject to a temporary safe harbor); and (ii) a single state fund may not invest more than 5% of 75% of its total assets in securities issued by the same entity (which is subject to a permanent safe harbor).

¹⁶⁰ Final Margin Rule, 81 FR 636 at 666.

¹⁶¹ The terms "money market and similar funds" and "MMFs" used in referencing eligible initial margin collateral under Commission Regulation 23.156(a)(1)(ix) includes both money market funds investing in U.S. government securities consistent with Regulation 23.156(a)(1)(ix)(A) and funds investing in securities issued by the European Central Bank or certain foreign sovereigns consistent with Regulation 23.156(a)(1)(ix)(B), unless the context specifies otherwise.

¹⁶² *Id.*

regulations and are supervised by the applicable authority in the EU Member State where the money market fund is organized (*i.e.*, “national competent authority”).¹⁷⁰ The EU MMF Regulation imposes on money market funds a minimum daily liquid asset requirement and a weekly liquid asset requirement.¹⁷¹ Similar to the U.S. requirements, these liquidity requirements are designed to ensure that a fund is able to accommodate investor redemptions.¹⁷² The EU MMF Regulation also imposes diversification requirements that, similar to the SEC rules, restrict money market funds from investing more than a certain percentage of their assets into a single issuer;¹⁷³ these rules are designed to limit a money market fund’s exposure to the credit risk of any single issuer.¹⁷⁴

Additionally, the MMFs that qualify as eligible IM collateral under Commission Regulation 23.156 invest in high quality underlying instruments, including securities issued or unconditionally guaranteed as to the timely payment of principal and interest by the U.S. Department of the Treasury or the European Central Bank and cash. More generally, the Margin Subcommittee Report stated that the Commission has recognized MMFs as safe, high-quality investments, noting that, for example, Commission Regulation 1.25 permits futures commission merchants (“FCMs”) to invest customer funds in MMFs without an asset transfer restriction.¹⁷⁵

¹⁷⁰ See Regulation 2017/1131, of the European Parliament and of the Council of 14 June 2017 on money market funds (the “EU MMF Regulation”). Competent authorities cooperate and share information with the European Securities and Markets Authority (“ESMA”) to carry out their respective responsibilities. EU MMF Regulation, art 43.

¹⁷¹ EU MMF Regulation, art. 24(1)(c) and (e). EU money market funds must invest a certain percentage of their assets in daily assets (either 7.5% or 10%, depending on the type of money market fund) and in weekly assets (either 15% or 30%, depending on the type of money market fund). If the assets of an EU money market fund falls below one of its relevant thresholds, when a fund acquires a new security, it must be a type of security that would help the fund return to compliance with the liquidity requirements.

¹⁷² EU MMF Regulation, recitals (4), (37), and (38).

¹⁷³ EU MMF Regulation, art. 17 restricts EU money market funds from investing more than a certain percentage of its assets in the same entity (either 5%, 10%, or 20%, depending on the type of money market fund and the type of asset that is purchased).

¹⁷⁴ EU MMF Regulation, recitals (10), (25), and (28).

¹⁷⁵ Margin Subcommittee Report at p. 26. Commission Regulation 1.25 permits an FCM to invest customer excess funds in accounts held for futures, foreign futures, and cleared swap transactions in shares of U.S. government MMFs that invest a minimum of 99.5 percent of their total

Based on its experience implementing the margin requirements since their adoption in 2016 and for the reasons described in the Proposal, the Commission proposed the elimination of the restriction in paragraph (C) of Commission Regulation 23.156(a)(1)(ix).¹⁷⁶ The elimination of the asset transfer restriction would allow for a greater number of money market and similar fund securities to qualify as eligible IM collateral.¹⁷⁷ The Commission preliminarily considered the Proposal consistent with the Commission’s intent in identifying certain fund securities as eligible collateral when it adopted the CFTC Margin Rule. As discussed in the Proposal, the Commission stated that it intended to permit MMF securities to be pledged as IM collateral in order to permit flexibility, while also “maintaining a level of safety.”¹⁷⁸ According to the Margin Subcommittee Report, most multi-billion dollar MMFs available to the institutional marketplace use repurchase or similar arrangements as part of their management strategy.¹⁷⁹ The GMAC Subcommittee stated that, given the widespread use of repurchase or similar arrangements by MMFs, only a few of the MMFs currently available to institutional clients satisfy the asset transfer restriction in paragraph (C).¹⁸⁰ As a result, unless the asset transfer restriction is eliminated, this form of margin collateral would be of very limited availability to swap counterparties, contrary to the intent of the Commission.

As part of its rationale for issuing the Proposal, the Commission noted that

assets in cash, U.S. government securities, and/or repurchase agreements that are fully collateralized. (17 CFR 1.25(a)(1)(iv)).

¹⁷⁶ Proposal at 53416–53418.

¹⁷⁷ If adopted, the amendment would also result in an expanded scope of money market and similar fund securities that can serve as VM for uncleared swap transactions between a CSE and an FEU, given that Commission Regulation 23.156(b)(1)(ii), defining the types of assets qualifying as VM collateral for these transactions, incorporates the assets identified as eligible collateral for IM in Commission Regulation 23.156(a)(1).

¹⁷⁸ Final Margin Rule, 81 FR 636 at 666.

¹⁷⁹ Margin Subcommittee Report at p. 27.

¹⁸⁰ *Id.* at 24 (noting that a leading custodial bank has researched all the U.S. MMFs currently available to its institutional clients in the U.S. and found that only four would meet the requirements of Commission Regulation 23.156(a)(1)(ix)). By comparison, as of January 2026, there were 72 “Treasury” MMFs, whose shares could potentially qualify as eligible collateral absent the asset transfer restriction, provided the funds meet the remaining requirements in Commission Regulation 23.156(a)(1)(ix). See Money Market Fund Statistics, January 2026 Supporting Data, available at the SEC’s website here: <https://www.sec.gov/data-research/investment-management-data/money-market-fund-statistics>.

expanding the scope of eligible money market and similar fund securities may lead to more efficient collateral management practices.¹⁸¹ With respect to the use of MMF securities as IM collateral, the Commission referenced the Margin Subcommittee Report’s statement that many custodians offer money market sweep programs, which facilitate buy-side market participants’ timely meeting margin calls in cash that is subsequently used to purchase MMF securities, thereby avoiding the settlement delays or additional costs associated with the purchase and posting of non-cash assets.¹⁸² The Commission noted that this is particularly important given that under the custodian arrangement rules under Commission Regulation 23.157, IM collateral in cash must be promptly converted into other types of eligible collateral, such as securities of MMF or similar funds, to avoid the possibility that cash collateral may become a deposit liability of the custodian and to prevent rehypothecation by the custodian.¹⁸³

As noted in the Proposal, the Report also stated that the use of MMF securities as collateral may enable market participants to avoid potential negative interest rate charges that may be applied by custodian banks on cash collateral.¹⁸⁴ Finally, according to the Report, the sweep of cash into MMF securities helps market participants mitigate the risk of custodian insolvency as non-cash assets would not be consolidated with the custodian’s balance sheet or estate from a supplemental leverage ratio¹⁸⁵ or bankruptcy perspective.¹⁸⁶

In issuing the Proposal, the Commission stated that allowing a broader selection of money market and similar fund securities to serve as collateral may address the potential concentration of margin collateral in the

¹⁸¹ Proposal at 53417.

¹⁸² Under Commission Regulation 23.157, a custodian may accept and hold cash collateral as IM only if the funds are subsequently used to purchase an asset that qualifies as an eligible form of collateral under Commission Regulation 23.156(a)(1)(ii) through (x).

¹⁸³ Final Margin Rule, 81 FR 636 at 671.

¹⁸⁴ Proposal at 53417; Margin Subcommittee Report at p. 27.

¹⁸⁵ The supplemental leverage ratio represents the amount of common equity capital that banks or bank holding companies must hold relative to their total leverage exposure. CSEs and SD or MSP counterparties that are banks or bank holding companies and supervised by a U.S. banking regulator may be subject to this requirement. For further information, see Regulatory Capital Rules: Regulatory Capital, Revisions to the Supplemental Leverage Ratio, 79 FR 57725 (Sept. 26, 2014).

¹⁸⁶ Proposal at 53417; Margin Subcommittee Report at pp. 26–27.

securities of a few MMFs.¹⁸⁷ In this regard, the Commission noted that the removal of the asset transfer restriction could lead to an increased use of MMF securities as margin collateral.¹⁸⁸ The Commission acknowledged the risk of concentration of collateral in particular assets and reiterated, as stated in the preamble to the CFTC Margin Rule, that CSEs should take concentration into account and prudently manage their margin collateral.¹⁸⁹ For the same reasons, the Commission stated that CSEs should consider the overall investment strategy of a money market or similar fund, including the terms of repurchase or similar arrangements the fund may undertake, in determining whether to use the fund's securities to meet margin obligations under the CFTC rules.

The Commission also discussed how its understanding of the rationale for the asset transfer restriction has evolved since the adoption of the CFTC Margin Rule.¹⁹⁰ As noted in the Proposal, the Commission explained in the preamble to the CFTC Margin Rule that the restriction in paragraph (C) of Commission Regulation 23.156(a)(1)(ix) was included to ensure consistency with the prohibition against rehypothecation of IM collateral under Commission Regulation 23.157(c)(1). After further consideration and based on its experience implementing the margin requirements for several years, the Commission came to the preliminary conclusion that although these rules are similar in that they aim to mitigate loss, their objectives are distinguishable.¹⁹¹

As discussed in the Proposal, Commission Regulation 23.157 provides for the segregation of IM collateral with a third-party custodian to ensure that: (i) the IM is available to a counterparty when its counterparty defaults and a loss is realized that exceeds the amount of VM that has been collected as of the time of default; and (ii) the IM is returned to the posting party after its swap obligations have been fully discharged.¹⁹² In this context, the prohibition in Commission Regulation 23.157(c)(1) against rehypothecation, repledging, reuse, or other transfer (through securities lending, repurchase agreement, reverse repurchase

agreement, or other means) of funds or property held by the custodian advances the Commission's goal of ensuring that the pledged assets are available to the non-defaulting party in the event of a default by its counterparty.¹⁹³ In the preamble to the CFTC Margin Rule, the Commission explained that rehypothecation could allow the collateral posted by one counterparty to be used by the other counterparty as collateral for additional swaps, resulting in rehypothecation chains and embedded leverage throughout the financial system.¹⁹⁴

In contrast, as discussed in the Proposal, Commission Regulation 23.156(a) aims to identify assets as eligible collateral that are liquid, and, with appropriate haircuts, will hold their value in times of financial stress.¹⁹⁵ Paragraph (C) of Commission Regulation 23.156(a)(1)(ix), as adopted in the Final Margin Rule, was thus contemplated to ensure that money market and similar fund securities posted as IM collateral remain liquid and retain their value during times of financial stress. More specifically, paragraph (C) disqualified the securities of money market and similar funds that transfer their assets through repurchase or similar arrangements to mitigate the potential impact of such transfers on the liquidity or value of fund securities.¹⁹⁶

¹⁹³ In this regard, the Margin Subcommittee Report stated that "in [] MMF sweep arrangements, under no circumstances does the pledgor's custodian have any right to rehypothecate, reuse the IM collateral or take any other independent actions with respect to the pledged MMF shares. Instead, the CSE and financial end user agree upfront in the collateral documentation to the list of eligible MMFs and any associated haircuts, as pledgor any cash sweep into a MMF is instructed by the financial end user or its manager and absent any default, any transfers into and out of the collateral account by the custodian is instructed by the financial end user and agreed to by the CSE (as secured party)." Margin Subcommittee Report at p. 25.

¹⁹⁴ Final Margin Rule, 81 FR 636 at 688, n. 392 (describing as an example, the situation where a default or liquidity event that occurs at one link along the rehypothecation chain may induce further defaults or liquidity events for other links in the rehypothecation chain as access to the collateral for other positions may be obstructed by a default further up the chain, and also explaining that in the event of default along a rehypothecation chain, there is an increased chance that each party along the chain will ask for the rehypothecated collateral to be returned to them at the same time, leaving just one party with the collateral).

¹⁹⁵ Final Margin Rule, 81 FR 636 at 665; Proposal at 53417.

¹⁹⁶ Proposal at 53417–53418 (discussing the example of a counterparty to a money market or similar fund that does not fulfill its obligations under a repurchase or similar arrangement, thus leaving the fund holding assets that might not be easily resold or that might not provide sufficient compensation for the assets tendered in the repurchase arrangement, in particular during a period of financial stress, reducing the overall net

In explaining this rationale, the Proposal discussed the potential risks associated with a money market or similar fund being left with assets that cannot be easily resold as a result of a failure by a counterparty under a repurchase arrangement. The Commission, however, noted that the potential risk of a failed repurchase or similar arrangement may be mitigated by the standard industry practice of applying haircuts to non-cash collateral in repurchase or similar arrangements to compensate for the risk that the value of the collateral may decline over the term of the arrangement.¹⁹⁷

The Commission further noted that unlike in the rehypothecation situation, where collateral might be lost at any link of the chain with the posting counterparty in the uncleared swap transaction potentially losing its collateral without any recourse, in the repurchase or similar arrangement context, each party to the arrangement would be partially secured because the parties would exchange assets with each other under the arrangement.¹⁹⁸ Hence, the risk of loss would be mitigated. As the Commission reasoned, if a party to the repurchase arrangement defaults by failing to return assets tendered by its counterparty, the counterparty would not lose the entire value of its assets as it would hold the assets committed by the other party under the arrangement.¹⁹⁹

While acknowledging the concerns associated with repurchase or similar arrangements, the Commission preliminarily considered that the flexibility and safety that it aimed to achieve by specifically identifying assets as eligible collateral, including certain money market and similar fund securities, may be advanced even if repurchase or similar arrangements are not restricted for the purpose of qualifying money market and similar fund securities as eligible collateral. In

asset value of the fund and the price of the fund's securities). *See also*, Proposal at 53418 (noting that the inability to liquidate assets that a money market or similar fund might be left holding upon the failure of a repurchase or similar arrangement, or the inability to extract assets originally tendered in the repurchase agreement, may impact a fund's ability to promptly respond to redemption requests, which may hinder the liquidity of the money market and similar funds' securities, making the securities less suitable as margin collateral).

¹⁹⁷ Proposal at 53418, n. 83 (referencing Primer: Money Market Funds and the Repo Market, Prepared by the staff of the Division of Investment Management, U.S. Securities and Exchange Commission at pp. 5–6).

¹⁹⁸ Proposal at 53418.

¹⁹⁹ Proposal at 53418. As noted in the Proposal, that counterparty might, of course, experience some loss as the retained assets might not fully compensate such party for the unreturned assets.

¹⁸⁷ According to the Margin Subcommittee Report (citing research by a leading custodian bank), only four MMFs have securities that qualify as eligible collateral under the current rules. *See* Margin Subcommittee Report at p. 24.

¹⁸⁸ Proposal at 53417.

¹⁸⁹ Final Margin Rule, 81 FR 636 at 666.

¹⁹⁰ Proposal at 53417.

¹⁹¹ *Id.*

¹⁹² Final Margin Rule, 81 FR 636 at 670; Proposal at 53417.

that regard, the Commission stated that, based on its experience administering the CFTC Margin Rule, it preliminarily believed that risks associated with repurchase or similar arrangements would be adequately addressed even in the absence of the asset transfer restriction by safeguards already present in the CFTC regulations, which, in the Commission's view, can achieve the desired level of safety with respect to fund securities without restricting a fund's ability to undertake transactions in repurchase or similar arrangements.²⁰⁰

Among the safeguards, the Commission referenced Commission Regulation 23.156(a)(1)(ix)(A) and (B), which qualify as eligible collateral the securities of money market and similar funds that invest only in securities issued or unconditionally guaranteed by the U.S. Department of the Treasury, the European Central Bank or certain other sovereign entities, and cash. The Commission stated that, in its preliminary view, these provisions ensure that money market and similar fund securities present the fundamental characteristics of liquidity and value stability contemplated by the CFTC Margin Rule.²⁰¹ The Commission further noted that subparagraphs (A) and (B) of Commission Regulation 23.156(a)(1)(ix) effectively limit the types of assets that a money market and similar fund can receive in repurchase or similar arrangements.²⁰² As such, the Commission noted, the securities of money market and similar funds will qualify as eligible collateral only if the types of assets that the fund receives in a repurchase or similar arrangement are those described in subparagraphs (A) and (B).²⁰³

The Commission further discussed Commission Regulation 23.156(c), which requires that CSEs monitor the market value and eligibility of all collateral and, to the extent that the market value has declined, promptly collect or post additional eligible collateral to maintain compliance with Commission Regulations 23.150 through 23.161.²⁰⁴ Thus, the Commission stated, even if the value or liquidity of pledged money market and similar fund securities may be affected by a repurchase or similar arrangement undertaken by the fund, CSEs have the obligation to monitor the value and suitability of the fund's securities as

margin collateral and collect or post additional eligible collateral to compensate for collateral deficiencies.²⁰⁵

Finally, the Commission referenced section 4s(j)(2) of the CEA, which requires CSEs to adopt a robust and professional risk management system that is adequate for the management of their swap activities,²⁰⁶ and Commission Regulation 23.600, which mandates that CSEs establish a risk management program to monitor and manage risks associated with their swap activities including, among other things, credit and liquidity risks. In particular, the Commission highlighted the requirement in Commission Regulation 23.600(c)(4) that credit risk policies and procedures should provide for the regular valuation of collateral used to cover credit exposures and the safeguarding of collateral to prevent loss, disposal, rehypothecation, or use unless appropriately authorized, and that liquidity risk policies and procedures should provide for, among other things, the assessment of procedures for liquidating all non-cash collateral in a timely manner and without a significant effect on price, and the application of appropriate collateral haircuts that accurately reflect market and credit risk.²⁰⁷

Given these safeguards and the recognition that the asset transfer restriction is severely limiting the use of money market and similar fund securities as eligible collateral, the Commission preliminarily concluded that it is appropriate to eliminate the asset transfer restriction.²⁰⁸ The Commission also noted that the elimination of the restriction would bring the CFTC's treatment of money market and similar fund securities as eligible collateral more in line with the SEC approach, which does not impose asset transfer restrictions on funds whose securities are used as collateral for margining purposes and expressly permits the use of government money market fund securities as collateral, thereby potentially leading to a reduction in costs for those market participants that dually register as SDs and security-based swap SDs with the CFTC and the SEC, respectively.²⁰⁹

2. Comments

The Commission received seven substantive comments addressing the asset transfer restriction. Five comment

letters supported the Proposal,²¹⁰ while two letters opposed it.²¹¹

Comments supportive of the Proposal noted that, among other benefits, the proposed amendments would greatly expand the potential universe of MMFs that would be considered eligible collateral, without significantly increasing risk.²¹² Commenters stated that MMFs regularly engage in transactions in repurchase or similar arrangements involving U.S. Treasury securities as an important means to invest their excess cash on a secure, short-term basis and that the asset transfer restriction significantly and unnecessarily limits the ability to utilize government MMFs and other similar fund securities as eligible IM.²¹³

Further, ICI asserted that any additional risks associated with transactions in repurchase or similar arrangements would be addressed notwithstanding the elimination of the asset transfer restriction.²¹⁴ In this regard, ICI noted that among the various types of MMFs,²¹⁵ only certain government MMFs would continue to qualify as eligible collateral.²¹⁶ Other types of MMFs, such as prime MMFs that invest in a broader variety of instruments, including privately-issued short-term securities, would continue to be excluded.²¹⁷ ICI highlighted that prime MMFs, not eligible government MMFs, have raised financial stability concerns in the past.²¹⁸ In support of eliminating the asset transfer restriction, several commenters also referred to existing safeguards in the SEC rules

²¹⁰ Federated Hermes at p. 1; ICI at p. 5; Associations Joint Letter at p. 3; Barnard at p. 2; and MFA at p. 3.

²¹¹ Better Markets at pp. 1–2; Senator Warren at p. 3.

²¹² ICI at pp. 5–7 (noting, among other comments, that ICI estimates that eliminating the asset transfer restriction would significantly increase the scope of eligible collateral from 21 to 45 MMFs); Associations Joint Letter at pp. 3–4; Barnard at p. 2; MFA at pp. 3–4; and Federated Hermes at p. 2.

²¹³ ICI at pp. 5–6.

²¹⁴ ICI at pp. 7–8.

²¹⁵ Only MMFs that primarily invest in securities issued or guaranteed by the U.S. government (government MMFs) or similar funds that invest in securities issued or unconditionally guaranteed by certain other sovereign entities are addressed in this Final Rule. MMFs that primarily invest in short-term corporate debt (prime MMFs) and other types of MMFs are not relevant to the Eligible Collateral Amendment.

²¹⁶ ICI at p. 7–8.

²¹⁷ ICI at p. 8 (noting that the Reserve Primary Fund, a prime MMF—whose shares fell from a net asset value of \$1.00 to \$.97 in September 2008—held a range of privately-issued debt in its portfolio, including commercial paper issued by Lehman Brothers).

²¹⁸ ICI at p. 8 (noting that government MMFs received substantial inflows during the COVID–19 pandemic, during which prime MMFs experienced purported stress).

²⁰⁰ Proposal at 53418.

²⁰¹ Proposal at 53418; Final Margin Rule, 81 FR 636 at 665.

²⁰² Proposal at 53418.

²⁰³ *Id.*

²⁰⁴ *Id.* (referencing 17 CFR 23.156(c)).

²⁰⁵ *Id.*

²⁰⁶ *Id.* (referencing 7 U.S.C. 6s(j)).

²⁰⁷ *Id.* (referencing 17 CFR 23.600).

²⁰⁸ Proposal at 53418.

²⁰⁹ *Id.*

under the Investment Company Act of 1940, including SEC Rule 2a-7 (mandating that government MMFs invest 99.5 percent or more of their total assets in cash, government securities, and/or repurchase agreements that are collateralized fully and evaluate the creditworthiness of the repurchase agreement counterparty) and SEC Rule 5b-3 (defining the “collateralized fully” requirement).²¹⁹ Commenters asserted that as a result of the requirements imposed by these rules, the vast majority of repurchase transactions in which government MMFs engage are overcollateralized and entered into with counterparties posing minimal credit risk due to credit risk determinations made with respect to the counterparty.²²⁰ ICI and Federated Hermes emphasized that the characteristics of government MMFs and the manner in which they conduct repurchase transactions would mitigate the risk of settlement failure in a repurchase transaction.²²¹

The Associations Joint Letter and ICI further explained that MMFs generally act as “buyers” that provide cash to other market participants with cash borrowing needs (“sellers”) in exchange for U.S. Treasury securities, with an agreement by the fund to sell (or the seller to buy) back those securities after a specified period, typically overnight.²²² The Associations Joint Letter asserted that this arrangement protects MMFs from custodian insolvency risk which arises where custodians hold cash in deposit accounts.

In general, commenters recommended that the Commission eliminate the asset transfer restriction without imposing any additional requirements such as restrictions on the nature of the repurchase or similar arrangements in which MMFs engage, a percentage cap on repurchase or similar arrangements, or additional haircuts.²²³ Commenters argued that such additional requirements would undermine the elimination of the restriction by significantly and unnecessarily limiting the scope of MMFs and other similar funds that qualify as eligible collateral.²²⁴ The Associations Joint Letter further rejected the idea that the Commission should impose a clearing requirement for transactions involving

repurchase or similar arrangements.²²⁵ The Associations Joint Letter noted that the U.S. Treasury securities clearing market is in a state of transition, citing the SEC’s reform of the U.S. Treasury market, and recommended the Commission wait until the SEC’s reform is finalized.²²⁶

Some commenters criticized the proposal arguing that the Commission should not allow SDs to use MMFs as collateral and expressing general concern over MMFs and their performance during the 2020 COVID-19 pandemic.²²⁷ Senator Warren noted that the Federal Reserve had to step in and use taxpayer-backed bailouts to assist MMFs during the pandemic.²²⁸ Better Markets argued that MMFs are unstable and instead capitalize on profits during favorable market conditions and externalize losses to the public during times of market stress.²²⁹ Additionally, according to Better Markets, MMFs lack mandatory capital buffers or government insurance which makes them unsuitable for margin collateral.²³⁰ Better Markets asserted that both in 2008 and 2020, the government had to intervene with trillions of dollars in taxpayer-funded guarantees and liquidity assistance to prevent MMFs from collapsing.²³¹ Finally, Better Markets asserted that the Commission should refrain from lifting the asset transfer restriction, a move that could significantly elevate the use of MMFs as eligible non-cash collateral.²³²

Conversely, ICI argued that government MMFs actually saw substantial inflows during the 2020 COVID-19 pandemic, showing that government MMFs continued to serve as a liquidity vehicle of choice for investors.²³³ Similarly, ISDA, SIFMA, and SIFMA AMG noted that the MMFs most impacted by “runnability” and “breaking the buck” in past crises were those that invested in a broader range of assets and accordingly would not be

eligible collateral under the CFTC Margin Rule regardless of whether there is an asset transfer restriction or other restrictions on the MMF’s use of repos.²³⁴

3. Discussion

The Commission has considered the comments and continues to believe that the elimination of the asset transfer restriction will lead to more efficient collateral management practices by allowing for a greater number of money market and similar fund securities to qualify as eligible IM collateral. For the reasons stated in the Proposal, the Commission, therefore, is amending Commission Regulation 23.156(a)(1)(ix) to eliminate the asset transfer restriction as proposed.

The Commission understands that the asset transfer restriction continues to be a significant impediment to the use of money market and similar funds’ securities as IM collateral. Data from the Office of Financial Research indicates that U.S. MMFs actively engage in U.S. Treasury securities repurchase transactions, which, absent amendment, renders such funds ineligible as collateral under Commission Regulation 23.156(a)(1)(ix).²³⁵

The Commission acknowledges commenter concerns that, in the past, government support has helped to stabilize the MMF market. As noted by some commenters, however, the SEC has adopted amendments to the regulations governing MMFs to address the structural weaknesses in the MMF market.²³⁶ In addition, prime MMFs, which are generally the type of funds that in the past have experienced a decrease in value during periods of stress, remain ineligible under Commission Regulation 23.156(a)(1)(ix).²³⁷ Government MMFs, on the other hand, have high liquidity and low volatility.²³⁸ The Commission agrees that prime MMFs should not be included in the list of eligible collateral, but believes that disqualifying all MMFs engaging in repurchase or similar

²²⁵ Associations Joint Letter at pp. 14–15.

²²⁶ Associations Joint Letter at p. 14 (referring to the SEC’s proposal in Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule with Respect to U.S. Treasury Securities, 87 FR 64610 (Oct. 25, 2022) (“Treasury Clearing Rule”). The SEC adopted the proposal in a final rule published on January 16, 2024, *see* 89 FR 2714 (Jan. 16, 2024). On February 25, 2025, the SEC extended the compliance date of the new requirements for eligible repo market transactions to June 30, 2027.

²²⁷ Senator Warren at pp. 2–3; Better Markets pp. 8–9.

²²⁸ Senator Warren at pp. 2–3.

²²⁹ Better Markets at pp. 8–9.

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ ICI at p. 8.

²³⁴ Associations Joint Letter at p. 13.

²³⁵ Current data from the Office of Financial Research indicates that U.S. MMFs continue to take part in Treasury repo transactions, accounting for approximately \$1.7 trillion dollars in October 2025. *See U.S. MMFs’ Investments in the Repo Market*, Office of Financial Research, available at: <https://www.financialresearch.gov/money-market-funds/us-mmfs-investments-in-the-repo-market/>.

²³⁶ *Money Market Fund Reforms; Form PF Reporting Requirements for Large Liquidity Fund Advisers; Technical Amendments to Form N-CSR and Form N-1A*, 88 FR 51404 (August 3, 2023).

²³⁷ 17 CFR 23.156(a)(1)(ix).

²³⁸ *See* SEC, Statistics & Data Visualizations, available at: <https://www.sec.gov/data-research/statistics-data-visualizations/money-market-fund-statistics/money-market-funds-liquidity>.

²¹⁹ Federated Hermes at p. 2; ICI at pp. 6–7; Associations Joint Letter at pp. 13–14.

²²⁰ *Id.*

²²¹ ICI at p. 6; Federated Hermes at pp. 2–3.

²²² Associations Joint Letter at p. 13; ICI at p. 6.

²²³ ICI at pp. 6–8; Federated Hermes at pp. 2–3; and Associations Joint Letter at pp. 12–15.

²²⁴ ICI at p. 7.

arrangements from the list of eligible collateral could unduly restrict market participants' use of fund securities as IM under the CFTC Margin Rule framework. Commission Regulation 23.156(a)(1)(ix), therefore, will continue to only allow certain types of government MMFs and similar funds to qualify as eligible collateral, including after the elimination of the asset transfer restriction; prime MMFs will continue to be excluded as eligible collateral.

In consideration of the comments received, the Commission is not adopting any additional restrictions—such as limits on the nature or volume of repurchase and similar arrangements or additional haircuts—on the ability of eligible money market and similar funds to engage in repurchase or similar arrangements. The Commission agrees that additional conditions would be unnecessary, burdensome, and potentially counterproductive given the existing regulatory frameworks governing the investment funds whose securities are eligible to serve as IM collateral. Given the ongoing implementation of the SEC's clearing requirements for transactions in U.S. Treasury securities,²³⁹ the Commission has also determined not to condition the collateral eligibility of an investment fund on the requirement that the fund's repurchase or similar arrangements be cleared.

C. Commission Regulation 23.156(a)(3)—Haircut Schedule Amendment

1. Proposal

The Commission proposed amending the eligible margin collateral haircut schedule contained in Commission Regulation 23.156(a)(3)(i)(B) to add a footnote specifying the haircut required on shares of money market and similar funds that was inadvertently omitted when the rule was originally promulgated.²⁴⁰

Commission Regulation 23.156(a)(3) sets forth percentage discounts to be applied to the market value of eligible non-cash margin collateral collected or posted to satisfy IM requirements that vary according to asset class ("haircut requirements"). The haircut requirements are intended to address the possibility that the value of non-cash eligible collateral may decline between a CSE's or its counterparty's default and the close out of the swap

positions by the CSE or the CSE's counterparty, as applicable.

Although the Commission intended to align the CFTC Margin Rule for uncleared swaps with the Prudential Regulators Margin Rule, in adopting its rule, the Commission inadvertently omitted a footnote to the haircut schedule included in the Prudential Regulators Margin Rule.²⁴¹ The Commission proposed an amendment to Commission Regulation 23.156(a)(3) to incorporate the omitted footnote.²⁴² The proposed footnote, consistent with the footnote in the Prudential Regulators Margin Rule, describes the haircut applicable to the securities of money market and similar funds.²⁴³ The Proposal provided that the haircut for such money market and similar fund securities would be the weighted average discount on all assets within the funds (the discount for each asset is specified in Commission Regulation 23.156(a)(3)) at the end of the prior month.²⁴⁴ As proposed, the footnote would further specify that the weights to be applied in the weighted average should be calculated as a fraction of each fund's total market value that is invested in each asset with a given discount amount.²⁴⁵

The Proposal sought public comment on the proposed footnote, and on alternative methods to calculate the applicable haircut.²⁴⁶ Specifically, the Proposal requested comment on whether utilizing a fixed percentage haircut (similar to the percentages applicable to other assets that qualify as eligible collateral under the haircut schedule) would be less complex to administer than applying a dynamic formula.²⁴⁷

2. Comments

The Commission received two substantive comments addressing the amendment to the haircut schedule.²⁴⁸ Both comment letters recognized the Commission's effort to align the margin rules for uncleared swaps with the Prudential Regulators Margin Rule.²⁴⁹ The Associations Joint Letter appreciated the Commission's effort to harmonize margin rules within the

U.S.²⁵⁰ and ICI stated that the amendment to the haircut schedule in the Proposal would harmonize the CFTC's approach with the Prudential Regulators Margin Rule.²⁵¹ Both comment letters, however, also highlighted the challenges in applying a weighted average discount on all fund assets and recommended that the Commission adopt a standard discount percentage for the haircut footnote.²⁵² The Associations Joint Letter stated that applying a weighted average discount is "overly cumbersome," "unduly burdensome in practice and contribute[s] to the fact that market participants . . . generally do not pledge MMF securities as collateral."²⁵³ ICI stated that the approach would impose a "host of practical challenges."²⁵⁴ Both comment letters stated that, because portfolio information might not be available on a real-time basis or in a timely manner, it would be difficult for market participants to perform such calculations.²⁵⁵ In the Associations Joint Letter, the commenters explained that due to the lack of timely publication by the MMFs about the fund's portfolio composition, market participants who want to use MMF securities as margin collateral would be required to either calculate the haircut to the MMF securities based on the longest dated asset the MMF could hold, which information may not always be available from the MMFs, or regularly ascertain any changes in an MMF's portfolio, including through other sources.²⁵⁶ Further, the ICI/SIFMA AMG Letter stated that the proposed methodology would require parties to an uncleared swap transaction to contractually allocate the calculation obligations in their credit support documents, which are highly negotiated documents, and require the designated party to build a system to "look-through" and identify the haircut applicable to each of the fund's holdings and then routinely run such calculations to assess the appropriate haircut.²⁵⁷ ICI and SIFMA AMG argued that these "laborious and resource-intensive" tasks are not necessary for money market and similar funds, given the existing eligibility requirements limiting the types of fund

²³⁹ On February 25, 2025, the SEC extended the compliance date of the new requirements for eligible repo market transactions in U.S. Treasury securities described in the Treasury Clearing Rule to June 30, 2027.

²⁴⁰ 17 CFR 23.156(a)(3)(i)(B).

²⁴¹ Prudential Regulators Margin Rule at 74910.

²⁴² Proposal at 53419.

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ Associations Joint Letter; ICI. ICI and SIFMA AMG later elaborated on their original comments on the appropriate haircut by submitting a supplemental comment letter ("ICI/SIFMA AMG Letter").

²⁴⁹ ICI at pp. 8–9; Associations Joint Letter at p. 15.

²⁵⁰ Associations Joint Letter at p. 15.

²⁵¹ ICI at p. 9.

²⁵² ICI at pp. 8–9; Associations Joint Letter at p. 15.

²⁵³ Associations Joint Letter at pp. 15–16.

²⁵⁴ ICI at p. 9.

²⁵⁵ ICI at pp. 8–9; Associations Joint Letter at p. 15.

²⁵⁶ Associations Joint Letter at p. 16.

²⁵⁷ ICI/SIFMA AMG Letter at p. 2.

holdings.²⁵⁸ ICI and SIFMA AMG further asserted that the same practical challenges would apply to any methodology that requires a “look-through” and assessment of characteristics of fund holdings.²⁵⁹

ICI and the Associations Joint Letter, therefore, both supported a fixed percentage haircut. Although ICI recommended that the Commission utilize a fixed haircut, it did not recommend a specific numerical percentage.²⁶⁰ The Associations Joint Letter recommended that the Commission allow CSEs to determine the appropriate haircut pursuant to their respective standard risk management processes or, alternatively, that the Commission adopt a standard 2 percent haircut.²⁶¹ The Associations Joint Letter stated the high liquidity and low volatility of MMF securities, as a result of SEC’s regulation of MMFs, makes it unnecessary to apply a complex, MMF-specific valuation and haircut calculation as such calculation would result in negligible changes to an investment product with economic attributes very similar to cash.²⁶² The Associations Joint Letter further asserted that a 2 percent haircut is consistent with the standard practice outside of the uncleared swaps margin rules to apply a 2 percent haircut to MMF securities pledged as collateral, and that 2 percent is likely higher than the haircut percentage that would be determined using the methodology in the proposed haircut footnote.²⁶³ Finally, the ICI/SIFMA AMG Letter recommended applying a static 0.5 percent haircut to securities of funds that are regulated under SEC Rule 2a–7 and other eligible funds that limit their investments to securities with maturities of less than one year or otherwise maintain a dollar-weighted average portfolio maturity of less than one year.²⁶⁴ For funds that are eligible under Commission Regulation 23.156(a)(1)(ix) but do not meet these criteria, ICI/SIFMA AMG recommended a static 2 percent haircut.²⁶⁵

3. Discussion

Following consideration of comments received in response to the Proposal and based on its analysis, the Commission is revising the haircuts schedule in Commission Regulation

23.156(a)(3)(i)(B) as discussed below.

As noted above, the Commission’s intent was to align the haircut schedule under the CFTC Margin Rule with the Prudential Regulators Margin Rule. The Commission, however, recognizes the challenges associated with a dynamic haircut approach that requires a CSE, as a fund participant, to develop a process to compute a monthly weighted average discount on all assets within the funds after applying the specified haircut for each asset as established in Commission Regulation 23.156(a)(3). These challenges also include the ability of CSEs to monitor and ascertain information from a third-party portfolio.²⁶⁶

The Commission agrees that it is appropriate to balance consistency with the Prudential Regulators Margin Rule with practical accommodations that reflect the realities of the marketplace. The Commission also agrees that a fixed percentage haircut is an acceptable and practical approach for establishing appropriate haircuts for money market and similar fund securities to account for potential changes in market value. Therefore, the Commission is adopting specific percentage haircuts for securities representing redeemable interest in eligible investment funds. To set the haircut percentages for shares of redeemable investment funds that are eligible margin collateral, the Commission used as reference the haircuts set forth in the haircut schedule in Commission Regulation 23.156(a)(3) for direct holding of the securities that comprise the assets of the investment fund. Currently, CSEs are permitted under the CFTC Margin Rule to post and

collect securities issued by, or unconditionally guaranteed by, the U.S. Department of Treasury as IM for uncleared swaps.²⁶⁷ The CFTC Margin Rule also permits CSEs to post and collect securities issued by, or unconditionally guaranteed by, the European Central Bank or a sovereign entity that is assigned no higher than a 20 percent risk weight under the capital rules applicable to SDs subject to regulation by the prudential regulators.²⁶⁸ The standardized haircut schedule requires CSEs to haircut the market value of each security by 0.5 percent, 2 percent, or 4 percent depending on whether the remaining maturity of the security is less than one year, one year to five years, or greater than five years, respectively.²⁶⁹ To retain consistency with the fixed percentage haircuts imposed on individual securities, the Commission is adopting the same fixed percentage haircuts on securities representing redeemable interest in pooled investment funds that are comprised of the same individual securities and cash. In this regard, CSEs currently are permitted to post and collect as IM redeemable securities in investment funds that limit their investments to cash and securities that are issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury.²⁷⁰ CSEs are also permitted to post and collect as IM securities in investment funds that limit their investments to securities denominated in a common currency and issued by, or fully guaranteed as to principal and interest by, the European Central Bank or a sovereign entity that is assigned no higher than a 20 percent risk weight under the capital rules applicable to SDs subject to regulation by a prudential regulator, and cash funds denominated in the same currency as the securities.²⁷¹ To be consistent with the existing haircuts on direct holding of eligible securities, the Commission is amending the haircut schedule to provide that a CSE must take haircuts on the market value of eligible redeemable securities in pooled investment funds of 0.5 percent or 2 percent if the fund limits its investments to securities with a remaining maturity of less than one or one to five years, respectively. CSEs may also be able to apply a 0.5 percent or 2 percent haircut to an investment

²⁵⁸ ICI/SIFMA AMG Letter at p. 2.

²⁵⁹ *Id.* at p. 3.

²⁶⁰ ICI at pp. 8–9.

²⁶¹ Associations Joint Letter at pp. 15–16.

²⁶² Associations Joint Letter at p. 16.

²⁶³ ICI at p. 9.

²⁶⁴ ICI/SIFMA AMG Letter at p. 3.

²⁶⁵ *Id.* at p. 4. In subsequent discussions with Commission staff, ICI and SIFMA AMG further clarified their recommended approach and acknowledged that if the fund invests in instruments of longer duration, a third tier of haircuts (*i.e.*, 4 percent) may be appropriate to achieve consistency with the haircuts that would be applicable to the underlying instruments pursuant to the standardized haircut schedule in Commission Regulation 23.156(a)(3). ICI and SIFMA AMG also requested that the Commission provide guidance on the process of determining the applicable haircut.

²⁶⁶ A dynamic haircut approach is consistent with the haircut requirements of the Prudential Regulators Margin Rule, with which the Commission intended to align the CFTC Margin Rule. Prudential Regulators Margin Rule, 80 FR 74840 at 74910 and CFTC Margin Rule, 81 FR 636 at 668. The haircut schedule of the Prudential Regulators Margin Rule includes a footnote, which was inadvertently omitted from the CFTC Margin Rule, providing that the discount to be applied to an eligible investment fund is the weighted average discount on all assets within the eligible investment fund at the end of the prior month. The footnote further specifies that the weights to be applied in the weighted average should be calculated as a fraction of each fund’s total market value that is invested in each asset with a given discount amount. As an example, an eligible investment fund that is comprised solely of \$100 of 91-day Treasury bills and \$100 of 3-year U.S. Treasury bonds would receive a discount of $(100/200) * 0.5 + (100/200) * 2.0 = (0.5) * 0.5 + (0.5) * 2.0 = 1.25$ percent. 80 FR 74840 at 74910.

²⁶⁷ 17 CFR 23.156(a)(1)(ii).

²⁶⁸ 17 CFR 23.156(a)(1)(iv).

²⁶⁹ 17 CFR 23.156(a)(3)(B).

²⁷⁰ 17 CFR 23.156(a)(1)(ix)(A).

²⁷¹ 17 CFR 23.156(a)(1)(ix)(B).

fund, if the CSEs can demonstrate, based on the fund's stated investment restrictions, that the fund's maximum value-weighted average time to maturity would never exceed one year or one to five years, respectively. For funds that do not restrict their investments to securities with a remaining maturity of less than five years or do not restrict the maximum value-weighted average portfolio maturity to less than five years, the applicable haircut is 4 percent. The relevant percentage discount is to be applied to the market value of the fund shares, in accordance with Commission Regulations 23.156(a)(3)(ii) and 23.156(b)(2)(ii).²⁷²

The comments generally focused on the use of SEC-registered MMFs as eligible IM collateral. The Commission notes that investment funds that qualify as MMFs pursuant to SEC Rule 2a–7 are limited to investing only in securities with a remaining maturity of less than 397 days and are required to maintain a dollar-weighted average portfolio maturity that does not exceed 120 calendar days.²⁷³ As such, shares of MMFs that meet the IM eligibility requirements of Commission Regulation 23.156(a)(1)(ix) will be subject to a 0.5 percent haircut.²⁷⁴

Other eligible investment funds that are subject to comparable risk-limiting conditions in the jurisdictions in which they are established and thus limit their investments to securities with a residual maturity of less than one year or

maintain, as part of their investment strategy, a defined maximum value-weighted average portfolio maturity of less than one year, would also be subject to a 0.5 percent haircut. To demonstrate that the fund meets the criteria for applying a 0.5 percent haircut, the CSE will be able to rely on the fund's offering documents. Similarly, for funds that do not apply such restrictive time-to-maturity limitations, CSEs will be able to determine the applicable 2 percent or 4 percent haircut based on the underlying securities' maximum residual maturity or the fund's maximum value-weighted average portfolio maturity stated in the fund's prospectus or relevant offering document if such investment restriction is explicitly included. The ability to refer to the maximum residual maturity of the underlying securities or to the fund's maximum potential value-weighted average portfolio maturity, as such investment restrictions are stated in the fund's offering documents, will allow CSEs to implement a practical approach to selecting the applicable static haircut that does not implicate a dynamic review of the fund's actual portfolio.

The Commission expects that a haircut approach based on the residual maturity of underlying securities or the value-weighted average time to maturity of an eligible investment fund's portfolio will incentivize the use of funds that invest in short-term instruments, which would be better positioned to retain their value in periods of market stress.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") requires Federal agencies to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and provide a regulatory flexibility analysis respecting the impact.²⁷⁵ Whenever an agency publishes a general notice of proposed rulemaking for any rule, pursuant to the notice-and-comment provisions of the Administrative Procedure Act,²⁷⁶ a regulatory flexibility analysis or certification typically is required.²⁷⁷ As discussed in the Proposal, the amendments being adopted herein would only affect certain SDs and MSPs and their counterparties, which must be eligible contract participants

("ECPs").²⁷⁸ The Commission has previously established that SDs, MSPs and ECPs are not small entities for purposes of the RFA.²⁷⁹

Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the Final Rule will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA")²⁸⁰ imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. Under the PRA, 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 control number from the Office of Management and Budget ("OMB").²⁸¹ The PRA is intended, in part, to minimize the paperwork burden created for individuals, businesses, and other persons as a result of the collection of information by Federal agencies, and to ensure the greatest possible benefit and utility of information created, collected, maintained, used, shared, and disseminated by or for the Federal Government.²⁸² The PRA applies to all information, regardless of form or format, whenever the Federal Government is obtaining, causing to be obtained, or soliciting information, and includes required disclosure to third parties or the public, of facts or opinions, when the information collection calls for answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.²⁸³ This Final Rule does not contain any requirements subject to the PRA. Accordingly, the Commission has not

²⁷² 17 CFR 23.156(a)(3)(ii) and 17 CFR

23.156(b)(2)(ii).

²⁷³ 17 CFR 270.2a–7(d).

²⁷⁴ On April 14, 2025, MPD issued an interpretive letter ("Staff Letter 25–11") stating that exchange-traded funds ("ETFs") that fall within the regulatory framework set forth in SEC Rule 6c–11 may qualify as eligible IM as defined in the CFTC Margin Rule, provided the ETFs meet the criteria listed in Commission Regulation 23.156(a)(1)(ix) (*i.e.*, (i) the ETF issues and redeems ETF shares only on the basis of the market value of the fund's net assets prepared each business day after security-holders make their investment commitments or redemption requests to the fund; and (ii) the ETF limits its investments to securities that are issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury, and immediately-available cash funds denominated in U.S. dollars. With respect to the applicable haircuts, Staff Letter 25–11 provided that a CSE may either calculate the weighted average discount on all assets within the fund at the end of the prior month or use the haircut provided for the asset with longest residual maturity held by the fund (*e.g.*, 4 percent if an ETF that holds U.S. Treasury securities with a residual maturity greater than five years). The Commission's revisions to the haircut schedule for eligible redeemable securities in pooled investment funds adopted in this rulemaking, however, supersede the haircuts specified in Staff Letter 25–11. Therefore, a CSE may apply a haircut of 0.5 percent, 2 percent, or 4 percent on eligible ETF fund shares posted to, or collected from, a counterparty depending on the value-weighted average time to maturity of the ETF's investment portfolio.

²⁷⁵ 5 U.S.C. 601(2), 603, 604, and 605.

²⁷⁶ 5 U.S.C. 553.

²⁷⁷ 5 U.S.C. 601(2), 603, 604, and 605.

²⁷⁸ Pursuant to section 2(e) of the CEA, 7 U.S.C. 2(e), each counterparty to an uncleared swap must be an ECP, as defined in section 1a(18) of the CEA, 7 U.S.C. 1a(18). Section 1a(18) of the CEA defines ECP by listing certain entities and individuals whose business is financial in nature or that meet defined asset or net worth thresholds, as well as certain government entities.

²⁷⁹ See *Regulation of Swap Dealers and Major Swap Participants*, 77 FR 2613, 2620 (Jan. 19, 2012) (SDs and MSPs); *Exemptions From Swap Trade Execution Requirement*, 86 FR 8993, 8998 (Feb. 11, 2021) (stating that ECPs by the nature of their definition in the CEA should not be considered small entities).

²⁸⁰ 44 U.S.C. 3501 *et seq.*

²⁸¹ 44 U.S.C. 3507(a)(3); 5 CFR 1320.5(a)(3).

²⁸² 44 U.S.C. 3501.

²⁸³ 44 U.S.C. 3502(3).

prepared a PRA submission to OMB with respect to the final rule.

C. Cost-Benefit Considerations

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA.²⁸⁴ Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) considerations.

As described in more detail above, the Commission is revising the definition of “margin affiliate” to provide for a limited eligible seeded fund exception, pursuant to which, during a period of up to three years after the fund’s trading inception date, a seeded fund meeting certain specified requirements would be deemed to not have margin affiliates. This treatment for eligible seeded funds will effectively relieve CSEs that enter into uncleared swaps with certain seeded funds from the requirement to exchange IM with the seeded funds for a period not to exceed the earlier of three years after the funds’ trading inception date or the applicable compliance date if the AANA of the uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps entered into between the CSE and the seeded funds exceeds \$8 billion.²⁸⁵ The Seeded Funds Amendment makes the treatment available only to eligible seeded funds that, among other requirements: (i) are distinct legal entities from each sponsor entity; (ii) are managed by an asset manager pursuant to an agreement that requires the assets of the fund to be managed in accordance with a specified written investment strategy; (iii) have an asset manager who maintains independence in carrying out its management responsibilities and exercising its investment discretion, and

has independent fiduciary duties to the fund and other investors in the fund (if any), such that no sponsor entity or any margin affiliate of a sponsor entity, except for the fund’s asset manager in the exercise of its management responsibilities, controls or has transparency into the management or trading of the seeded fund; (iv) are not collateralized, guaranteed or otherwise supported, directly or indirectly by any sponsor entity, any margin affiliate of a sponsor entity, other collective investment vehicles, or the seeded fund’s asset manager, in respect of any of the fund’s obligations; (v) have not received any of their assets, directly or indirectly, from an eligible seeded fund that has relied on the proposed eligible seeded fund exception; and (vi) are not securitization vehicles.

With the Eligible Collateral Amendment, the Commission is eliminating the asset transfer restriction in paragraph (C) of Commission Regulation 23.156(a)(1)(ix), which has the effect of disqualifying as eligible collateral the securities of money market and similar funds whose manager transfers the fund’s assets through repurchase or similar arrangements. The Margin Subcommittee Report stated that the asset transfer restriction significantly limits the money market fund securities that are available for use as collateral under the CFTC Margin Rule.²⁸⁶ The Commission is also revising the haircut schedule for eligible collateral in Commission Regulation 23.156(a)(3) to address the haircut applicable to money market and similar funds.

The baseline against which the benefits and costs associated with the amendments are compared is the uncleared swaps markets as they exist today, including the treatment of seeded funds and the securities of money market and similar funds under the current CFTC Margin Rule.

The Commission’s consideration of costs and benefits below is based on the understanding that the markets function internationally, with many transactions involving U.S. firms taking place across international boundaries; with some Commission registrants being organized outside of the United States; with leading industry members typically conducting operations both within and outside the United States; and with industry members commonly following substantially similar business practices wherever located. Where the

Commission does not specifically refer to matters of location, the below discussion of costs and benefits refers to the effects of these amendments on all activity subject to the amended regulations, whether by virtue of the activity’s physical location in the United States or by virtue of the activity’s connection with activities in, or effect on, U.S. commerce under section 2(i) of the CEA.²⁸⁷

The Commission recognizes that the amendments may impose additional costs on market participants, including CSEs. The Commission has endeavored to assess the expected costs and benefits of the Final Rule in quantitative terms where possible. In situations where the Commission is unable to quantify the cost and benefits, the Commission identifies and considers the costs and benefits of the applicable rules in qualitative terms. The lack of data and information to estimate costs is attributable to the nature of the Final Rule and uncertainty relating to how particular market participants would implement the Final Rule.

To further inform the Commission’s consideration of the costs and benefits of the Proposal, the Commission invited comments from the public on all aspects of its cost-benefit considerations, including the identification and assessment of any costs and benefits not discussed by the Commission; data or any other information to assist or otherwise inform the Commission’s ability to quantify or qualitatively describe the costs and benefits of the proposed amendments; and any other information to support positions posited by commenters with respect to the Commission’s discussion. To the extent that the Commission received comments that directly or indirectly address the costs and benefits of the Proposal, those comments are discussed below. The commenters supporting the Proposal recommended or requested revisions to several proposed amendments and proposed conditions specified in the Proposal; however, no specific costs were identified by these commenters that would affect SDs, MSPs, or their counterparties as a result of the changes.

1. General Cost-Benefits Considerations—Seeded Funds Amendment

a. Benefits

The Seeded Funds Amendment will effectively relieve CSEs entering into uncleared swaps with eligible seeded funds from the requirement to collect IM from the funds, subject to specified

²⁸⁴ 7 U.S.C. 19(a).

²⁸⁵ Commission Regulations 23.161(a) (compliance dates) and 23.151 (definition of “material swaps exposure”) provide that a CSE is required to post and collect IM with an FEU starting on September 1st of a given year if the AANA of uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps in March, April, and May of that year exceeded \$8 billion. 17 CFR 23.161(a) and 17 CFR 23.151.

²⁸⁶ According to the Margin Subcommittee Report (citing research by a leading custodian bank), the securities of only four MMFs would qualify as eligible collateral under the current rules. See Margin Subcommittee Report at p. 24.

²⁸⁷ 7 U.S.C. 2(i).

conditions. As discussed in more detail in section II.A., the Commission is adopting revisions to the definition of “margin affiliate” to provide that an eligible seeded fund will be deemed not to have margin affiliates or to constitute a margin affiliate of another entity for a period not to exceed three years from the fund’s trading inception date. Additionally, the term “eligible seeded fund” is defined to set forth the conditions that investment funds must meet to qualify for the eligible seeded fund exception. Absent this amendment, seeded funds would be disadvantaged domestically and globally in comparison to similar investment funds that are not margin affiliates of an entity required to exchange IM or are subject to the rules of jurisdictions such as Australia, Canada and the EU that treat certain investment funds as separate legal entities, consistent with the international standards established by the BCBS–IOSCO Framework.²⁸⁸ The Final Rule will level the playing field domestically and globally with respect to the treatment of seeded funds.

As noted in the Proposal, the adoption of the eligible seeded fund exception may incentivize trading with CSEs over SDs or MSPs subject to the U.S. prudential regulators’ margin rules given that the prudential regulators might not revise their rules in a manner consistent with the Seeded Funds Amendment and the prudential regulators’ rules may continue to require that seeded funds calculate the MSE and IM threshold amount on a consolidated basis with their margin affiliates.

The Commission expects that the Seeded Funds Amendment will tend to benefit seeded funds whose AANA falls below the \$8 billion MSE threshold. Given this level of swap activity, such seeded funds pose relatively low risk to the uncleared swaps market and the U.S. financial system in general. In that regard, the Margin Subcommittee Report stated that seeded funds are typically capitalized with \$50 million to \$100 million and have limited notional exposure.²⁸⁹ The Report further cited an informal sampling of members of SIFMA AMG and ACLI conducted in 2018, which indicated that a total of 33 seeded funds would be in scope of the CFTC margin requirements due to their derivatives notional exposures being consolidated with entities with MSE. Individually, each of the seeded funds had an average gross notional exposure of \$32 million and would not be

required to post IM with a CSE absent the consolidation requirement.²⁹⁰

The Seeded Funds Amendment addresses seeded funds that tend to engage in less uncleared swap trading activity and, in the aggregate, pose less systemic risk than entities that meet the MSE threshold. The impacted eligible seeded funds, which will be in an initial stage of operation and development, will presumably have fewer resources to devote to IM compliance and hence will benefit from being discharged from posting IM during their seeding period without contributing significantly to systemic risk. During the seeding period, investment funds typically focus resources on establishing a performance track record to attract unaffiliated investors. The removal of an IM requirement during this period will increase flexibility for these funds without compromising general market stability. In this connection, ICI noted that the Seeded Funds Amendment would “minimize potential negative impacts of IM requirements on the performance of seeded funds . . . without diminishing the inherent safeguards that the CFTC’s requirements for uncleared swaps margin provide regarding systemic risk.”²⁹¹

In addition, the Commission believes that the Seeded Funds Amendment will be beneficial for CSEs that enter into swap transactions with investment funds. As a result of the amendments, CSEs will be able to apply a consistent approach in their swap dealing activities with U.S. and non-U.S. investment funds, which may lead to cost efficiencies. Also, as noted in the Margin Subcommittee Report, a consistent approach to seeded funds will reduce the incentive for non-U.S. funds to avoid business with CSEs given the perceived more onerous treatment of funds in the U.S.²⁹² Several commenters highlighted global alignment and enhanced competitive footing as benefits of the Seeded Funds Amendment.²⁹³

The eligible seeded fund exception may also incentivize some market participants to expand their swap business or enter into the swaps markets

because, by counting their AANA and uncleared swaps credit exposure individually, seeded funds may not meet the thresholds that would bring them within the scope of the IM requirements. This would relieve CSEs entering into uncleared swaps with the funds from the requirement to exchange IM with the funds. In turn, the elimination of IM-related costs may encourage uncleared swaps trading between CSEs and investment funds and increase the pool of potential swap counterparties, enhancing competition and liquidity and facilitating price discovery in the uncleared swaps markets.

b. Costs

The Seeded Funds Amendment may lead to the exchange of less margin between a CSE and a seeded fund resulting in uncollateralized exposures that could increase credit risk associated with uncleared swaps and the potential for default. In certain circumstances, the increase in uncollateralized credit risk resulting from the Seeded Funds Amendment could also negatively impact the sponsor entity or the asset manager of a seeded fund. If a seeded fund is facing financial distress, a sponsor entity or the fund’s asset manager may be incentivized to intervene, because of reputational risks or other concerns, and contribute additional resources even in the absence of an explicit business arrangement or legal obligation to provide financial support or a guarantee. Similarly, if the fund is suffering the consequences of a swap counterparty default, the sponsor entity or the asset manager may contribute financial resources to improve the fund’s condition and increase its own exposure, potentially putting at risk its own financial position. Thus, the fund’s uncollateralized exposure may lead the sponsor entity or the asset manager to incur risks, increasing the potential for contagion and systemic risk.

Commenters critical of the Seeded Funds Proposal also underscored the potential costs of the amendment including increased confusion and operational difficulties as well as general costs associated with inconsistency with other U.S. regulators.²⁹⁴ Further, one commenter voiced a concern that the changes proposed would incentivize parties to engage in high-risk transactions with insufficient collateralization.²⁹⁵

²⁹⁴ Better Markets at pp. 7–8; Senator Warren at p. 2.

²⁹⁵ Uy.

²⁹⁰ *Id.*

²⁹¹ ICI at p. 3. *See also* ACLI at p. 3 (asserting that existing regulatory safeguards, including those in the proposed definition of “eligible seeded fund” are sufficient to prevent sponsors from evading margin requirements and that seeded funds pose minimal risk during the seeding period) and Associations Joint Letter at p. 11 (asserting that the Commission has ample means, pursuant to its anti-evasion authority, to address the concern that market participants may abuse the exemption for seeded funds to circumvent IM requirements).

²⁹² Margin Subcommittee Report at p. 30.

²⁹³ ICI at p. 3, MFA at p.1.

²⁸⁸ Margin Subcommittee Report at pp. 7, 30 and 33.

²⁸⁹ Margin Subcommittee Report at p. 31.

To account for these potential risks, the Commission is defining the term “eligible seeded fund” to incorporate requirements meant to ensure that seeded funds are genuinely independent and that the risks associated with their activities are not assumed by other entities such as their sponsor entities or asset managers. Among other conditions, the seeded fund must be a distinct legal entity from each sponsor entity that is not collateralized, guaranteed, or otherwise supported, directly or indirectly, by any sponsor entity, any margin affiliate of any sponsor entity, other collective investment vehicles, or the seeded fund’s asset manager, in respect of any of the fund’s obligations. This should mitigate some of the incentive for the sponsor’s assets to be used if the seeded fund fails.

Further, eligible seeded funds impacted by the amendments adopted in this Final Rule will typically be small funds that have limited swaps activity.²⁹⁶ To grow, the funds will have to attract unaffiliated investors, which may result in such funds no longer being subject to consolidation with their sponsor entity. As such, the eligible seeded fund exception will primarily impact the exchange of IM between a CSE and investment funds that are in their seeding period. During the seeding period, such investment funds pose less risk to a CSE counterparty and the financial system given the small size of the funds and the limited scope of their derivatives activity. To ensure that eligible seeded funds are afforded the benefit of separate treatment from margin affiliates only during the seeding period, the Commission is limiting the applicability of the eligible seeded fund exception to a maximum of three years after the fund’s trading inception date. To ensure that the three-year period is not reinstated as a result of rollovers of fund assets or similar activities, the definition of eligible seeded fund includes a condition that the seeded fund has not received, directly or indirectly, any of its assets from an eligible seeded fund that has relied on the eligible seeded fund exception to the definition of “margin affiliate.” In addition, pursuant to Commission Regulation 23.161(c), a CSE and a seeded fund will become subject to the IM requirement if the AANA as computed under Commission Regulation 23.151, exceeds the \$8 billion threshold prior to the end of the three-year period.²⁹⁷ Commission

Regulation 23.161 thus addresses the potential growth of seeded funds during the seeding period.

The Commission is also addressing the potential risks of the Seeded Funds Amendment by retaining the existing requirement in Commission Regulation 23.153 for a CSE to collect or post variation margin with each FEU counterparty, including seeded funds, on a daily basis, subject to the applicable minimum transfer amount.²⁹⁸ The settlement of daily variation margin between CSEs and seeded funds prevents the aggregation of cumulative losses over an extended period of time which may adversely impact the counterparties in the event of a subsequent default.

Furthermore, in addition to the safeguards incorporated into the Seeded Funds Amendment, section 4s(j)(2) of the CEA and Commission Regulation 23.600 require CSEs to monitor and manage risks related to their swap activities, including credit risk, and to set tolerance limits.²⁹⁹ As such, if the credit risk associated with CSEs’ transactions with eligible seeded funds exceeds the CSEs’ risk tolerance limits, CSEs would be expected to take mitigating measures to reduce their credit exposures, including collecting collateral from the seeded fund or liquidating positions.

Treating seeded funds as separate unaffiliated legal entities for purposes of calculating the thresholds for determining whether compliance with the IM requirements is required could also incentivize swap counterparties to create legal entities that have no economic basis and are constructed solely for the purpose of applying additional thresholds to evade margin requirements. To address these concerns, the Commission is incorporating in the definition of eligible seeded fund certain conditions designed to ensure that the fund has a bona fide business purpose. The conditions include a requirement that the fund is managed by an asset manager pursuant to an agreement that requires that the assets of the fund be managed in accordance with a specified

written investment strategy and that the asset manager have independence in carrying out its management responsibilities and exercising its investment discretion, and to the extent applicable, has independent fiduciary duties to the fund and other investors in the fund, such that no sponsor entity or a margin affiliate of a sponsor entity (other than the asset manager) controls or has transparency into the management or trading of the seeded fund.

These requirements, as outlined above, would mitigate the costs associated with the potential evasion of IM requirements by ensuring that the Seeded Fund Amendment is narrowly tailored. As noted in the Proposal, the Commission also intends to use its anti-evasion authority to prevent circumvention of the margin requirements.³⁰⁰

At this time, the Commission understands that U.S. prudential regulators have not amended or proposed to amend their margin requirements in line with the Seeded Funds Amendment. This will result in a divergence from the U.S. prudential regulators and require funds that engage in swaps transactions with both CSEs and prudentially regulated SDs to adjust their swap related documentation and IM processes to reflect such different treatments. Two commenters discussed the potential costs that would result if the prudential regulators do not amend their rules in a manner consistent with the Proposal. Better Markets asserted that the potential inconsistency between U.S. regulators would increase the costs associated with adapting swap-related documentation and collateral management systems for counterparties who engage with both prudentially regulated and CFTC-regulated SDs.³⁰¹ In contrast, ISDA, SIFMA, and SIFMA AMG stated that the burden on market participants to make documentation and operational changes would not be significant because current documentation and systems can continue to be used in connection with prudentially regulated entities.³⁰²

While the divergence from the prudential regulators may result in a short-term increase in costs for market participants regarding documentation, based on the public comments received and the Commission’s understanding of margin documentation, the Commission

²⁹⁶ 17 CFR 23.153. Variation margin is calculated each business day and represents the mark-to-market change in the value of the swap since the last point in time that the swap was marked-to-market. See Commission Regulation 23.151 and 23.155 (17 CFR 23.151 and 17 CFR 23.155).

²⁹⁹ 7 U.S.C. 6s(j)(2) (mandating that CSEs adopt a robust and professional risk management system adequate for the management of day-to-day swap activities) and 17 CFR 23.600 (requiring CSEs, in establishing a risk management program for the monitoring and management of risk related to their swap activities, to account for credit risk and to set risk tolerance limits).

²⁹⁷ 17 CFR 23.151 (definition of “material swaps exposure”) and 17 CFR 23.161(c) (addressing the “change of status” of the CSE’s counterparty).

³⁰⁰ Proposal at 53422.

³⁰¹ Better Markets at p. 8.

³⁰² Associations Joint Letter at p. 16.

believes that these costs will be minimal.³⁰³

2. General Cost Benefit Analysis—Eligible Collateral Amendment

a. Benefits

The Eligible Collateral Amendment will expand the scope of assets that qualify as eligible collateral. As discussed in the Proposal, the Margin Subcommittee Report highlighted the benefits of eliminating the asset transfer restriction, noting that the securities of very few MMFs currently qualify as eligible collateral because nearly all U.S. MMFs engage in some form of repurchase or similar arrangements.³⁰⁴ By increasing the number of investment funds that qualify as eligible collateral, the amendment may thus reduce the potential concentration of collateral in the few funds whose securities currently qualify as eligible collateral under Commission Regulation 23.156(a)(1)(ix). Commenters noted that the amendment would expand the potential universe of MMFs and similar funds that are considered eligible collateral.³⁰⁵ The Eligible Collateral Amendment could therefore lead to greater diversity of assets used for collateral, thereby reducing the riskiness of IM assets.

By eliminating the asset transfer restriction, the Eligible Collateral Amendment may also facilitate more efficient collateral management practices. In this regard, the Margin Subcommittee Report stated that custodians offer money market sweep programs that afford institutional clients of such custodians the ability to timely and efficiently meet margin calls without settlement delay, avoiding other transaction costs that would otherwise arise in the absence of the sweep programs.³⁰⁶ Such direct sweeps from cash into MMF securities mitigate the risk of insolvency by the custodian

because non-cash collateral deposited with the custodian will not be consolidated in the custodian's balance sheet.³⁰⁷ The Margin Subcommittee Report also stated that the use of MMFs may avoid the risk of potential negative interest rate charges that may be applied by custodian banks on cash collateral in a negative interest rate environment.³⁰⁸

The Eligible Collateral Amendment could also promote asset management policies that improve the performance of money market and similar funds. Without the asset transfer restriction, the funds may undertake repurchase or similar arrangements that increase returns for investors, including the return for CSEs that post money market and similar fund securities as margin collateral for uncleared swaps, contributing to the fund securities' liquidity and retention of value even during periods of financial stress.

Further, CSEs and their counterparties will likely benefit from the more efficient use of their capital as discussed above and enhanced returns on securities posted as collateral. Furthermore, the amendment may lead to reduced costs for those market participants that dually register as SDs and security-based swap SDs with the CFTC and the SEC, respectively, as the amendment would bring the CFTC's eligible collateral framework more in line with the SEC approach, which does not impose asset transfer restrictions on funds whose securities are used as collateral for margining purposes and expressly permits the use of government money market fund securities as collateral.³⁰⁹

Several commenters agreed with the Commission's analysis of the potential benefits of the Eligible Collateral Amendment.³¹⁰ Another commenter, echoing the statements in the Margin

Subcommittee Report, noted that without relief from the asset transfer restriction, market participants may be forced to use other less efficient or optimal forms of non-cash IM collateral, thus increasing costs, settlement delays, tracking errors, and operational burdens.³¹¹

b. Costs

Eliminating the asset transfer restriction in paragraph (C) of Commission Regulation 23.156(a)(1)(ix) will remove a safeguard intended to ensure that money market and similar fund securities posted as margin collateral remain liquid and maintain their value in times of financial stress. More specifically, paragraph (C) prevents the transfer of money market and similar fund assets through repurchase or similar arrangements to mitigate the impact of such transfers on the liquidity or value of fund securities. As explained in the Proposal, if a counterparty to a money market and similar fund in a repurchase or similar arrangement defaults, the fund may be left holding assets that, in times of financial stress, may not be easily resold and might not compensate for the value of assets tendered in the repurchase arrangement. Such a default would reduce the overall net asset value of the fund and the price of the fund's securities. Also, the inability to liquidate assets that a money market and similar fund might be left holding upon the failure of a repurchase or similar arrangement or the inability to extract assets originally tendered in the repurchase arrangement may impact the fund's ability to promptly respond to redemption requests, hindering the liquidity of the fund's securities, making them less suitable as margin collateral. Better Markets and Senator Warren expressed similar concerns over the safety and security of MMFs as collateral, particularly in times of stress.³¹² In this regard, the Commission notes, however, that subparagraphs (A) and (B) of Commission Regulation 23.156(a)(1)(ix) will remain in effect to limit the types of assets that a money market and similar fund can receive in repurchase or similar arrangements to certain currencies, securities issued, or unconditionally guaranteed, by the U.S. Treasury, and securities fully guaranteed by the European Central Bank or sovereign entity that is assigned a risk weight of no more than 20 percent

³⁰³ Associations Joint Letter at p. 16 (anticipating that the burden on market participants to make documentation and operational changes to accommodate different requirements under the two U.S. regimes would not be significant, because current documentation and systems can continue to be used in connection with prudentially regulated SDs and noting that the costs for developing the new operational system and documentation for non-prudentially regulated SDs would be the same whether or not the prudential regulators' margin rules are amended at the same time).

³⁰⁴ Proposal at 53423; Margin Subcommittee Report at p. 24.

³⁰⁵ ICI at pp. 5–7; Associations Joint Letter at pp. 3–4; Barnard at p. 2; MFA at pp. 3–4; and Federated Hermes at p. 2.

³⁰⁶ Report at p. 26 (stating that many custodians offer money market sweep programs that permit FEUs to pledge cash into segregated collateral accounts and instruct the custodian to sweep the cash into MMF shares, which are pledged as collateral to CSE counterparties for swap transactions).

³⁰⁷ Report at pp. 26–27.

³⁰⁸ *Id.*

³⁰⁹ SEC Rule 18a–3(c)(4) permits cash, securities, money market instruments, certain foreign currencies and gold as margin collateral for non-cleared security-based swaps, provided that the margin collateral is readily marketable and transferable. 17 CFR 240.18a–3(c)(4). See also Proposal at 53423–53424; *Capital, Margin and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital and Segregation Requirements for Broker-Dealers, Securities and Exchange Commission*, 84 FR 43872, 43919 (Aug. 22, 2019) (In the preamble to its final rule, the SEC noted that the final rule does not specifically exclude any type of security provided it has a ready market, is readily transferable, and does not consist of securities or money market instruments issued by the counterparty or a party related to the nonbank security-based SD or major security-based swap participant, or the counterparty. Generally, U.S. government money market funds should be able to serve as collateral under these conditions.).

³¹⁰ MFA at p. 3; ICI at p. 7; Federated Hermes at p. 1; Barnard at p. 2.

³¹¹ MFA at p. 3.

³¹² Better Markets at pp. 3–4; Senator Warren at p. 3.

under the capital rules established by a prudential regulator.

Further, Commission Regulation 23.156(c) requires that CSEs monitor the market value and eligibility of all collateral and, to the extent that the market value has declined, promptly collect or post additional eligible collateral to maintain compliance with Commission Regulations 23.150 through 23.161.³¹³ As such, even if the value or liquidity of pledged money market and similar fund securities may be affected by repurchase or similar arrangements undertaken by the fund, CSEs have the obligation to monitor the value and suitability of the fund's securities as margin collateral and collect or post additional eligible collateral to compensate for collateral deficiencies.

The elimination of the asset transfer restriction could give rise to other costs, including those associated with a divergence between the margin rules of the CFTC and the U.S. prudential regulators. This may require parties that trade with both prudentially regulated SDs and CSEs to adjust their swap-related documentation and collateral management systems to reflect such different treatments. Thus, market participants may incur additional costs by having to maintain two separate and distinct types of documentation and collateral management systems. The Eligible Collateral Amendment also may incentivize trading with CSEs over SDs or MSPs subject to the U.S. prudential regulators' margin rules given that the prudential regulators' rules may continue to restrict the use of securities of money market and similar funds that transfer their assets through repurchase or similar arrangements. In this connection, Better Markets expressed concern about the lack of alignment with prudential regulators, arguing that the proposed amendment has a potential for "fostering a detrimental 'race to the bottom' scenario where entities may exploit regulatory disparities to seek arbitrage opportunities among less stringent regulators, thereby compromising the overall effectiveness of our regulatory framework."³¹⁴

At the same time, the removal of the asset transfer restriction will bring the CFTC's eligible collateral framework closer to the approach adopted by the SEC which, as noted above, does not impose asset transfer restrictions with respect to money market and similar fund securities and expressly permits the use of government money market fund securities as collateral. Therefore,

although there is the potential for greater costs because of the divergence with the U.S. prudential regulators, overall costs may be reduced, given that many CSEs are also cross-registered with the SEC as security-based SDs.

3. General Cost-Benefits Considerations—Haircut Schedule Amendment

a. Benefits

The amendment to the haircut schedule in Commission Regulation 23.156(a)(3) specifies the percentage discount to be applied to the market value of the shares of eligible pooled investment funds posted to satisfy IM requirements. The discount ranges from 0.5 to 4 percent depending on the value-weighted average portfolio maturity of the fund (e.g., the market value of eligible redeemable securities in pooled investment fund funds that have a value-weighted average portfolio maturity of less than one year is subject to 0.5 percent haircut). The haircuts are consistent with the discounts applicable to the underlying instruments of the eligible investment funds pursuant to Commission Regulation 23.156(a)(3).

By imposing a fixed percentage discount, the Commission will provide flexibility to market participants for whom a dynamic approach based on a weighted average discount on fund assets is operationally burdensome while balancing the regulatory objective of applying an appropriately conservative haircut to account for possible decline in value of the collateral. In this connection, imposing a lower haircut for funds that maintain a shorter value-weighted average portfolio maturity will incentivize the use of funds that invest in short-term instruments that generally retain their value in periods of market stress as compared to funds whose investment portfolios are hold longer-dated investments. Funds comprised of short-dated investments also provide an opportunity for the fund manager to hold the investments to maturity rather than liquidate the securities during periods when the value of the securities has declined.

b. Costs

The amendment to the haircut schedule in Commission Regulation 23.156(a)(3) specifies a fixed percentage discount to be applied to the value of the share of eligible pooled investment funds posted to satisfy IM requirements. A fixed haircut approach, while simpler, may not reflect as accurately the potential decline in value of a fund share as a dynamic haircut approach

based on a weighted average discount. The highest discount (i.e., 4 percent), may in some cases also be more conservative than the haircut that would be applicable if CSEs were calculating a weighted average discount. As discussed above, however, market participants stated that a dynamic haircut approach is overly cumbersome and supported the Commission's alternative proposal to establish a fixed percentage haircut.³¹⁵

4. Section 15(a) Considerations—Seeded Funds Amendment

The Commission has evaluated the costs and benefits of the Seeded Fund Amendment pursuant to the five considerations identified in section 15(a) of the CEA as follows:

a. Protection of Market Participants and the Public

Following the adoption of the Seeded Funds Amendment, a seeded fund meeting specific requirements would be deemed not to have margin affiliates or to constitute a margin affiliate of another entity during a period of up to three years from the fund's trading inception date. As a result, only the seeded fund's individual AANA will be used to determine whether the fund has MSE, and only the individual credit exposure of the fund resulting from the fund's swaps with a CSE will be used to determine whether the posting and collection of IM is required.

The Seeded Funds Amendment's approach to eligible seeded funds is consistent with the BCBS-IOSCO Framework and similar approaches adopted by jurisdictions such as Australia, Canada and the EU.³¹⁶ As such, the Seeded Funds Amendment will eliminate a disadvantage that U.S. investment funds face compared to non-U.S. funds that are not subject to a consolidation requirement. The Seeded Funds Amendment will also address the potential liquidity drain and trading disruptions that CSEs might encounter if non-U.S. investments funds were to avoid doing uncleared swaps business with the CSEs because of the current treatment of seeded funds in the U.S. under the CFTC Margin Rule. In addition, the Seeded Funds Amendment will level the playing field between U.S. seeded funds that are consolidated within a group of entities that collectively have MSE and other domestic investment funds that are not part of a group whose combined exposure exceeds the threshold for

³¹³ 17 CFR 23.156(c).

³¹⁴ Better Markets at p. 7.

³¹⁵ ICI at pp. 8–9; Associations Joint Letter at p. 15.

³¹⁶ See *supra* notes 26 and 55.

compliance with the IM requirements, while, at the same time, potentially spurring greater interest in seeded funds as potential counterparties.

As a result of the Seeded Funds Amendment, less collateral may be collected by seeded funds given that individually they may not meet the threshold for exchanging IM. A seeded fund's uncollateralized swaps exposure may negatively impact the sponsor entities of the fund or its asset manager, given that, for reputational reasons, a sponsor entity or the asset manager may provide financial support to the seeded fund in times of financial distress, potentially putting at risk their own financial position.

The Seeded Funds Amendment may also have implications for CSEs entering into uncleared swap transactions with the fund's sponsor entity. Specifically, a CSE evaluating the creditworthiness of its counterparty—the fund's sponsor entity—may not be aware of the sponsor entity's potentially weakened financial position. As such, the Seeded Funds Amendment, by allowing seeded funds' exposures to not be consolidated with the exposures of their sponsor entities and other margin affiliates for purposes of determining the applicability of the IM requirements, may increase the risk of contagion.

The Commission, however, continues to believe that such concerns are mitigated by the requirements incorporated in the definition of eligible seeded fund, including the condition that the seeded fund is not collateralized, guaranteed or otherwise supported, directly or indirectly by any sponsor entity, any margin affiliate of any sponsor entity, other collective investment vehicles, or the fund's asset manager in respect of any of the fund's obligations. These conditions are intended to ensure that seeded funds are genuinely independent and risk remote from the sponsor entities.

b. Efficiency, Competitiveness, and Financial Integrity of Markets

The Seeded Funds Amendment revises the definition of “margin affiliate” in Commission Regulation 23.151 to provide an exception for eligible seeded funds, which effectively relieves CSEs from the requirement to exchange IM for uncleared swaps with such eligible seeded funds, subject to specified conditions. This exception eliminates a competitive disadvantage between seeded funds that are consolidated with their sponsor entities and margin affiliates, which collectively exceed the thresholds for compliance with the IM requirements on the one hand, from those investment funds

whose sponsor entities and margin affiliates do not have collective exposures exceeding such thresholds on the other. As noted in the Proposal, this amendment has the potential to spur greater interest in seeded funds as potential counterparties in uncleared swap transactions. Further, the amendment will level the playing field between U.S. funds and non-U.S. investment funds from jurisdictions that do not require fund swaps exposures to be considered on a consolidated basis for purposes of determining whether compliance with the IM requirements is required.

The Seeded Funds Amendment will also reduce the operational costs associated with the exchange of IM for CSEs and their eligible seeded funds counterparties and will allow seeded funds to allocate their financial resources to testing and establishing their investment strategy and attracting unaffiliated investors. The cost reduction may incentivize more market participants to enter into uncleared swaps and ultimately promote efficiency in the uncleared swaps market by increasing the pool of swap counterparties and fostering competition.

As noted above, the Seeded Funds Amendment will also result in differing margin requirements for CSEs subject to the CFTC Margin Rule and swap dealers subject to the Prudential Regulators Margin Rule, which may encourage seeded funds to elect to engage with CSEs to avoid being subject to IM requirements. The Commission, however, believes that an asset manager of a seeded fund would take into consideration a variety of factors in determining the swap dealers to use as counterparties for swap transactions, including the size and credit risk of the swap dealer, as well as the extent that the fund uses the swap dealer for other business transactions.

Given that the Seeded Funds Amendment would relieve CSEs from the exchange of IM with certain eligible seeded funds for their uncleared swaps, the uncollateralized credit exposure for the uncleared swaps would increase and could undermine the integrity of the markets. The Commission, however, continues to believe that the increased exposure would be limited given the relatively limited derivatives activity of seeded funds that would benefit from the eligible seeded fund exception. Additionally, the Commission believes that the Seeded Funds Amendment is narrowly tailored given the requirements incorporated in the definition of “eligible seeded fund” and the maximum three-year limit on the

availability of the eligible seeded fund exception to each individual seeded fund. Furthermore, the Commission believes that the continued requirement for CSEs and seeded funds post and collect daily variation margin to address mark-to-market gains and losses mitigates the potential impact of not collecting IM from seeded funds. By posting and collecting variation margin daily, CSEs and seeded funds eliminate the exposure to the long-term accumulation of unsettled gains and losses that would accrue absent the daily VM requirement, which may have a material impact on the entities in the event of a counterparty default.

c. Price Discovery

By amending the definition of “margin affiliate” in Commission Regulation 23.151, the Seeded Funds Amendment would relieve CSEs from the requirement to exchange IM when entering into uncleared swaps with an eligible seeded fund. As a counterparty to a CSE, an eligible seeded fund therefore would not have to incur operational costs associated with setting up and maintaining processes and documentation to exchange IM. The amendment would permit eligible seeded funds to direct more resources to its established trading strategies with the objective of demonstrating a successful performance track record and attracting new investors. As a result, the overall cost of entering into an uncleared swap transaction may decrease, incentivizing increased participation in the uncleared swaps markets. In turn, the trading of uncleared swaps may increase, leading to increased liquidity and enhanced price discovery.

d. Sound Risk Management

As a result of the Seeded Funds Amendment, less initial margin may be collected and posted to offset the risk of uncleared swaps, which could increase the risk of default. Nevertheless, the Commission continues to believe that the uncollateralized risk would be mitigated because during the seeding period, investment funds are typically small and the extent of uncleared swap activity a seeded fund may undertake with CSEs would likely be limited. In addition, CSEs will continue to be required to manage the risk associated with their uncleared swaps, including those swaps that might be uncollateralized, by maintaining a robust and professional risk management program that provides, among other things, for the implementation of internal parameters for the monitoring and management of

swap risk, including credit risk. CSEs and seeded funds would also continue to be required to mark open positions to market each business day and to post and collect variation margin to settle gains and losses associated with their swap transactions.

The Commission also notes that the Seeded Funds Amendment would reduce the operational costs of both CSEs and their eligible seeded fund counterparties, potentially encouraging more market participants to enter the uncleared swaps market. As such, by increasing the pool of swap counterparties, the Seeded Funds Amendment would encourage careful consideration and selection of counterparties and promote sound risk management.

e. Other Public Interest Considerations

By adopting a treatment of certain investment funds that is consistent with the BCBS-IOSCO Framework, the Seeded Funds Amendment would alleviate the potential disadvantages that U.S. seeded funds have compared to non-U.S. investment funds, which may be perceived to be subject to more favorable regulatory regimes than in the United States given the differing consolidation treatments applicable to funds.

However, given that the U.S. prudential regulators may not amend their margin requirements in line with the Seeded Fund Amendment, it is possible that the CFTC and U.S. prudential regulators' differing rules may motivate certain investment funds to undertake swaps with particular SDs based on which U.S. regulatory agency is responsible for setting margin requirements for such SDs. The divergence could lead to trades that do not reflect the relative merits of competing SDs. It may also result in additional costs for investment funds that trade with both CSEs and prudentially regulated SDs because such funds would need to adjust their swap-related documentation and collateral management systems to account for the differing rule systems. Despite this potential divergence between U.S. regulators, the Commission believes that the benefits of price discovery and efficiency outweigh the potential costs of the Seeded Funds Amendment for market participants.

5. Section 15(a) Considerations—Eligible Collateral Amendment

The Commission has evaluated the costs and benefits of the Eligible Collateral Amendment pursuant to the five considerations identified in section 15(a) of the CEA as follows:

a. Protection of Market Participants and the Public

The Commission believes that the Eligible Collateral Amendment would protect market participants and the public by eliminating the asset transfer restriction and allowing a broader range of money market and similar fund securities to serve as collateral, thus addressing the potential that margin collateral may be concentrated in the securities of a few money market and similar funds and leading to greater diversification by increasing the range of assets that may be used as collateral.

The elimination of the asset transfer restriction would also promote effective asset management policies for the benefit of fund investors and market participants in general. Without the restriction, money market and similar funds that otherwise would have refrained from undertaking repurchase or similar arrangements to avoid the disqualification of their securities as eligible collateral may enter into such arrangements. The arrangements might generate higher returns for investors, including for CSEs that use money market and similar fund securities as margin collateral for uncleared swaps, and enable funds to meet their commitments to investors concerning fund performance.

Nevertheless, market participants might be harmed by the rule change if a counterparty to the money market or similar fund in a repurchase or similar arrangement defaults, and the fund is unable to recover assets tendered to the counterparty in the arrangement and is left holding assets of lesser value. The fund's overall net asset value may decline, reducing the value and liquidity of the fund's securities. This potential outcome would make the securities less suitable as collateral for margining uncleared swaps.

b. Efficiency, Competitiveness, and Financial Integrity of Markets

By eliminating the asset transfer restriction, the Eligible Collateral Amendment would allow a broader range of money market and similar fund securities to serve as collateral for margining uncleared swaps, increasing diversification in the assets that can be used as collateral, and fostering competition among the funds whose securities qualify as eligible collateral under the Amendment.

The elimination of the asset transfer restriction would also promote effective asset management policies for the benefit of fund investors and market participants in general. Without the restriction, money market or similar

funds would be able to undertake repurchase or similar arrangements, which may enable them to generate higher returns for investors, including for CSEs that use the funds' securities as collateral, and to meet commitments to investors concerning fund performance.

Notwithstanding these benefits, the elimination of the asset transfer restriction may negatively impact market participants. If a money market or similar fund undertakes a repurchase or similar arrangement and the fund's counterparty in the arrangement defaults, the fund may be unable to recover assets it tendered in the arrangement and may be left holding assets of lesser value. The fund's overall net asset value may decrease, affecting the value and liquidity of the fund's securities. This potential outcome would make the fund's securities less suitable as collateral for margining uncleared swaps.

c. Price Discovery

As previously discussed, with the removal of the asset transfer restriction, fund managers may have more flexibility in determining the type of investment and transactions that are in the best interest of their fund and investors, leading to higher returns for investors, including CSEs using money market and similar fund securities as margin collateral for uncleared swaps. With such increased returns, the overall costs of entering into an uncleared swap transaction may decrease, incentivizing increased participation in the uncleared swaps markets. In turn, trading in uncleared swaps may increase, leading to increased liquidity and enhanced price discovery.

d. Sound Risk Management

The Eligible Collateral Amendment eliminates the asset transfer restriction, allowing the use of securities of money market and similar funds that undertake repurchase or similar arrangements as collateral for the margining of uncleared swaps. As such, even if the asset manager for a money market or similar fund, as a fiduciary, acts in the best interest of the fund and its investors, there is the risk that the fund may incur a loss if the fund's counterparty in a repurchase or similar arrangement defaults. Such a default would leave the fund holding assets that it may not be able to easily resell in times of financial stress, which might impact the value and liquidity of pledged fund securities and make them less suitable as margin collateral for uncleared swaps. The Commission, however, notes that any potential risk of such a repurchase or similar arrangement may be mitigated

by the standard industry practice of applying haircuts to non-cash collateral in repurchase or similar arrangements to compensate for the risk that the value of collateral may decline over the term of the arrangement.³¹⁷

In addition, the Commission notes that Commission Regulation 23.156(c) requires that CSEs monitor the market value and eligibility of all collateral and, to the extent that the market value has declined, promptly collect or post additional eligible collateral to maintain compliance with Commission Regulations 23.150 through 23.161. Thus, even if the value or liquidity of pledged money market and similar fund securities may be affected by repurchase or similar arrangements undertaken by the fund, CSEs have the obligation to monitor the value and suitability of the fund securities as margin collateral and collect or post additional eligible collateral to compensate for collateral deficiencies, although the risk that a fund's repurchase or similar arrangements may fail remains. The Commission further notes, however, that subparagraphs (A) and (B) of Commission Regulation 23.156(a)(1)(ix), which are not being amended, limit the types of assets that a money market or similar fund can receive in repurchase or similar arrangements to those assets specifically identified in those paragraphs, alleviating in part the risks associated with repurchase or similar arrangements.

While the Eligible Collateral Amendment could lead to more variability in the value of the assets used as IM, it can also promote sound risk management in that it increases the range of money market and similar fund securities available as collateral for the margining of uncleared swaps, reducing the chance of concentration in a few money market and similar funds and the risks associated with such concentration. As such, the removal of the asset transfer restriction may incentivize the increased use of money market and similar fund securities as collateral. Consistent with Commission Regulation 23.156(c), which requires CSEs to monitor the market value and eligibility of collateral posted or collected as margin for uncleared swaps, the Commission notes that CSEs must take into account the potential concentration of collateral in particular assets and prudently manage margin collateral.

e. Other Public Interest Considerations

As is the case for the Seeded Funds Amendment, it is possible that the U.S. prudential regulators may not amend their margin rule in line with the Eligible Collateral Amendment. As such, the prudential regulators and the Commission would diverge with respect to the treatment of money market and similar funds securities as eligible collateral for margining uncleared swaps. This divergence might lead to increased costs for market participants that trade both uncleared swaps subject to the CFTC's and the prudential regulators' margin rules, as they may need to adjust or even maintain separate documentation and collateral management systems to address the differing treatments for fund securities under the different rules.

On the other hand, the Eligible Collateral Amendment may lead to reduced costs for those market participants that dually register as SDs and security-based swap SDs with the CFTC and the SEC, respectively, as the amendment would bring the CFTC's eligible collateral framework more in line with the SEC approach, which does not impose asset transfer restrictions on funds whose securities are used as collateral for margining purposes and expressly permits the use of government money market fund securities as collateral.

6. Section 15(a) Considerations—Haircut Schedule Amendment

The Commission has evaluated the costs and benefits of the Haircut Schedule Amendment pursuant to the five considerations identified in section 15(a) of the CEA as follows:

a. Protection of Market Participants and the Public

The Commission believes that the amendment to the haircut schedule in Commission Regulation 23.156(a)(3) will protect market participants and the public by imposing an appropriately conservative discount to the market value of shares of eligible pooled investment funds posted to satisfy the IM requirement.

b. Efficiency, Competitiveness, and Financial Integrity of Markets

Imposing a fixed percentage discount on the value of eligible pooled investment fund securities posted as collateral will provide market participants with the opportunity to implement more efficient collateral management practices. As discussed by commenters, a fixed percentage discount is less burdensome to market participants than a dynamic haircut

approach based on a weighted average discount.³¹⁸

c. Price Discovery

By imposing an easy to implement, appropriately calibrated haircut, the amendment may contribute to a reduction in the overall costs of entering into an uncleared swap transaction. In turn, trading in uncleared swaps may increase, leading to increased liquidity and enhanced price discovery.

d. Sound Risk Management

The haircut percentage applicable to eligible securities in pooled investment funds under the amendment to the haircut schedule in Commission Regulation 23.156(a)(3) is calibrated in consideration of the maturity of the fund's underlying instruments. By imposing a lower haircut to funds that limit their investments to securities with a shorter residual maturity or restrict their maximum value-weighted average portfolio maturity, the amendment will incentivize the use of funds that invest in short-term instruments, thus encouraging the selection of funds that better retain their value in episodes of market stress.

e. Other Public Interest Considerations

The fixed percentage haircut approach established by the amendment to the haircut schedule in Commission Regulation 23.156(a)(3) is different from the dynamic haircut approach based on a weighted average discount implemented by the Prudential Regulators Margin Rule. It is possible that the U.S. prudential regulators may not amend their margin rule to align it with the Commission's haircut approach. The divergence may lead to increased costs for market participants that trade both uncleared swaps subject to the CFTC's and the prudential regulators' margin rules, as they may need to adjust the documentation and collateral management systems to address the differing treatments for fund securities under the different rules.

On the other hand, the amendment to the haircut schedule in Commission Regulation 23.156(a)(3) introduces a simpler, less burdensome approach to calculating the applicable haircut and may thus lead to operational efficiencies and cost reduction.

D. Antitrust Laws

Section 15(b) of the Act requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the

³¹⁷ See Primer: Money Market Funds and the Repo Market, Prepared by the staff of the Division of Investment Management, U.S. Securities and Exchange Commission at pp. 5–6.

³¹⁸ ICI at pp. 8–9; Associations Joint Letter at p. 15.

least anticompetitive means of achieving the purposes of this Act, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule or regulation of a contract market or registered futures association established pursuant to section 17 of this Act.³¹⁹

The Commission believes that the public interest to be protected by the antitrust laws is generally to protect competition. In the Proposal, the Commission requested comment on whether: (i) the Proposal implicates any other specific public interest to be protected by the antitrust laws; (ii) the Proposal is anticompetitive and, if it is, what the anticompetitive effects are; (iii) whether there are less anticompetitive means of achieving the relevant purposes of the Act that would otherwise be served by adopting the Proposal.³²⁰ The Commission did not receive comments on the anticompetitive effects of the Proposal.

The Commission does not believe that the Final Rule would result in anti-competitive behavior. The Seeded Funds Amendment provides a limited exemption that will provide greater flexibility to CSE to enter into uncleared swaps with eligible seeded funds, thus promoting competition between U.S. and non-U.S. funds. The Eligible Collateral Amendment may promote competition by allowing for a broader range of money market and similar fund securities to qualify as eligible IM collateral. Because the Commission has determined that the Final Rule is not anti-competitive and may promote competition, the Commission has not identified any less anticompetitive means of achieving the purposes of the Act.

E. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; and distributive impacts). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a

sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President’s priorities.

The Office of Management and Budget has determined that this action is not a significant regulatory action as defined in Executive Order 12866, as amended, and therefore it was not subject to Executive Order 12866 review.

This Final Rule is not an Executive Order 14192 regulatory action, because it is not a significant regulatory action under E.O. 12866.

F. Congressional Review Act

Pursuant to the Congressional Review Act,³²¹ the Office of Information and Regulatory Affairs has designated this Final Rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

List of Subjects in 17 CFR Part 23

Capital and margin requirements, Major swap participants, Swap dealers, Swaps.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 23 as set forth below:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

■ 1. The authority citation for Part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b–1, 6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21.

Section 23.160 also issued under 7 U.S.C. 2(i); Sec. 721(b), Pub. L. 111–203, 124 Sta. 1641 (2010).

■ 2. In § 23.151, revise the definition of “Margin affiliate”; and add the definition of “Eligible seeded fund” in alphabetical order.

The revision and addition read as follows:

§ 23.151 Definitions applicable to margin requirements.

* * * * *

Eligible seeded fund: An eligible seeded fund is a collective investment vehicle that has received a part or all of its start-up capital from a parent and/or affiliate (each, a sponsor entity) where:

(1) The seeded fund is a distinct legal entity from each sponsor entity;

(2) The seeded fund is managed by an asset manager pursuant to an agreement that requires the seeded fund’s assets to be managed in accordance with a specified written investment strategy;

(3) The seeded fund’s asset manager has independence in carrying out its management responsibilities and exercising its investment discretion, and, to the extent applicable, has independent fiduciary duties to the fund and other investors in the fund, such that no sponsor entity or any of the sponsor entity’s margin affiliates, except for the fund’s asset manager in the exercise of its management responsibilities, controls or has transparency into the management or trading of the seeded fund;

(4) In respect of any of the seeded fund’s obligations, the seeded fund is not collateralized, guaranteed, or otherwise supported, directly or indirectly, by any sponsor entity, any margin affiliate of any sponsor entity, other collective investment vehicle, or the seeded fund’s asset manager;

(5) The seeded fund has not received any of its assets, directly or indirectly, from an eligible seeded fund that has relied on the exception provided in paragraph 2 of the definition of margin affiliate in § 23.151; and

(6) The seeded fund is not a securitization vehicle.

* * * * *

Margin affiliate has the following meaning:

(1) A company is a margin affiliate of another company if:

(i) Either company consolidates the other on a financial statement prepared in accordance with U.S. Generally Accepted Accounting Principles, the International Financial Reporting Standards, or other similar standards,

(ii) Both companies are consolidated with a third company on a financial statement prepared in accordance with such principles or standards, or

(iii) For a company that is not subject to such principles or standards, if consolidation as described in paragraph (i) or (ii) of this definition would have occurred if such principles or standards had applied.

(2) *Eligible seeded fund exception.* Notwithstanding paragraph (1) of this definition, until the date that is three years after the date on which an eligible seeded fund’s asset manager first begins to make investments on behalf of the fund, an eligible seeded fund will be deemed not to have any margin affiliates or to constitute a margin affiliate of another entity.

* * * * *

■ 3. In § 23.156:

³¹⁹ 7 U.S.C. 19(b).

³²⁰ Proposal at 53427.

³²¹ 5 U.S.C. 801 *et seq.*

- a. Republish the introductory text of paragraph (a)(1);
- b. Republish the introductory text of paragraph (a)(1)(ix);
- c. Republish paragraph (a)(1)(ix)(A);
- d. Revise paragraph (a)(1)(ix)(B);
- e. Remove paragraph (a)(1)(ix)(C);
- f. Revise paragraph (a)(3)(i)(B).

The republications and revisions read as follows:

§ 23.156 Forms of Margin

(a) * * *

(1) *Eligible collateral*. A covered swap entity shall collect and post as initial margin for trades with a covered counterparty only the following types of collateral:

* * * * *

(ix) Securities in the form of redeemable securities in a pooled investment fund representing the security-holder's proportional interest in the fund's net assets and that are issued and redeemed only on the basis of the market value of the fund's net assets prepared each business day after the security-holder makes its investment commitment or redemption request to the fund, if the fund's investments are limited to the following:

(A) Securities that are issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury, and immediately-available cash funds denominated in U.S. dollars; or

(B) Securities denominated in a common currency and issued by, or fully guaranteed as to the payment of principal and interest by, the European Central Bank or a sovereign entity that is assigned no higher than a 20 percent risk weight under the capital rules applicable to swap dealers subject to regulation by a prudential regulator, and immediately-available cash funds denominated in the same currency; or

* * * * *

(3) * * *

(i) * * *

(B) The discounts set forth in the following table:

TABLE 1 TO PARAGRAPH (a)(3)(i)(B)—STANDARDIZED HAIRCUT SCHEDULE

Cash in same currency as swap obligation	0.0
Eligible government and related debt (e.g., central bank, multilateral development bank, GSE securities identified in paragraph (a)(1)(v) of this section): Residual maturity less than one-year	0.5
Eligible government and related debt (e.g., central bank, multilateral development bank, GSE securities identified in paragraph (a)(1)(v) of this section): Residual maturity between one and five years	2.0
Eligible government and related debt (e.g., central bank, multilateral development bank, GSE securities identified in paragraph (a)(1)(v) of this section): Residual maturity greater than five years	4.0
Eligible redeemable securities in pooled investment funds that limit their investments as specified in paragraphs (a)(1)(ix)(A) or (a)(1)(ix)(B) of this section, as applicable, and the respective fund's maximum value-weighted average time to maturity or maximum residual maturity of any individual investment is less than one year	0.5
Eligible redeemable securities in pooled investment funds that limit their investments as specified in paragraphs (a)(1)(ix)(A) or (a)(1)(ix)(B) of this section, as applicable, and the respective fund's maximum value-weighted average time to maturity or maximum residual maturity of any individual investment is between one and five years	2.0
Eligible redeemable securities in pooled investment funds that limit their investments as specified in paragraphs (a)(1)(ix)(A) or (a)(1)(ix)(B) of this section, as applicable, and the respective fund's maximum value-weighted average time to maturity or maximum residual maturity of any individual investment is greater than five years	4.0
Eligible corporate debt (including eligible GSE debt securities not identified in paragraph (a)(1)(v) of this section): Residual maturity less than one-year	1.0
Eligible corporate debt (including eligible GSE debt securities not identified in paragraph (a)(1)(v) of this section): Residual maturity between one and five years	4.0
Eligible corporate debt (including eligible GSE debt securities not identified in paragraph (a)(1)(v) of this section): Residual maturity greater than five years	8.0
Equities included in S&P 500 or related index	15.0
Equities included in S&P 1500 Composite or related index but not S&P 500 or related index	25.0
Gold	15.0
Additional (additive) haircut on asset in which the currency of the swap obligation differs from that of the collateral asset	8.0

* * * * *

Issued in Washington, DC, on July 15, 2026 by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026-14509 Filed 7-16-26; 8:45 am]

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Part IV

The President

Proclamation 11042—Death of Senator Lindsey Graham

Proclamation 11043—Modifying the Bears Ears National Monument

Proclamation 11044—Modifying the Grand Staircase-Escalante National Monument

Presidential Documents

Title 3—

Proclamation 11042 of July 13, 2026

The President

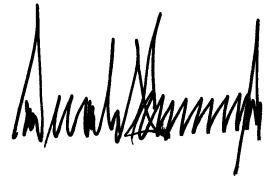
Death of Senator Lindsey Graham

By the President of the United States of America

A Proclamation

As a mark of respect for the memory and longstanding service of Senator Lindsey Graham, I hereby order, by the authority vested in me by the Constitution and the laws of the United States of America, that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until 6:00 p.m. on July 18, 2026. I also direct that the flag shall be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of July, in the year of our Lord two thousand twenty-six, and of the Independence of the United States of America the two hundred and fifty-first.



Presidential Documents

Proclamation 11043 of July 13, 2026

Modifying the Bears Ears National Monument

By the President of the United States of America

A Proclamation

On December 28, 2016, President Obama issued Proclamation 9558, which established the Bears Ears National Monument (Monument) in the State of Utah; reserved approximately 1.35 million acres of Federal land as part of the Monument; and directed that the Monument be jointly managed by the Department of the Interior's Bureau of Land Management (BLM) and the Department of Agriculture's United States Forest Service (USFS).

On December 4, 2017, exercising my authority under section 320301 of title 54, United States Code (the "Antiquities Act"), I issued Proclamation 9681 to modify the boundaries of the Monument in accordance with the requirements of that Act, as well as to ensure the Monument's proper management. Proclamation 9681 excluded approximately 1.15 million acres from the Monument, and also reserved approximately 11,200 acres as part of the Monument that were not originally reserved by Proclamation 9558. On October 8, 2021, President Biden issued Proclamation 10285 to modify the boundaries of the Monument to include all lands previously excluded, expanding the Monument to encompass approximately 1.36 million acres.

The Antiquities Act authorizes the President to declare historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments. The Antiquities Act further requires that any parcel of land reserved as part of a monument be confined to the smallest area compatible with the proper care and management of the objects to be protected. Where the President determines that the structures and objects identified by a prior monument proclamation no longer are, or never were, deserving of the Antiquities Act's protections, the Antiquities Act permits the President to remove land from the monument and return it to its prior federally managed status. Determining the appropriate protective area involves examining several factors, including the uniqueness and nature of the objects to be protected, the nature of the protection needed, the protection provided those objects by other laws, executive department and agency resources available to manage the parcel, and whether the lands are better suited for other non-monument uses.

Given these considerations, the monument designation made in Proclamation 10285 suffers from several flaws under Antiquities Act analysis that require the action taken by this proclamation. First, Proclamation 10285's designation rests on the purported need to protect items that are not historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest. For example, Proclamation 10285 protects various generic features and landscapes found within the Bears Ears region, such as "deep sandstone canyons, broad desert mesas, towering monoliths, forested mountaintops dotted with lush meadows" and "low bluffs and high mesas." While scenic, these generic features are not "landmarks," "structures," or "objects of historical or scientific interest" worthy of protection under the Antiquities Act.

Second, certain landmarks, structures, or objects identified in Proclamation 10285 that could have the necessary historic or scientific interest in other contexts are prevalent throughout the Four Corners region and, in some

cases, throughout the American West. The relative commonness of these cultural resources within the broader area suggests that the specific instances of such objects found within the Monument are not of particular historic or scientific interest. For instance, lithic scatters, projectile points, prehistoric campsites, petroglyphs, and pictographs are found across the American West and are not unique to the Bears Ears region. Accordingly, a monument reservation was neither necessary nor appropriate to protect these items.

Third, because Proclamation 10285 reserved lands that were intended to protect several landmarks, structures, or objects that lack the necessary historic or scientific interest, it also disregards the Antiquities Act's requirement that the reservation of Federal lands for a national monument be confined to the "smallest area compatible with the proper care and management of the objects to be protected." If the parcel had been properly tailored to protect only those objects identified in Proclamation 10285 that do warrant protection under the Antiquities Act, it would have been much smaller.

Finally, a monument designation and reservation of land were unnecessary to protect many of the objects of historic and scientific interest identified by Proclamation 10285, which are already subject to enhanced protections under Federal laws enacted after the Antiquities Act that preserve archaeological, historic, cultural and paleontological resources, as well as plants and animals and their respective habitats. These laws, including the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa–470mm), National Historic Preservation Act (54 U.S.C. 300101 *et seq.*), Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d), Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), National Forest Management Act (16 U.S.C. 1600 *et seq.*), Migratory Bird Treaty Act (16 U.S.C. 703–712), Native American Graves Protection and Repatriation Act of 1976 (25 U.S.C. 3001 *et seq.*), and Paleontological Resources Preservation Act (16 U.S.C. 470aaa–470aaa–11), authorize the BLM or the USFS to limit and condition activities on Federal lands for the protection of certain natural or cultural resources, whether they are within or outside a national monument.

For instance, more than 500,000 acres of the Monument were already being managed to maintain, enhance, or protect their roadless character before they were designated as part of a national monument. Specifically, the BLM manages approximately 380,759 acres of lands within the existing monument as Wilderness Study Areas, which the BLM is required by law to manage so as not to impair their suitability for future congressional designation as Wilderness. On lands managed by the USFS, 46,348 acres are part of the congressionally designated Dark Canyon Wilderness Area, which, under the 1964 Wilderness Act (16 U.S.C. 1131–1136), and the Utah Wilderness Act of 1984 (Public Law 98–428), the USFS must manage so as to maintain or enhance its wilderness character. As a result, many of the objects previously designated as monuments by Proclamation 10285 are already adequately protected by Federal law and do not require a reservation of land under the Antiquities Act for protection.

In light of these flaws, I have determined, in my discretion, that the parcel of land reserved by Proclamation 10285 is not confined to the smallest area compatible with the proper care and management of the objects of scientific or historic interest identified therein. Instead, proper care and management can be provided to those objects by a smaller reservation of approximately 121,096 acres comprising two units: the Shash Jáa Unit and the Indian Creek Unit. Revising the boundaries of the Monument in this way will ensure that, in accordance with the Antiquities Act, the reservation is the smallest area compatible with the proper care and management of the objects to be protected. Revising the Monument's boundaries to encompass approximately 121,096 acres will also account for practical limitations on the BLM's and the USFS's land management resources and funding,

ensuring that these remain adequate to provide proper care and management for the protected objects now and in the future.

Revising the boundaries of the Monument will also unburden public National Forest System lands that can and should be put to a higher-priority use. The Bears Ears region contains several resources that are vital to energy and resource independence and, in turn, critical to national security. These resources—which include critical minerals such as silver, copper, molybdenum, lead, uranium, vanadium, and zinc—create jobs, fuel prosperity, and are essential to important sectors of the economy of the United States, including defense, manufacturing, and transportation. It is imperative that the United States not rely on foreign sources for these resources. Modifying the Monument's boundaries will help ensure that adequate domestic supplies exist, thereby reducing the threat posed by our Nation's reliance on foreign sources.

The approximately 106,816-acre Shash Jáa Unit is the heart of the Monument. These lands encompass a collection of objects of historic and scientific interest that represent the Bears Ears region's natural and cultural heritage. For example, the Shash Jáa Unit contains notable geologic features, including the iconic twin buttes known as the Bears Ears, which are considered sacred by the Native American tribes that call this area their ancestral home and which were a prominent landmark for both ancient peoples and the more recent inhabitants of the region. The Shash Jáa Unit also holds Arch Canyon, Mule Canyon, and Comb Ridge—a north-south trending monocline that resembles a rooster's comb.

The Shash Jáa Unit contains an abundance of cultural and archaeological objects spanning thousands of years of human history, such as dispersed villages, pit houses, kivas, storage pits, storage rooms, pottery, lithic scatters, campsites, rock shelters, pictographs, and baskets, as well as manos and metates for grinding corn. These objects also include large villages from the Pueblo I period, cliff dwellings from the Pueblo III period, and expansive and complex multi-family dwellings from the Pueblo II period near Comb Wash; the Arch Canyon ruin, which contains pictographs and petroglyphs ranging from the Archaic to the historic period; shelter-cliff dwellings from the Pueblo II and III periods in the north and south forks of Mule Canyon, as well as other archaeological sites there, including the House on Fire Ruin; alcoves near Whiskers Draw containing evidence of human habitation from the Basketmaker period; portions of the Butler Wash Archeological District, an Ancestral Puebloan ruin with multiple rooms and kivas that is listed on the National Register of Historic Places; the Butler Wash Kachina Panel, a wall-sized mural of San Juan Anthropomorph figures; and Milk Ranch Point, which is home to a rich concentration of kivas, granaries, and dwellings.

The Shash Jáa Unit also contains important paleontological objects, including Triassic vertebrate trace fossils near Comb Ridge. Additionally, the Shash Jáa Unit contains several historic sites that shed light on the Bears Ears region's more modern cultural heritage. For example, the unit contains objects related to the cowboys, trappers, and explorers that moved into the region in the mid-1800s, as well as objects related to settlers from the Church of Jesus Christ of Latter-day Saints (Latter Day Saints). This last group of objects includes prominent features of the Hole-in-the-Rock Road, such as Salvation Knoll, and San Juan Hill, which served as navigation points for Latter Day Saints traveling into southeastern Utah.

Finally, the Shash Jáa Unit described on the accompanying map includes five non-contiguous parcels of land encompassing significant historic and prehistoric structures and objects of historic and scientific interest, including:

- 1) a 157-acre parcel reserved for Doll House Ruin, a fully-intact and well-preserved single-room granary, as well as for other prehistoric structures and objects in a tributary of Woodenshoe Canyon;

2) a 314-acre parcel reserved for Scorup Cabin, a line cabin originally built in Rig Canyon and later moved to its current location, used by early cowboys as a summer camp while tending cattle in the area;

3) a 693-acre parcel reserved for the Rig Canyon Mining Exploration Site, which supported a vertical oil well, drilled in 1926, in a wildcat oil field;

4) a 318-acre parcel reserved for the Moon House complex, an example of Pueblo-decorated architecture that is listed on the National Register of Historic Places, and is likely the last human occupied site on Cedar Mesa; and

5) an 88-acre parcel reserved for the Citadel, an Ancestral Puebloan site featuring several masonry rooms and a series of deteriorating features on Cedar Mesa.

The approximately 14,279-acre Indian Creek Unit also contains objects of historic and scientific interest that are representative of the region's natural and cultural heritage, such as dinosaur tracks and distinctive and well-preserved petroglyphs in Shay Canyon; Newspaper Rock, a roadside rock art panel that has been listed on the National Register of Historic Places since 1976; and notable paleontological resources, including abundant fossilized flora and fauna.

Accordingly, the area described above and on the accompanying map is the smallest compatible with the proper care and management of the objects of historic and scientific interest identified above, which I have determined in my discretion warrant protection under the Antiquities Act. This modification of the Monument will maintain and protect those objects and preserve the area's cultural, scientific, and historic legacy.

WHEREAS, section 320301 of title 54, United States Code authorizes the President, in the President's discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land; and

WHEREAS, the Antiquities Act also permits the President, in the President's discretion, to alter a prior declaration of a national monument by finding that objects identified in the prior declaration either are no longer deserving of the Antiquities Act's protections, or never were; and

WHEREAS, many of the resources and objects identified by Proclamation 10285 are not historic landmarks, historic structures, or other objects of historic or scientific interest and, therefore, should not have been declared to be national monuments under the Antiquities Act; and

WHEREAS, many of the resources and objects designated as monuments by Proclamation 10285 do not require a reservation of land to protect them because they are not unique to those areas, were not under threat of damage or destruction before designation, or are sufficiently protected by Federal law; and

WHEREAS, the reservation of land established by Proclamation 10285 is not "the smallest area compatible with the proper care and management of the objects to be protected"; and

WHEREAS, given the budgetary and resource constraints of the BLM and the USFS, which have only intensified since 2017, the boundaries established by Proclamations 9681 and 10285 encompass lands too vast to ensure the proper care and management of all of the protected objects located therein; and

WHEREAS, the need to reduce our Nation's reliance on foreign sources of several resources vital to our economic and national security, including resources located within the historic and current boundaries of the Monument, is also greater than it was in 2017, thereby further necessitating

the exclusion of lands that were retained within the Monument by Proclamation 9681; and

WHEREAS, it is in the public interest to modify the boundaries of the Monument to exclude from its reservation approximately 1,238,904 acres of land that I find unnecessary for or disadvantageous to the proper care and management of objects to be protected within the Monument; and

WHEREAS, I find that the boundaries of the Monument as described above and on the accompanying map represent the smallest area compatible with the proper care and management of the objects of historic and scientific interest identified above.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, proclaim that the boundaries of the Bears Ears National Monument are hereby modified to include those lands owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. I hereby further proclaim that the modified Monument areas identified on the accompanying map shall be known as the Indian Creek Unit and Shash Jaa Unit, the latter of which shall include the Moon House complex, the Citadel, Doll House Ruins, Scorup Cabin, and the Rig Canyon Exploration site. These reserved Federal lands cumulatively encompass approximately 121,096 acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects to be protected. Any lands reserved by Proclamations 9558, 9681, or 10285 not within the boundaries identified on the accompanying map are hereby excluded from the Monument.

At 9:00 a.m., eastern daylight time, on the date that is 60 days after the date of this proclamation, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the public and National Forest System lands excluded from the Monument reservation shall be open to:

(1) entry, location, selection, sale, or other disposition under the public land laws and laws applicable to the USFS;

(2) disposition under all laws relating to mineral and geothermal leasing; and

(3) location, entry, and patent under the mining laws.

Appropriation of lands under the mining laws before the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law.

Nothing in this proclamation shall be construed to remove any lands from the Manti-La Sal National Forest or to otherwise revoke, modify, or affect any withdrawal, reservation, or appropriation, other than those set forth in Proclamations 9558, 9681, and 10285.

Nothing in this proclamation shall change the management of the areas designated and reserved by Proclamations 9558, 9681, and 10285 that remain part of the Monument in accordance with the terms of this proclamation, except as provided by the following eleven paragraphs:

For purposes of providing for the proper care and management of the objects identified above, and to facilitate multiple uses of the Monument that are consistent with the proper care and management of those objects, the Secretary of the Interior and the Secretary of Agriculture (the Secretaries) shall jointly maintain a management plan for the Monument and shall promulgate such regulations for its management, consistent with applicable law, as they deem appropriate. The Secretaries, through the BLM and the USFS,

shall consult with other Federal land management agencies or agency components in the local area, including the National Park Service, when developing any management plan. In promulgating any management rules and regulations governing the National Forest System lands within the Monument and developing any management plan, the Secretary of Agriculture, through the USFS, shall consult with the Secretary of the Interior, through the BLM. The Secretaries shall provide for public involvement in the development of any management plan, including consultation with federally recognized Tribes and State and local governments. In developing and implementing any management plan, the Secretaries shall provide opportunities, pursuant to applicable legal authorities, for resource sharing, operational efficiency, and cooperation with other Federal land management agencies, State and local governments, and federally recognized Tribes. When developing any management plan for lands within the Monument, the Secretaries shall take into account, to the maximum extent consistent with the proper care and management of the objects identified above, the importance of (1) providing appropriate access for and otherwise facilitating livestock grazing; (2) maintaining and improving public access to the Monument, including for recreation and hunting; and (3) providing educational experiences that reflect the diversity of the Monument's natural and anthropogenic features and their use throughout the history of the Bears Ears region.

Proclamations 9558 and 10285 established the Bears Ears Commission (BEC) to provide guidance and recommendations on the development and implementation of management plans and on management of the Monument. The BEC is hereby disbanded and terminated, and the Secretaries shall have no obligation to engage, consult, or coordinate with the BEC or a comparable entity as provided in, or derived from, either Proclamation 9558 or 10285, though the Secretaries shall continue to consult with Tribal Nations in accordance with other applicable authorities.

Proclamation 9558 established an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.) to provide information and advice regarding the development of management plans for the Monument and, as appropriate, management of the Monument. Proclamation 9558 is hereby revised to clarify that the Monument advisory committee shall consist of a balanced representation of interested stakeholders that specifically includes one member each from the Hopi Nation, the Navajo Nation, the Ute Indian Tribe of the Uintah and Ouray Reservation, the Ute Mountain Ute Tribe, and the Pueblo of Zuni; one member each from San Juan County, Monticello City, Blanding City, and the Town of Bluff; and six members recommended by the Governor of Utah. Of those six members recommended by the Governor of Utah, each shall belong to one of the following stakeholder groups: archaeological or historical experts; livestock grazing permittees; outdoor recreation participants, including commercial recreation providers or off-highway vehicle users; conservationists; private landowners; and local business owners.

Nothing in this proclamation affects the designation, maintenance, and improvement of existing roads and trails within the Monument, which shall continue to be governed by laws and regulations other than this proclamation. The Secretaries shall prepare a new transportation plan that endeavors to maximize public access to the Monument by designating roads and trails on which motorized and non-motorized vehicle use will be allowed, as well as providing for appropriate maintenance of those roads and trails. Pending completion of that transportation plan, the Secretaries may allow motorized and non-motorized vehicle use on roads and trails designated for such use immediately before the issuance of Proclamation 9558 and may maintain roads and trails for such use. The Secretaries may also designate for motorized vehicle use roads and trails that were not designated for such use prior to the issuance of Proclamation 9558, regardless of the purpose of that use.

The Secretaries shall consider the effects of proposed activities, including potential road closures, on historic roads in the Monument, in accordance with the regulations at 36 CFR Part 800, as appropriate.

Consistent with the proper care and management of the objects identified above, the Secretaries may authorize ecological restoration and active vegetation management activities in the Monument. When engaging in management planning for the Monument, the Secretaries shall consider the full range of vegetation management tools, including mechanical mastication, grazing, and new vegetation management technology that becomes available in the future. Additionally, because noxious weeds and invasive plant species increase wildfire risks, the Secretaries may authorize the use of mechanical, natural, and chemical tools for controlling the proliferation of noxious weeds and invasive plant species, and should coordinate with the San Juan County Weed Board, as appropriate, in developing and implementing treatment plans. Livestock grazing should be utilized as a primary option for mitigating noxious weeds as well as managing fuels and vegetation.

In recognition of the enduring tradition of livestock grazing in the Monument and its historical and cultural significance to local communities, nothing in this proclamation shall be deemed to affect authorizations for livestock grazing, or administration thereof, on Federal lands within the Monument. Livestock grazing within the Monument shall continue to be governed by laws and regulations other than this proclamation.

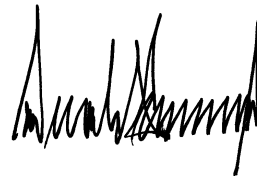
The Secretaries shall endeavor to authorize traditional land uses within the Monument, such as grazing, recreation, timber management, public access, and infrastructure development, to the greatest extent possible, consistent with applicable law. Where restrictions on proposed uses are necessary to comply with applicable laws, such restrictions shall be narrowly tailored.

The Secretaries shall consider livestock grazing lands in the Monument to constitute a traditional cultural place (TCP) and shall consider how proposed activities will impact that TCP in accordance with the regulations at 36 CFR Part 800, as appropriate.

If any livestock grazing permits or leases are voluntarily relinquished by existing holders, the Secretaries shall, within 1 year, re-allocate the relinquished forage, including by issuing a new permit or lease for the relevant allotment, as appropriate, unless the Secretaries specifically find that such reallocation is inconsistent with the proper care and management of the objects identified above.

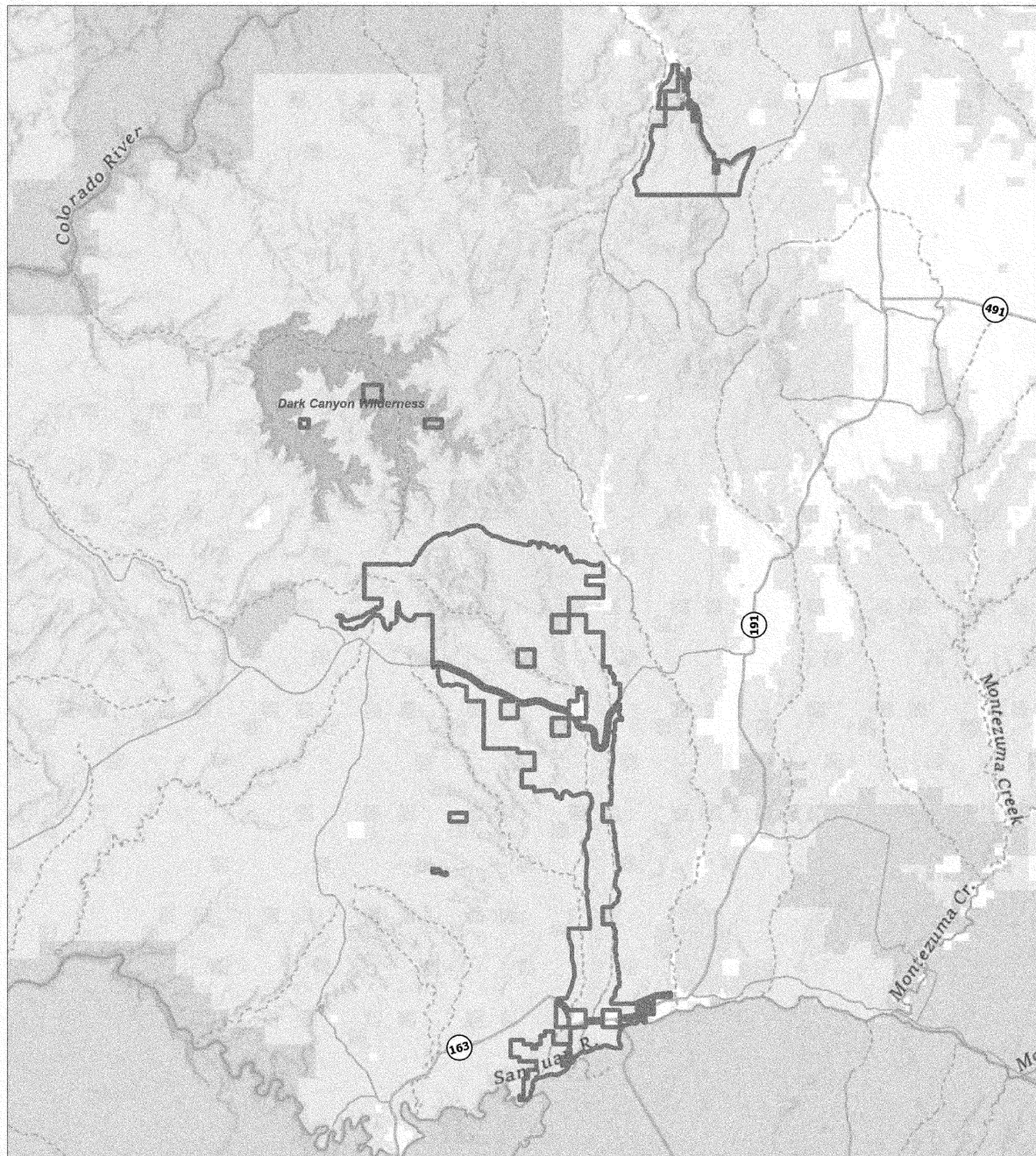
If any provision of this proclamation, including its application to a particular parcel of land, is held to be invalid, the remainder of this proclamation shall not be affected thereby. Furthermore, to the extent that any provision of Proclamations 9558, 9681, or 10285 is inconsistent with or contradicts this proclamation, the terms of this proclamation shall govern.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of July, in the year of our Lord two thousand twenty-six, and of the Independence of the United States of America the two hundred and fifty-first.

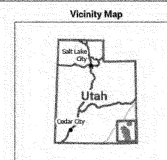
A handwritten signature in black ink, appearing to be "Donald Trump", located in the lower right quadrant of the page.

Bears Ears National Monument

June 2026



- Proposed Monument (121,096 acres)
- US Census State
- Interstates and US Highways
- USFS Wilderness Areas
- Bureau of Land Management (BLM)
- National Park Service (NPS)
- US Forest Service (USFS)
- Bureau of Indian Affairs (BIA)
- State
- Private or Unknown
- Other Federal



Map Scale: 1:600,000 when printed at 36" x 48"

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[FR Doc. 2026-14548]

Filed 7-16-26; 11:15 am]

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Presidential Documents

Proclamation 11044 of July 13, 2026

Modifying the Grand Staircase-Escalante National Monument

By the President of the United States of America

A Proclamation

On September 18, 1996, as part of an effort to prevent development of significant coal reserves and other resources on the Kaiparowits Plateau, President Clinton issued Proclamation 6920, which established the Grand Staircase-Escalante National Monument (Monument) in the State of Utah, reserving approximately 1.7 million acres of Federal lands as part of the Monument, and directing that it be managed by the Department of the Interior's Bureau of Land Management (BLM).

On December 4, 2017, exercising my authority under section 320301 of title 54, United States Code (the "Antiquities Act"), I issued Proclamation 9682 to modify the boundaries of the Monument, ensure proper management, and more closely reflect the intent of the Antiquities Act. Proclamation 9682 removed approximately 860,000 acres from the Monument. On October 8, 2021, President Biden issued Proclamation 10286, increasing the size of the Monument to approximately 1.87 million acres, the size of the Monument immediately prior to the issuance of Proclamation 9682.

The Antiquities Act authorizes the President to declare historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments. The Antiquities Act further requires that any parcel of land reserved as part of a monument be confined to the smallest area compatible with the proper care and management of the objects to be protected. Where the President determines that the structures and objects identified by a prior monument proclamation no longer are, or never were, deserving of the Antiquities Act's protections, the Antiquities Act permits the President to remove land from the monument and return it to its prior federally managed status. Determining the appropriate protective area involves examining several factors, including the uniqueness and nature of the objects to be protected, the nature of the protection needed, the protection provided to those objects by other laws, executive department and agency resources available to manage the parcel, and whether the lands are better suited for other non-monument uses.

Proclamation 10286 suffers from several flaws that warrant its reconsideration. First, Proclamation 10286 was premised on the purported need to protect items that are not historic landmarks, historic or prehistoric structures, or objects of historic or scientific interest. This included a long list of generic topographic and geologic features such as "vast and austere landscape[s]," "sedimentary rock layers," and "bold plateaus and multihued cliffs." These generic features described in Proclamation 10286 do not become "landmarks," "structures," or "objects of historic or scientific interest" worthy of protection under the Antiquities Act simply because they are scenic.

Second, certain landmarks, structures, or objects identified in Proclamation 10286 that could, in other circumstances, have the necessary historic or scientific interest, are not unique to the Monument, and their relative commonness suggests that the specific instances of such objects found within the Monument are not of particular historic or scientific interest. Examples of these relatively common objects include cultural, paleontological, and

geological resources within the Monument that are found throughout the Four Corners region and, in some cases, throughout the American West. Accordingly, a monument reservation was neither necessary nor appropriate to protect items that are not historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest or items that may qualify as such but are sufficiently common to not warrant protection under the Antiquities Act.

Third, because Proclamation 10286 expanded the land reserved for the Monument only to protect objects of no significant historic or scientific interest, that Proclamation disregarded the Antiquities Act's requirement that the reservation of Federal lands for a national monument be confined to the "smallest area compatible with the proper care and management of the objects to be protected." Had the reservation been properly tailored to protect only those objects warranting protection under the Antiquities Act, it would have been much smaller.

Finally, the added reservation of land was unnecessary to protect many of the objects of historic or scientific identified by Proclamation 10286, which are already subject to the enhanced protections provided under Federal laws enacted after the Antiquities Act that preserve archaeological, historic, cultural, paleontological resources as well as plants and animals, and their respective habitats. These laws, including the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa–470mm), National Historic Preservation Act (54 U.S.C. 300101 *et seq.*), Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d), Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), Migratory Bird Treaty Act (16 U.S.C. 703–712), Native American Graves Protection and Repatriation Act of 1976 (25 U.S.C. 3001 *et seq.*), and Paleontological Resources Preservation Act (16 U.S.C. 470aaa–470aaa–11), authorize the BLM to limit and condition activities on Federal lands for the protection of certain natural and cultural resources, whether they are within or outside a national monument.

For instance, the BLM manages more than 800,000 acres of the Monument as Wilderness Study Areas, which the BLM is required by law to manage so as not to impair their suitability for future congressional designation as Wilderness. As a result, many of the objects previously designated as monuments by Proclamation 10286 are already adequately protected by Federal law and do not require a reservation of land under the Antiquities Act for protection.

The Monument reservation established by Proclamation 10286 is, therefore, not confined to the smallest area compatible with the proper care and management of those objects worthy of the Antiquity Act's protection. Proper care and management can instead be provided to those objects of historic and scientific interest by a smaller and more appropriate reservation of approximately 181,541 acres comprising two units: the Canyons of the Escalante Unit and Kaiparowits Horizon Unit. Revising the boundaries of the Monument in this way will ensure that, in accordance with the Antiquities Act, the reservation is the smallest area compatible with the proper care and management of the objects to be protected. Revising the Monument's boundaries to encompass approximately 181,541 acres will also account for practical limitations on the BLM's land management resources and funding, ensuring that these remain adequate to provide proper care and management for the Monument now and in the future.

Revising the boundaries will better align the use of these public lands with the public interest. The Grand Staircase-Escalante region contains several resources that are vital to our economic and national security. These resources include several critical minerals, such as chromium, cobalt, copper, iron, lead, manganese, molybdenum, nickel, silver, thorium, titanium, uranium, vanadium, zinc, and zirconium, create jobs, fuel prosperity, and are essential to important sectors of the economy of the United States, including

defense, manufacturing, and transportation. It is imperative that the United States not be dependent on foreign sources of these resources. Modifying the Monument's boundaries will help ensure that adequate domestic supplies exist, thereby reducing the threat posed by our Nation's reliance on foreign sources.

The approximately 172,641-acre Canyons of the Escalante Unit contains the heart of the lands that remain within the Monument. Carved by the Escalante River and its tributaries, this area contains objects of historic or scientific interest worthy of protection, including the 130-foot-tall Escalante Natural Bridge. This area also boasts Calf Creek Canyon, a canyon of red alcoved walls with expanses of white slickrock, and other canyons along the Escalante River that contain a high density of Fremont prehistoric sites, including pithouses, villages, and storage cysts, as well as petroglyphs and pictographs, such as the Hundred Hands pictograph panel. The canyon of the Escalante River and its tributary canyons contain one of the highest densities of rock art sites in southwestern Utah outside of Capitol Reef National Park, with sites dating from the Archaic to the Historic periods. There are also historic sites of interest in the area related to grazing and ranching, along with the Boulder Mail Trail, which was used to ferry mail between the small desert outpost towns of Escalante and Boulder beginning in 1902.

Objects of historic and scientific interest can also be found in the approximately 8,900-acre Kaiparowits Horizon Unit. A recently discovered bonebed assemblage has produced rare specimens of theropods, including one of the most complete tyrannosaurid specimens in the region and well-preserved remains of hadrosaurs, turtles, and crocodilians. The site has provided critical insights into the ancient ecosystems of the Western Interior Seaway and the rich diversity of dinosaurs, reptiles, and other vertebrates and is considered a globally important paleontological resource. Accordingly, the establishment of the Kaiparowits Horizon Unit serves not only to properly care for and manage this uniquely intact snapshot of ancient biodiversity and environmental conditions, but also to foster continued research, education, and stewardship of a singular resource for the benefit of future generations.

Accordingly, the area described above and on the accompanying map are the smallest area compatible with the proper care and management of those objects identified above, which I have determined in my discretion warrant protection under the Antiquities Act. This modification of Grand Staircase-Escalante National Monument will maintain and protect those objects and preserve the area's cultural, scientific, and historic legacy.

WHEREAS, section 320301 of title 54, United States Code, authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land; and

WHEREAS, the Antiquities Act permits the President, in the President's discretion, to alter a prior declaration of a national monument, including by finding that objects identified in the prior declaration either are no longer deserving of the Antiquities Act's protections, or never were; and

WHEREAS, many of the items and resources identified by Proclamation 10286 are not historic landmarks, historic structures, or otherwise objects of historic or scientific interest of national importance and, therefore, should not have been declared to be national monuments under the Antiquities Act; and

WHEREAS, many of the resources and objects designated as monuments by Proclamation 10286 do not require a reservation of land to protect them because they are not unique to those areas, were not under threat of damage or destruction before designation, or are sufficiently protected by Federal law; and

WHEREAS, the reservation of land established by Proclamation 10286 was not “the smallest area compatible with the proper care and management of the objects to be protected;” and

WHEREAS, given the greater budgetary and resource constraints of the BLM than in 2017, the boundaries established by Proclamations 9682 and 10286 encompass areas too vast for the proper care and management of the objects located therein; and

WHEREAS, our Nation’s need to reduce its reliance on foreign sources of several resources vital to our economic and national security, including resources located within the Monument, is greater than it was in 2017, thereby necessitating the exclusion of lands that were retained within the Monument by Proclamation 9682; and

WHEREAS, it is in the public interest to modify the boundaries of the Monument boundary to exclude approximately 1.69 million acres of land that I find are unnecessary for or disadvantageous to the proper care and management of the objects to be protected within the Monument; and

WHEREAS, I find that the boundaries of the Monument as described above and on the accompanying map represent the smallest area compatible with the proper care and management of the objects of historic and scientific interest identified above;

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim that the boundaries of the Grand Staircase-Escalante National Monument are hereby modified to include those lands owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. I hereby further proclaim that the modified Monument areas identified on the accompanying map shall be known as the Canyons and Escalante Unit and the Kaiparowits Horizon Unit. These reserved Federal lands encompass approximately 181,541 acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects to be protected. Any lands reserved by Proclamations 6920, 9682, or 10286 not within the boundaries identified on the accompanying map are hereby excluded from the Monument.

At 9:00 a.m., eastern daylight time, on the date that is 60 days after the date of this proclamation, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the public lands excluded from the Monument reservation shall be open to:

- (1) entry, location, selection, sale, or other disposition under the public land laws;
- (2) disposition under all laws relating to mineral and geothermal leasing; and
- (3) location, entry, and patent under the mining laws.

Appropriation of lands under the mining laws before the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law, where not in conflict with Federal law.

Nothing in this proclamation shall be construed to revoke, modify, or affect any withdrawal, reservation, or appropriation, other than those set forth in Proclamations 6920, 9682 and 10286.

Nothing in this proclamation shall change the management of the areas designated and reserved by Proclamations 6920, 9682, and 10286 that remain part of the Monument in accordance with the terms of this proclamation, except as provided by the following nine paragraphs:

For purposes of providing for the proper care and management of the objects identified above and to facilitate multiple uses that are consistent with the care and management of those objects, the Secretary of the Interior (Secretary) shall maintain a management plan for the Monument and shall promulgate such regulations for its management as he deems appropriate. The Secretary, through the BLM, shall consult with other Federal land management agencies or agency components in the local area, including the National Park Service, when developing any management plan. The Secretary shall provide for public involvement in the development of the management plan, including consultation with federally recognized Tribes and State and local governments. In developing and implementing any management plan, the Secretary shall provide opportunities, pursuant to applicable legal authorities, for shared resources, operational efficiency, and cooperation with other Federal land management agencies, State and local governments, and federally recognized Tribes. When preparing a management plan for the Monument, the Secretary shall take into account, to the maximum extent consistent with the proper care and management of the objects identified above, the importance of (1) providing appropriate access for and otherwise facilitating livestock grazing; (2) maintaining; and (3) improving public access, including for recreation and hunting; and providing educational experiences that reflect the diversity of the Monument's natural and anthropogenic features and their use throughout the region's history.

Nothing in this proclamation affects the designation, maintenance, and improvement of existing roads and trails within the Monument, which shall continue to be governed by laws and regulations other than this proclamation. The Secretary shall prepare a new transportation plan that endeavors to maximize public access in the Monument through the designation of roads and trails on which motorized and non-motorized vehicle use will be allowed as well as provide for appropriate maintenance of those roads and trails. Pending completion of that transportation plan, the Secretary may allow motorized and non-motorized vehicle use on roads and trails designated for use before the issuance of Proclamation 6920 and shall maintain roads and trails for such use.

The Secretary shall consider the effects of proposed activities, including potential road closures, on historic roads in the Monument, in accordance with the regulations at 36 CFR Part 800, as appropriate.

Consistent with the proper care and management of the objects identified above, the Secretary may authorize ecological restoration and active vegetation management activities in the Monument. When engaging in management planning for the Monument, the Secretary shall consider the full range of vegetation management tools, including mechanical mastication, grazing, and new vegetation management technology that becomes available in the future. Additionally, because noxious weeds and invasive plant species increase wildfire risks, the Secretary may authorize the use of available mechanical, natural, and chemical tools for controlling the proliferation of noxious weed and invasive plant species, and all treatment plans should be developed and implemented in coordination with the Garfield and Kane Counties Weed Boards. Livestock grazing should be utilized as a primary option for mitigating noxious weeds, as well as managing fuels and vegetation.

In recognition of the enduring tradition of livestock grazing in the Monument and its historical and cultural significance to local communities, nothing in this proclamation shall be deemed to affect authorizations for livestock grazing, or administration thereof, on Federal lands within the Monument. Livestock grazing within the Monument shall continue to be governed by the laws and regulations other than this Proclamation.

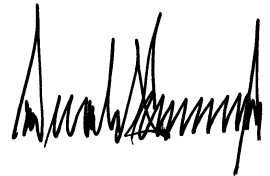
The Secretary shall endeavor to authorize traditional land uses within the Monument, such as grazing, recreation, timber management, public access, and infrastructure development, to the greatest extent possible, consistent with applicable law. Where restrictions on proposed uses are necessary to comply with applicable laws, such restrictions shall be narrowly tailored.

The Secretary shall consider livestock grazing lands in the Monument to constitute a traditional cultural place (TCP) and shall consider how proposed activities will impact that TCP in accordance with the regulation at 36 CFR Part 800, as appropriate.

If any livestock grazing permits or leases within the Monument are voluntarily relinquished by existing holders, the Secretary shall, within 1 year, reallocate the relinquished forage, including by issuing a new permit or lease for the relevant allotment, as appropriate, unless the Secretary specifically finds that such reallocation is inconsistent with the proper care and management of the objects identified above.

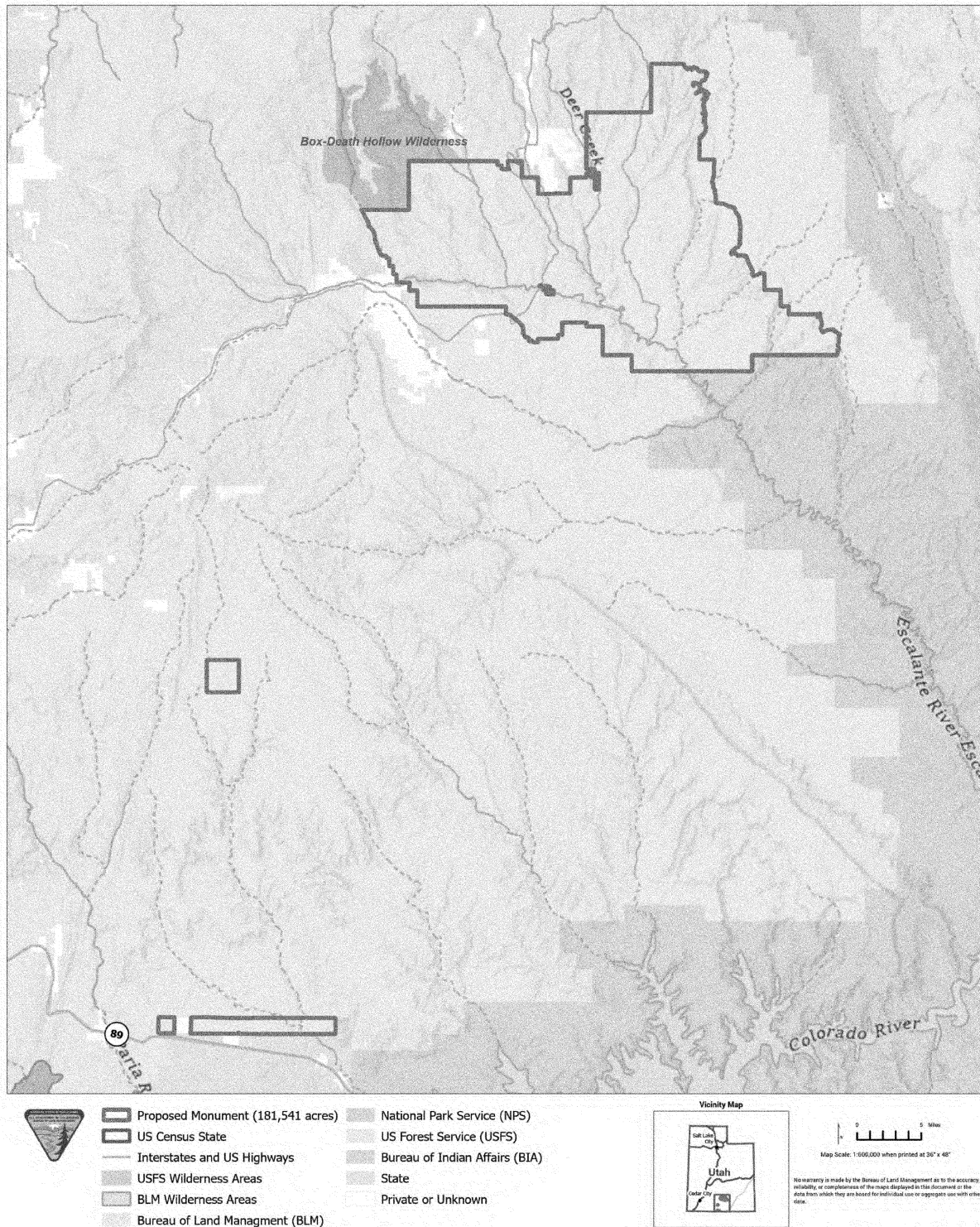
If any provision of this proclamation, including its application to a particular parcel of land, is held to be invalid, the remainder of this proclamation shall not be affected thereby. Furthermore, to the extent that any provision of Proclamations 6920, 9682, or 10286 is inconsistent with or contradicts this proclamation, the terms of this proclamation shall govern.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of July, in the year of our Lord two thousand twenty-six, and of the Independence of the United States of America the two hundred and fifty-first.



Grand Staircase-Escalante National Monument

June 2026



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