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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 178

[Docket ID: OPM–2026–0364]

RIN 3206–AP10

Procedures for Settling Claims

AGENCY: Office of Personnel Management.

ACTION: Direct final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing this direct final rule to update the provisions concerning administrative claims submissions to OPM.

DATES: This direct final rule (DFR) is effective September 29, 2026 unless significant adverse comment is submitted by August 31, 2026. If OPM receives significant adverse comment, OPM will publish a timely withdrawal in the **Federal Register**.

ADDRESSES: You may submit comments on the Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for sending comments.

All comments received will be posted without change, including any personal information provided. To ensure that your comments are considered, you must submit them within the specified open comment period. Before finalizing this rule, OPM will consider all comments within the scope of the regulations received on or before the closing date for comments. OPM may make changes to the final rule after considering the comments received.

A summary of this rule may be found in the docket for this rulemaking at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Joe Knouff by email at adjudications@opm.gov or (202) 606–7948.

SUPPLEMENTARY INFORMATION: Subpart A of 5 CFR part 178 prescribes general procedures applicable to claims against the United States that may be settled by

the Director of the Office of Personnel Management (OPM) involving Federal civilian employees' compensation and leave, deceased federal employees, and checks issued to a veteran who dies on or after the last day of the period covered by the check. Claims under the exclusive jurisdiction of administrative agencies pursuant to specific statutory authority, claims concerning matters that are subject to negotiated grievance procedures under collective bargaining agreements, and claims under the Fair Labor Standards Act (FLSA) are not subject to these provisions.

Under 31 U.S.C. 3702(a)(2), current or former federal civilian employees may file a claim with OPM disputing their compensation or leave. Such claims typically involve backpay, unpaid overtime, unused annual leave upon separation, or denied allowances. For example, if an overseas employee has reason to believe their request for living quarters allowance was inappropriately denied by the agency, the employee may file a claim with OPM. OPM is not granted policy exception authority over any provisions of implementing regulations or agency-specific regulations.

Under 5 U.S.C. 5583, an employing agency pays money due a deceased Federal employee to the beneficiary the employee designated, or, absent a designation, to the employee's widow or widower. This provision applies to unpaid compensation owed at the time of an employee's death, such as final salary or unused leave. See the definition of "money due" at 5 U.S.C. 5581(2). A designated beneficiary, or the widow or widower of the deceased employee, may file a claim with OPM if they have not been paid the money owed.

A third type of claim addressed by this rule are claims to receive accrued benefits due to a deceased veteran. See 38 U.S.C. 5121 and 5122. Potential claimants for these funds include the veteran's spouse, children, or dependent parents.

OPM developed an electronic filing (eFile) system to support existing regulatory provisions. That system will be used for all appeals and claims to allow for faster receipt facilitating OPM's processing and review. To comply with this and inform the public, OPM must update its administrative claims regulations at 5 CFR part 178,

subpart A, which provides the filing instructions.

With this rule, OPM updates the provisions concerning administrative claims submissions by removing the inaccurate information such as the OPM office name and mailing address. It also removes the request for a facsimile number. OPM is also revising the submission provision to require, with limited exception, use of OPM's eFile system for filing a claim. OPM is also requiring claims to include the employing agency name, the claimant's email address, and the "agency employee email address." This information will allow efficient review of claims and facilitate communication with the appropriate people. With the eFile system, it is important that OPM capture the claimant's email address on the claim submission.

Claims filed before September 29, 2026 will be processed under the requirements in effect on the date of submission or postmark. Any submissions on or after September 29, 2026 must comply with the requirements of this part as amended by this rule. OPM notes that it currently accepts claims submitted by mail and email. Claims that are already in process will continue to be processed outside of the new eFile system.

Direct Final Rule Justification

This is a rule of agency organization, procedure, or practice and is therefore exempt from the prior public notice and comment requirements of the Administrative Procedure Act. 5 U.S.C. 553(b)(A). The rule prescribes the manner and format in which claims and supporting documents are submitted to OPM. It does not change who is eligible to file a claim, the substantive bases on which a claim may be brought, the applicable time limits for filing, the evidence required to establish a claim, or the standards OPM applies in adjudicating claims. Because the rule governs the process for submitting matters to OPM rather than the substantive standards that determine their outcome, it does not alter the substantive rights or obligations of claimants.

OPM acknowledges that the rule changes the required method of filing by directing claimants to use OPM's eFile system in place of postal mail or electronic mail. To ensure that this procedural change does not impede any

claimant's ability to file, the rule preserves an exemption process under which OPM may authorize an alternative method of filing for a party or representative who cannot reasonably file electronically. § 178.102(e)(2). The change in filing method therefore does not deprive any claimant of the ability to submit a claim or affect the substantive disposition of claims.

As an independent and alternative basis, OPM finds under 5 U.S.C. 553(b)(B) that notice and public comment are unnecessary and that good cause exists to proceed without prior notice and comment. The rule makes procedural and technical changes—correcting outdated office and contact information and directing filers to OPM's electronic filing system. OPM does not anticipate significant adverse comment but is issuing the rule as a direct final rule and will withdraw it and proceed by notice of proposed rulemaking if it receives significant adverse comment, as described below.

This rule will be effective September 29, 2026, without further action unless significant adverse comments are received. A significant adverse comment is one that explains: (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. If such comments are received, this direct final rule will be withdrawn and a proposed rule for comments will be published. If no such comments are received, this direct final rule will become effective 45 days after the comment period expires. In determining whether a significant adverse comment necessitates withdrawal of this direct final rule, OPM will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in a standard notice and comment process. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

Expected Impact of This Direct Final Rule

OPM determined that this rule was needed to correct outdated information in the regulations and to allow for the use of modern technology in its interactions with Federal employees, former Federal employees, and survivors of deceased Federal employees who may experience a delay in processing times due to the current mail-in procedures. Claims are often delayed in themailroom, misrouted to

another organization, or wait to be scanned in for processing. Using an electronic filing system eliminates the possibility of misrouting and the need to scan in the claims.

This rule will allow OPM to leverage an electronic filing system, which will improve the efficiency of appeal and claim processing for claimants and OPM staff. Moving to the electronic filing system is a more secure and cost-effective way to receive claims and appeals, without the threat of losing sensitive information in themail or having to be received and sorted in themailroom. It also will expedite the processing of cases, allowing the adjudication of cases to be more timely. The level of confidentiality will not be compromised with compensation and leave cases because, like the process today, OPM reviews the claim first to comply with any claimant request for confidentiality prior to reaching out to the agency to inform the agency that a claim has been filed. It also reduces the risk of losing sensitive or personally identifiable information via U.S. mail. Sending the claims and all supporting documentation through the electronic filing system creates an automatic record, making it easier for OPM and claimants to track to make sure that all claims are being received and considered by OPM.

Regulatory Compliance

Regulatory Review

OPM has examined the impact of this rule as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The Office of Management and Budget (OMB) has determined that this rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866. This rule is considered an Executive Order 14192 deregulatory action.

Regulatory Flexibility Act

The Director of OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities because it is a non-substantive, procedural rule.

Federalism

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on

distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the Director of OPM certifies that this direct final rule does not have federalism implications that require preparation of a Federalism Assessment.

Civil Justice Reform

This rulemaking meets the relevant standards of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

Congressional Review Act

The Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs has determined this rule does not meet the criteria listed in 5 U.S.C. 804(2).

Paperwork Reduction Act

This regulatory action will change the reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1995, as amended (44 U.S.C. Chapter 35). OPM has created an e-filing system for use in collecting and maintaining adjudication records for a variety of different existing regulatory provisions. That system will be used to support the changes in this final rule. OPM has submitted a request for a new information collection to the Office of Management and Budget for the e-filing system. (see 91 FR 46802 (July 24, 2026))

After review of OPM's existing System of Records Notices (SORNs), OPM has determined that the following SORNs may apply to information stored in the e-filing system: OPM/GOVT-1, OPM/GOVT-9, OPM/CENTRAL-2, OPM/CENTRAL-5, and OPM/CENTRAL-9. OPM may disclose information outside the agency when such disclosure is compatible with the purpose for which the information was collected. The information collected through the e-filing system may be shared outside of OPM pursuant to the routine uses published in the following

System of Records Notices: OPM/GOVT-1, General Personnel Records; OPM/GOVT-9, File on Position Classification Appeals, Job Grading Appeals, Retained Grade or Pay Appeals, and Fair Labor Standards Act (FLSA) Claims and Complaints; OPM/CENTRAL-2, Complaints and Inquiries Records; OPM/CENTRAL-5, Intergovernmental Personnel Act Assignment Records; and OPM/CENTRAL-9, OPM Suitability Adjudications Files. Principal routine uses include:

- To parties engaged in the adjudication or review of the matter, such as entities responsible for appeals, oversight, or administrative review.
- To individuals or organizations participating in fact finding or decision making, including witnesses, subject matter experts, consultants, or others assisting in resolving the matter.
- To oversight or compliance bodies responsible for reviewing program integrity, privacy compliance, or adherence to applicable laws, rules, or policies.
- To entities responsible for addressing potential violations of law, where the information indicates a possible breach of civil or criminal statutes.
- To courts or adjudicative bodies when the information is relevant to litigation or administrative proceedings.
- To contractors or service providers engaged by OPM to support system operations, case management, or other authorized functions, when access is necessary for them to perform their duties.
- To records management authorities responsible for ensuring proper maintenance, archiving, or disposition of Federal records.

Lists of Subjects in 5 CFR Part 178

Administrative practice and procedure, Claims, Government employees.

Signing Statement

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

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

For the reasons stated in the preamble, OPM amends 5 CFR part 178, as follows:

PART 178—PROCEDURES FOR SETTLING CLAIMS

Subpart A—Administrative Claims—Compensation and Leave, Deceased Employees' Accounts and Proceeds of Canceled Checks for Veterans' Benefits Payable to Deceased Beneficiaries

■ 1. The authority citation for subpart A of part 178 continues to read as follows:

Authority: 31 U.S.C. 3702; 5 U.S.C. 5583; 38 U.S.C. 5122; Pub. L. 104-53, 211, Nov. 19, 1995; E.O. 12107.

■ 2. Amend § 178.102 by revising paragraphs (a), (b), and (e) to read as follows:

§ 178.102 Procedures for submitting claims.

(a) *Content of claims.* Except as provided in paragraph (b) of this section, a claim must be submitted by the claimant or the claimant's representative and must be signed (in a verifiable manner, *e.g.*, wet or digital signature) by the claimant or by the claimant's representative. The request should describe the basis for the claim and state the amount sought. The claim should also include:

- (1) The name, address, telephone number, and email address of the claimant;
 - (2) The name, address, telephone number, and email address of the agency employee who denied the claim;
 - (3) A copy of the denial of the claim; and
 - (4) Any other information which the claimant believes OPM should consider.
- (b) *Agency submissions of claims.* At the discretion of the agency, the agency may submit the claim to OPM on the claimant's behalf. The claimant is responsible for ensuring that OPM receives all the information requested in paragraph (a) of this section.

* * * * *

(e) *Filing a claim.* An individual, or his or her authorized representative, seeking to file a claim under this part must use the electronic filing system available at <https://opmefile.opm.gov/hc/en-us>. Absent an exemption under paragraph (e)(2) of this section, OPM will not accept the filing of a claim, evidence, or other supporting documents via electronic mail or postal mail.

(1) *Electronic filing (eFile) procedures.* (i) All parties and their representatives to a claim must register as instructed by OPM on its website using a unique email address.

(ii) Registration as an eFiler constitutes consent to accept electronic service of all documents, records,

notices, decisions filed by the agency, claimant, or issued by OPM. No party may electronically file any document with OPM or access a claim unless registered as an eFiler.

(iii) All notices, decisions, and other documents issued by OPM, as well as all documents filed by parties, will be made available for viewing and downloading at OPM's electronic filing system. Access to documents is limited to the parties and their representatives who are registered eFilers in the cases in which they were filed.

(iv) All parties and their representatives must follow the instructions on OPM's website for properly filing all claims, evidence, and other documents. OPM may strike a document where an eFiler repeatedly fails to follow these instructions subsequent to a show cause order.

(v) Each eFiler must promptly update their profile in OPM's electronic filing system. The electronic filing system will alert OPM, and other parties of any change made to their address, telephone number, or email address in each pending case with which they are associated. eFilers are also responsible for monitoring case activity regularly in OPM's electronic filing system to ensure that they have received all case-related documents and updates.

(vi) A party or representative may withdraw their registration as an eFiler pursuant to the requirements posted on OPM's website. Withdrawing registration in OPM's electronic filing system means that, effective upon OPM's processing of a proper withdrawal, all filings, evidence, orders, and other documents filed by a party or party's representative and OPM will no longer be made available to that person electronically and that person will no longer have electronic access to their case records through OPM's electronic filing system. OPM may still process a claim after a party or a party's representative withdraws as an eFiler. Withdrawal as a party or party's representative will not be considered good cause for staying a case.

(vii) Documents filed in OPM's electronic filing system are deemed received on the date of the electronic submission. The party submitting the claim or any documents will receive acknowledgement of receipt of the claim and submission of any documents to support the claim.

(2) OPM, in its sole and exclusive discretion, may exempt a party or representative from registering as an eFiler. A party or representative must promptly contact OPM as instructed on OPM's website to request an exemption from the eFiling requirements in this

Part. OPM will not find good cause for failing to file a claim timely if the party or representative fails to contact OPM to request an exemption before any deadline to file.

(3) Submit FLSA claims as provided in subpart G of part 551 of this chapter.

[FR Doc. 2026–15589 Filed 7–30–26; 8:45 am]

BILLING CODE 6325–66–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 300, 330, 337 and 720

[Docket ID: OPM–2026–0595]

RIN 3206–AP20

Removal of References to the Uniform Guidelines on Employee Selection Procedures in Federal Personnel Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim final rule; request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing an interim final rule with request for comments to remove references to the Uniform Guidelines on Employee Selection Procedures (UGESP) from Federal civil service regulations. These amendments conform OPM's regulations to the Department of Justice, Office of Legal Counsel's June 9, 2026, opinion finding the UGESP unlawful.

DATES: This rule is effective July 31, 2026.

Comment date: Comments must be received on or before September 29, 2026.

OPM will consider all timely comments received. After reviewing the comments, OPM may revise, withdraw, or confirm this interim final rule through a subsequent document published in the **Federal Register**.

ADDRESSES: You may submit comments for this interim final rule within the Federal eRulemaking Portal at <https://www.regulations.gov/>. Follow the instructions for submitting comments.

All comments must be received by the end of the comment period for them to be considered. All comments and other submissions received generally will be posted on the internet at www.regulations.gov as they are received, without change, including any personal information provided. However, OPM retains discretion to redact personal or sensitive information, including but not limited to personal or sensitive information pertaining to third parties.

A summary of this rule may be found in the docket for this rulemaking at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Aaron Gottesman, Office of Personnel Management, Office of the Director, (202) 606–1300, regulatory.information@opm.gov.

SUPPLEMENTARY INFORMATION:

I. Background

OPM regulations in 5 CFR part 300 establish basic requirements for Federal employment practices. Section 300.103 requires that each employment practice be based on a job analysis, that there be a rational relationship between performance in the position to be filled and the employment practice used, and that employment practices not discriminate on prohibited bases. Current § 300.103(c) also states that employee-selection procedures must meet the standards established by UGESP, where applicable.

OPM's category rating regulation at 5 CFR 337.303(b) currently requires agencies to define each quality category through job analysis conducted in accordance with UGESP at 29 CFR part 1607 and part 300 of title 5. Similar language appears in OPM's regulations regarding the rating and selection of Reemployment Priority List candidates using category rating in 5 CFR 330.213(d). OPM's Federal Equal Opportunity Recruitment Program regulation at 5 CFR 720.206 and the Appendix to that Part advise agencies that selection processes, including job qualifications, personnel procedures, and criteria, must be consistent with UGESP.

On June 9, 2026, the Department of Justice, Office of Legal Counsel (OLC), issued an opinion titled “Constitutionality of Disparate-Impact Liability Under Title VII.”¹ OLC concluded that existing EEOC interpretations, including UGESP, embrace an unconstitutional reading of Title VII insofar as they contemplate liability based on disparate effects alone, without regard to an employer's likely intent, and pressure employers to engage in race-based decision-making.

OLC also concluded that UGESP's validation study framework is inconsistent with Title VII's business-necessity defense, properly understood, because it imposes detailed and burdensome validation requirements beyond what Title VII requires. OLC further concluded that Federal

regulations encouraging race-conscious action in response to actual or anticipated disparate impacts conflict with Title VII and the Constitution.

Executive branch legal interpretations issued by the President or the Attorney General are controlling on executive-branch employees. Exec. Order 14215, § 7, 90 FR 10,447, 10,449 (Feb. 24, 2025); cf. Exec. Order No. 12146, 44 FR 42,657, 42,658 (July 20, 1979). OLC exercises, by delegation from the Attorney General, the Attorney General's statutory authority to render legal advice and opinions to the President and to heads of Executive Branch departments and agencies. See 28 U.S.C. 510–513; 28 CFR 0.25(a). OLC's core function is to provide controlling legal advice to Executive Branch officials on questions of law that are centrally important to the functioning of the Federal Government, and OLC's legal conclusions are binding within the Executive Branch unless and until superseded by controlling authority.

II. Purpose of This Interim Final Rule

This interim final rule removes OPM regulatory text that incorporates, requires, or advises consistency with UGESP. OPM is taking this action to conform its regulations to OLC's opinion and to eliminate any suggestion that Federal agencies must apply UGESP's adverse-impact and validation-study framework as a binding condition of lawful Federal selection procedures.

The rule is limited. It does not remove the job-analysis requirement in § 300.103(a). It does not remove the requirement in § 300.103(b) that there be a rational relationship between performance in the position to be filled and the employment practice used. It does not remove the requirement that the employment practice be professionally developed. It does not remove the nondiscrimination language in § 300.103(c). It also does not alter agency obligations under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Rehabilitation Act, the Genetic Information Nondiscrimination Act, veterans' preference laws, merit-system principles, prohibited personnel practice provisions under 5 U.S.C. 2301, or any other applicable Federal law.

OPM expects agencies to continue to use job-related, merit-based, and professionally sound selection procedures. This rule removes UGESP as a binding or advisory regulatory standard in the affected OPM provisions; this rule does not prohibit sound professional assessment practices.

¹ Office of Legal Counsel, U.S. Dep't of Justice, *Constitutionality of Disparate-Impact Liability Under Title VII*, 50 Op. O.L.C. __ (June 9, 2026), <https://www.justice.gov/olc/media/1444871/dl>.

III. Administrative Procedure Act

OPM is issuing this rule as an interim final rule with request for comments. OPM finds good cause under 5 U.S.C. 553(b)(B) to issue this rule without prior notice and comment because prior notice and comment would be impracticable and contrary to the public interest. OLC has concluded that the UGESP framework, as reflected in existing Federal employment-selection guidance, is inconsistent with Title VII and the Constitution. Because OLC's legal conclusions are controlling within the Executive Branch unless superseded by controlling authority, leaving OPM regulatory text in place that incorporates, requires, or advises consistency with UGESP would create immediate confusion for Federal agencies administering employment practices.

This rule is limited and deregulatory. It removes references to UGESP but does not eliminate OPM's independent requirements that Federal employment practices be based on job analysis, be rationally related to performance in the position to be filled, be professionally developed, and be administered without prohibited discrimination. OPM also finds good cause under 5 U.S.C. 553(d)(3) for this rule to take effect upon publication. In addition, the rule relieves a restriction within the meaning of 5 U.S.C. 553(d)(1) because it removes regulatory text that could be read to require agencies to apply UGESP's adverse-impact and validation-study framework as a condition of OPM regulation.

OPM invites comments on all aspects of this interim final rule. After considering timely comments, OPM may issue a subsequent final rule confirming, modifying, or withdrawing this interim final rule.

IV. Section-by-Section Explanation

Part 300—Employment (General). OPM amends § 300.103(c) by removing the sentence stating that employee-selection procedures must meet the standards established by UGESP, where applicable. The remaining nondiscrimination language in § 300.103(c), and the job-analysis and rational relationship requirements in § 300.103(a) and (b), remain in effect.

Part 330—Recruitment, Selection, and Placement (General). OPM amends § 330.213(d) by removing the reference to UGESP at 29 CFR part 1607. As amended, agencies using category rating to assess Reemployment Priority List placement priority candidates must continue to define each quality category through job analysis conducted in

accordance with part 300 of title 5. This preserves OPM's Federal civil service job analysis requirements while eliminating incorporation of UGESP's adverse impact and validation framework.

Part 337—Examining System. OPM amends § 337.303(b) by removing the reference to UGESP at 29 CFR part 1607. As amended, agencies using category rating must continue to define each quality category through job analysis conducted in accordance with part 300 of title 5. This preserves OPM's Federal civil-service job-analysis requirements while eliminating incorporation of UGESP's adverse-impact and validation framework.

Part 720—Affirmative Employment Programs. OPM removes the advisory text in § 720.206 stating that agency selection processes must be consistent with UGESP and reserves the section. In addition, OPM removes similar text in the Part 720 Appendix that states that OPM should advise all agencies that all job qualifications, personnel procedures and criteria must be consistent with UGESP. Part 720 continues to govern recruitment program requirements, and this rule does not otherwise amend agency recruitment obligations.

V. Expected Effects

This rule is deregulatory. It removes regulatory text that could be read to require agencies to apply UGESP's adverse-impact and validation-study framework to Federal selection procedures. The rule does not require agencies to adopt new systems, conduct new studies, or submit new reports. OPM expects that agencies may need to review internal policy documents, delegated examining materials, category-rating procedures, or training materials to remove outdated references to UGESP, but OPM does not expect this review to impose significant costs.

The rule may reduce administrative burden by clarifying that agencies need not conduct UGESP validation studies or adverse-impact analyses as a matter of OPM regulation. Agencies remain responsible for ensuring that selection practices are based on merit, supported by job analysis, rationally related to job performance, professionally developed, and administered without prohibited discrimination.

VI. Severability

The amendments made by this rule are severable. If any provision of this rule, or the application of any provision to any person or circumstance, is held invalid, OPM intends that the remaining provisions and applications remain in

effect to the fullest extent permitted by law.

VII. Regulatory Review

OPM has examined this rule under Executive Orders 12866 and 13563. This rule removes regulatory requirements and advisory text and does not impose new compliance obligations. This rule is not a significant regulatory action under Executive Order 12866. For the reasons discussed above, this rule is a deregulatory action under E.O. 14192.

VIII. Regulatory Flexibility Act

The Director of OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities because the rule applies only to Federal agencies and Federal employment practices.

IX. Federalism

This 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. Therefore, this rule does not have federalism implications warranting preparation of a Federalism Assessment.

X. Civil Justice Reform

This rule is intended to provide a clear legal standard by removing obsolete or legally inconsistent cross-references. OPM has reviewed this rule in accordance with applicable civil-justice-reform principles and determined that it is written to minimize litigation, eliminate ambiguity, and reduce burden.

XI. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of \$100 million or more, adjusted annually for inflation, in any one year. Accordingly, no written assessment under the Unfunded Mandates Reform Act is required.

XII. Paperwork Reduction Act

This rule does not contain a collection of information under the Paperwork Reduction Act of 1995. It does not require agencies, employees, applicants, or members of the public to submit information to OPM.

XIII. Congressional Review Act

This rule is subject to the Congressional Review Act. OPM will submit the rule and other required information to Congress and the

Comptroller General before the rule takes effect. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

5 CFR Part 300

Administrative practice and procedure, Government employees, Equal employment opportunity.

5 CFR Part 330

Administrative practice and procedure, Armed forces reserves, District of Columbia, Government employees.

5 CFR Part 337

Government employees, Veterans.

5 CFR Part 720

Equal employment opportunity, Government employees, Reporting and recordkeeping requirements.

Signing Statement

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

Office of Personnel Management

Jerson Matias,

Federal Register Liaison.

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR parts 300, 330, 337 and 720 as follows:

PART 300—EMPLOYMENT (GENERAL)

- 1. The authority citation for part 300 continues to read as follows:

Authority: 5 U.S.C. 552, 2301, 2302, 3301, and 3302; E.O. 10577, 19 FR 7521, 3 CFR 1954–1958 Comp., p. 218, unless otherwise noted.

Secs. 300.101 through 300.104 also issued under 5 U.S.C. 7201, 7204, and 7701; E.O. 11478, 34 FR 12985, 3 CFR 1966–1970 Comp., p. 803; E.O. 13087, 63 FR 30097, 3 CFR 1998 Comp., p. 191; and E.O. 13152, 65 FR 26115, 3 CFR 2000 Comp., p. 264.

Sec. 300.301 also issued under 5 U.S.C. 3341 and E.O. 13562, 75 FR 82585, 3 CFR 2010 Comp., p. 291.

Secs. 300.401 through 300.408 also issued under 5 U.S.C. 1302(c).

Secs. 300.501 through 300.507 also issued under 5 U.S.C. 1103(a)(5).

Sec. 300.603 also issued under 5 U.S.C. 1104.

Subpart A—Employment Practices

§ 300.103 [Amended]

- 2. Amend § 300.103 by removing the last sentence of paragraph (c).

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

- 3. The authority citation for part 330 continues to read as follows:

Authority: 5 U.S.C. 1104, 1302, 3301, 3302, 3304, and 3330; E.O. 10577, 3 CFR, 1954–58 Comp., p. 218; Section 330.103 also issued under 5 U.S.C. 3327; Subpart B also issued under 5 U.S.C. 3315 and 8151; Section 330.401 also issued under 5 U.S.C. 3310; Subparts F and G also issued under Presidential Memorandum on Career Transition Assistance for Federal Employees, September 12, 1995; Subpart G also issued under 5 U.S.C. 8337(h) and 8456(b). § 330.1301 also issued under 5 U.S.C. 9201–9206 and Pub. L. 116–92, sec. 1122(b)(1).

Subpart B—Reemployment Priority List (RPL)

- 4. Amend § 330.213 by revising paragraph (d)(2)(ii) to read as follows:

§ 330.213 Selection from an RPL.

* * * * *

(d) * * *

(2) * * *

(ii) Define each quality category through job analysis conducted in accordance with part 300 of this chapter. Each quality category must have a clear definition that distinguishes it from other quality categories; and

* * * * *

PART 337—EXAMINING SYSTEM

- 5. The authority citation for part 337 continues to read as follows:

Authority: 5 U.S.C. 1104(a), 1302, 2302, 3301, 3302, 3304, 3319, 5364; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; 33 FR 12423, Sept. 4, 1968; and 45 FR 18365, Mar. 21, 1980; 116 Stat. 2135, 2290; 117 Stat. 1392, 1665; and E.O. 13833.

Subpart C—Category Rating

- 6. Amend § 337.303 by revising paragraph (b) to read as follows:

§ 337.303 Agency responsibilities.

* * * * *

(b) Define each quality category through job analysis conducted in accordance with part 300 of this chapter. Each category must have a clear definition that distinguishes it from other categories;

* * * * *

PART 720—AFFIRMATIVE EMPLOYMENT PROGRAMS

- 7. The authority citation for part 720 continues to read as follows:

Authority: 5 U.S.C. 7201; 42 U.S.C. 2000e, unless otherwise noted.

Subpart B—Federal Equal Opportunity Recruitment Program

§ 720.206 [Removed and Reserved]

- 8. Remove and reserve § 720.206.

Appendix to Part 720—[Amended]

- 9. Amend the appendix to part 720, in section IV.B., by removing the words “OPM should advise all agencies that all job qualifications, personnel procedures and criteria must be consistent with the *Uniform Guidelines on Employee Selection Procedures* (43 FR 38290 August 25, 1978)”.

[FR Doc. 2026–15586 Filed 7–30–26; 8:45 am]

BILLING CODE 6325–46–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 551

[Docket ID: OPM–2026–0467]

RIN 3206–AO74

FLSA Claims and Compliance

AGENCY: Office of Personnel Management.

ACTION: Direct final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing this direct final rule to update the provisions concerning Fair Labor Standards Act (FLSA) claims submissions to OPM.

DATES: This direct final rule (DFR) is effective September 29, 2026 unless significant adverse comment is submitted by August 31, 2026. If OPM receives significant adverse comment, OPM will publish a timely withdrawal in the **Federal Register**.

ADDRESSES: You may submit comments on the Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for sending comments.

All comments received will be posted without change, including any personal information provided. To ensure that your comments are considered, you must submit them within the specified open comment period. Before finalizing this rule, OPM will consider all comments within the scope of the regulations received on or before the closing date for comments. OPM may make changes to the final rule after considering the comments received.

A summary of this rule may be found in the docket for this rulemaking at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Joe Knouff by email at adjudications@opm.gov or (202) 606–7948.

SUPPLEMENTARY INFORMATION: Subpart G of 5 CFR part 551 prescribes general

procedures applicable to claims under FLSA (29 U.S.C. 201 *et seq.*) that may be filed with and decided by OPM pursuant to 29 U.S.C. 204(f). Section 204(f) gives OPM the authority to administer the Act's provisions for most Federal civilian employees, including FLSA exemption status determinations, claims for minimum wage or overtime pay, and complaints arising under the child labor provisions. Claims administered by other agencies pursuant to specific statutory authority, claims concerning matters that are subject to negotiated grievance procedures under collective bargaining agreements that do not exclude FLSA matters, and claims already filed in a court of competent jurisdiction are not subject to these provisions. OPM developed an electronic filing (eFile) system to support existing regulatory provisions. That system will be used for all appeals and claims to allow for faster receipt facilitating OPM's processing and review. To comply with this and inform the public, OPM must update its administrative claims regulations in 5 CFR part 551, subpart G, which address FLSA claims for Federal employees.

With this rule, OPM updates the provisions concerning administrative claims submissions by removing the inaccurate information such as the OPM office name and mailing address. It also removes the request for a facsimile number. OPM is also revising the submission provision to require, with limited exception, use of OPM's electronic filing (eFile) system for filing a claim. This includes when an agency submits a claimant's claim to OPM at the request of the claimant. OPM is also requiring claims to include a verifiable signature (such as a wet or digital signature), the employing agency name, and the claimant's email address. This information will allow efficient review of claims and facilitate communication with the appropriate people. With the eFile system, it is important that OPM capture the claimant's email address on the claim submission.

Claims filed before September 29, 2026 will be processed under the requirements in effect on the date of submission or postmark. Any submissions on or after September 29, 2026 must comply with the requirements of this part as amended by this rule. OPM notes that it currently accepts claims submitted by mail and email. Claims that are already in process will continue to be processed outside of the new eFile system.

Direct Final Rule Justification

This is a rule of agency organization, procedure, or practice and is therefore

exempt from the prior notice-and-comment requirements of the Administrative Procedure Act (APA). 5 U.S.C. 553(b)(A). The rule prescribes the manner and format in which claims and supporting documents are submitted to OPM. It does not change who is eligible to file a claim, the substantive bases on which a claim may be brought, the applicable time limits for filing, the evidence required to establish a claim, or the standards OPM applies in adjudicating claims. Because the rule governs the process for submitting matters to OPM rather than the substantive standards that determine their outcome, it does not alter the substantive rights or obligations of claimants.

OPM acknowledges that the rule changes the required method of filing by directing claimants to use OPM's eFile system in place of postal mail or electronic mail. To ensure that this procedural change does not impede any claimant's ability to file, the rule preserves an exemption process under which OPM may authorize an alternative method of filing for a party or representative who cannot reasonably file electronically (§ 551.710(b)(7)). The change in filing method therefore does not deprive any claimant of the ability to submit a claim or affect the substantive disposition of claims.

As an independent and alternative basis, OPM finds under 5 U.S.C. 553(b)(B) that notice and public comment are unnecessary and that good cause exists to proceed without prior notice and comment. The rule makes procedural and technical changes—correcting outdated office and contact information and directing filers to OPM's electronic filing system. OPM does not anticipate significant adverse comment but is issuing the rule as a direct final rule and will withdraw it and proceed by notice of proposed rulemaking if it receives significant adverse comment.

This rule will be effective September 29, 2026, without further action unless significant adverse comments are received. A significant adverse comment is one that explains: (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. If such comments are received, this direct final rule will be withdrawn and a proposed rule for comments will be published. If no such comments are received, this direct final rule will become effective 45 days after the comment period expires. In determining whether a significant adverse comment necessitates

withdrawal of this direct final rule, OPM will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in a standard notice and comment process. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

Expected Impact of This Direct Final Rule

OPM determined that this rule was needed to correct outdated information in the regulations and to allow for the use of modern technology in its interactions with Federal employees, former Federal employees, or survivors of deceased Federal employees who experience a delay in processing times due to the current mail-in procedures of claims. Moving to the eFile system is a more secure and cost-effective way to receive claims and appeals, as claims are often delayed by mail processing and can be misrouted. In addition, claims may be delayed while being scanned for processing. Using the eFile system eliminates the possibility of misrouting and the need to scan in the claims. It also will expedite the processing of cases, allowing the adjudication of cases to be more timely. The level of confidentiality will not be compromised with Fair Labor Standards Act (FLSA) cases because, like the process today, OPM reviews the claim first to comply with any claimant request for confidentiality prior to reaching out to the agency to inform the agency that a claim has been filed.

Regulatory Compliance

Regulatory Review

OPM has examined the impact of this rule as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The Office of Management and Budget (OMB) has determined that this rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866. This rule is considered an Executive Order 14192 deregulatory action.

Regulatory Flexibility Act

The Director of OPM certifies that this rule will not have a significant economic impact on a substantial

number of small entities because it is a non-substantive, procedural rule.

Federalism

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

Civil Justice Reform

This rulemaking meets the relevant standards of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

Congressional Review Act

The Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs has determined this rule does not meet the criteria listed in 5 U.S.C. 804(2).

Paperwork Reduction Act

This regulatory action will change the reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1995, as amended (44 U.S.C. Chapter 35). OPM has created an eFile system for use in collecting and maintaining adjudication records for a variety of different existing regulatory provisions. That system will be used to support the changes in this final rule. OPM has submitted a request for a new information collection to the Office of Management and Budget for the eFile system (see 91 FR 46802 (July 24, 2026)).

After review of OPM's existing System of Records Notices (SORNs), OPM has determined that the following SORNs may apply to information stored in the eFile system: OPM/GOVT-1, OPM/GOVT-9, OPM/CENTRAL-2,

OPM/CENTRAL-5, and OPM/CENTRAL-9. OPM may disclose information outside the agency when such disclosure is compatible with the purpose for which the information was collected. The information collected through the eFile system may be shared outside of OPM pursuant to the routine uses published in the following System of Records Notices: OPM/GOVT-1, General Personnel Records; OPM/GOVT-9, File on Position Classification Appeals, Job Grading Appeals, Retained Grade or Pay Appeals, and Fair Labor Standards Act (FLSA) Claims and Complaints; OPM/CENTRAL-2, Complaints and Inquiries Records; OPM/CENTRAL-5, Intergovernmental Personnel Act Assignment Records; and OPM/CENTRAL-9, OPM Suitability Adjudications Files. Principal routine uses include:

- To parties engaged in the adjudication or review of the matter, such as entities responsible for appeals, oversight, or administrative review.
- To individuals or organizations participating in fact finding or decision making, including witnesses, subject matter experts, consultants, or others assisting in resolving the matter.
- To oversight or compliance bodies responsible for reviewing program integrity, privacy compliance, or adherence to applicable laws, rules, or policies.
- To entities responsible for addressing potential violations of law, where the information indicates a possible breach of civil or criminal statutes.
- To courts or adjudicative bodies when the information is relevant to litigation or administrative proceedings.
- To contractors or service providers engaged by OPM to support system operations, case management, or other authorized functions, when access is necessary for them to perform their duties.
- To records management authorities responsible for ensuring proper maintenance, archiving, or disposition of Federal records.

List of Subjects in 5 CFR Part 551

Government employees, Wages.

Signing Statement

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

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

For the reasons stated in the preamble, OPM amends 5 CFR part 551 as follows:

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

■ 1. The authority citation for part 551 is revised to read as follows:

Authority: 5 U.S.C. 5542(c); 29 U.S.C. 204(f).

Subpart G—FLSA Claims and Compliance

■ 2. Amend § 551.702 by revising paragraph (c) to read as follows:

§ 551.702 Time limits.

* * * * *

(c) *Preserving the claim period.* A claimant or a claimant's designated representative may preserve the claim period by submitting a claim, in writing or electronically, either to the agency employing the claimant during the claim period or to OPM. The date the agency or OPM receives the claim is the date that determines the period of possible entitlement to back pay. The claimant is responsible for proving when the claim was received by the agency or OPM and for retaining documentation to establish when the claim was received by the agency or OPM, such as by retaining proof of agency receipt using certified, return receipt mail, by requesting the agency provide written acknowledgment of receipt of the claim, or by retaining the electronic acknowledgement of receipt from OPM's eFile system. If a claim for back pay is established, the claimant will be entitled to pay for a period of up to 2 years (3 years for a willful violation) back from the date the claim was received.

■ 3. Amend § 551.705 by revising paragraphs (b), (c) introductory text, (c)(1), and (c)(5) to read as follows:

§ 551.705 Filing an FLSA claim.

* * * * *

(b) *FLSA claim filed with agency.* An FLSA claim filed with an agency should be made according to appropriate agency procedures. At the request of the claimant, the agency may forward the claim to OPM using the eFile system on the claimant's behalf. The claimant is responsible for ensuring that OPM receives all the information requested in paragraph (c) of this section.

(c) *FLSA claim filed with OPM.* An FLSA claim filed with OPM must be

made in writing and must be signed (in a verifiable manner, *e.g.*, wet or digital signature) or attested to by the claimant or the claimant's representative. Relevant information may be submitted to OPM at any time following the initial submission of a claim to OPM and prior to OPM's decision on the claim. The claim must include the following:

(1) The identity of the claimant (see § 551.706(a)(2) regarding requesting confidentiality) and any designated representative, the agency employing the claimant during the claim period, the position (job title, series, and grade, or equivalent level) occupied by the claimant during the claim period, the current mailing address, email address, and telephone number of the claimant and any designated representative;

* * * * *

(5) Evidence available to the claimant or the claimant's designated representative which supports the claim, including the identity, telephone number, and location of other individuals who may be able to provide information relating to the claim;

* * * * *

■ 4. Revise § 551.710 to read as follows:

§ 551.710 Procedures for submitting an FLSA claim.

(a) *Filing a claim.* An employee, or his or her authorized representative designated under § 551.704, seeking to file a claim or a request to reopen and reconsider under this part must use the eFile system available at <https://opmefile.opm.gov/hc/en-us>. Absent an approved exemption under paragraph (b)(7), OPM will not accept the filing of a claim, a request to reopen and reconsider evidence, or other supporting documents via electronic mail or postal mail.

(b) *Electronic filing (eFile) procedures.* (1) Each party and its representative(s) to a claim or request to reopen and reconsider must register as instructed by OPM on its website using a unique email address.

(2) Registration as an eFiler constitutes consent to accept electronic service of all documents, records, notices, and decisions filed by the agency, claimant, or issued by OPM. No party may electronically file any document with OPM or access a claim or a request to reopen and reconsider a claim unless registered as an eFiler.

(3) All notices, decisions, and other documents issued by OPM, as well as all documents filed by parties, will be made available for viewing and downloading at OPM's eFile system. Access to documents is limited to the parties and their representatives who

are registered eFilers in the cases in which they were filed.

(4) All parties and their representatives must follow the instructions on OPM's website for properly filing all claims, evidence, and other documents. OPM may strike a document where an eFiler repeatedly fails to follow these instructions following receipt of a show cause order.

(5) Each eFiler must promptly update his or her profile in OPM's eFile system. The eFile system will alert OPM and other parties of any change made to an address, telephone number, or email address in each pending case with which they are associated. eFilers are also responsible for monitoring case activity regularly in OPM's eFile system to ensure that they have received all case-related documents and updates.

(6) A party or representative may withdraw registration as an eFiler pursuant to the instructions posted on OPM's website. Withdrawing registration in OPM's eFile system means that, effective upon OPM's processing of a proper withdrawal, all filings, evidence, orders, and other documents filed by a party or party's representative and OPM will no longer be available to that person electronically and that person will no longer have electronic access to case records through OPM's eFile system. OPM may still process a claim or request to reopen and reconsider after a party or a party's representative withdraws as an eFiler. Withdrawal as a party or party's representative will not be considered good cause for staying a case.

(7) OPM, in its sole and exclusive discretion, may exempt a party or representative from registering as an eFiler. A party or representative must promptly contact OPM as instructed on OPM's website to request an exemption from the eFiling requirements in this part. OPM will not find good cause for failing to file a claim timely or seek to request to reopen and reconsider a decision if the party or representative fails to contact OPM to request an exemption before any deadline to file a claim or seek to request to reopen and reconsider.

(8) Documents filed in OPM's eFile system are deemed received on the date of the electronic submission. The party submitting the claim or any documents will receive acknowledgment of receipt of the claim and submission of any documents to support the claim.

[FR Doc. 2026-15597 Filed 7-30-26; 8:45 am]

BILLING CODE 6325-38-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 82

[Doc. No. AMS-SC-26-0496]

RIN 0581-AE58

Clingstone Peach Diversion Program; Amendment of Program Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule amends the regulatory requirements for the Clingstone Peach Diversion Program (Program). The Program is voluntary, consists of payments for peach tree removal, and is implemented under clause (3) of section 32 of the Agricultural Adjustment Act Amendment of 1935, as amended. The Program is expected to reestablish the purchasing power of clingstone peach growers by making payments to such growers to facilitate reductions in peach production capacity. This action will help to align the domestic supply of clingstone peaches with the market demand for those peaches and thus mitigate the economic effects of systemic oversupply. The parameters established herein will ensure that diversion under this Program is not part of a normal tree replacement cycle for orchard rejuvenation. This rule also announces the Agricultural Marketing Service's intention to request approval by the Office of Management and Budget of new information collection requirements necessary to implement the Program.

DATES: Effective August 3, 2026. Comments received by September 29, 2026 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. 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 sent to the Docket Clerk electronically by email: MarketingOrderComment@usda.gov or via the internet at: <https://www.regulations.gov>. Comments should reference the document number and the date and page number of this issue of the **Federal Register**. Comments submitted in response to this rule will be included in the record, will be made available to the public, and can 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: Joshua Wilde, Marketing Specialist, or Barry Broadbent, Chief, Northwest Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (503) 326-2724; or email: Joshua.R.Wilde@usda.gov or Barry.Broadbent@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends the regulatory provisions under the Clingstone Peach Diversion Program (7 CFR part 82). This rule is issued under the Agricultural Adjustment Act Amendment of 1935, as amended (Act) (7 U.S.C. 612c). This action has been determined to be non-significant and therefore was not reviewed by the Office of Management and Budget (OMB) under the review process required by Executive Order 12866. The annual effect of this rule on the economy will be below the \$100 million threshold for mandatory review established in the Executive Order. Additionally, this action is exempt from the requirements of Executive Order 14192, "Unleashing Prosperity Through Deregulation," as, pursuant to section (1), this interim rule amends an existing regulation and does not promulgate any new regulation. Further, the amended regulation will be voluntary, and the prospective regulated parties will be free to determine if, and to what extent, they wish to participate, thus aligning with the intent of the Executive Order.

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

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

Authority for a Diversion Program

Programs to reestablish the purchasing power of U.S. farmers are authorized by clause (3) of section 32 of the Act, hereinafter referred to as "Section 32." (7 U.S.C. 612c). Section 32 authorizes USDA to reestablish

farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Section 32 also authorizes USDA to use funds at such times, and in such manner, and in such amounts, as USDA finds will effectuate substantial accomplishments of any one or more of the purposes of the section. USDA's determinations as to what constitutes normal production for domestic consumption shall be final.

The diversion Program as reestablished herein is expected to incentivize clingstone peach growers to voluntarily reduce excess production capacity through the removal of clingstone peach trees. The Program is intended to reestablish the purchasing power of California clingstone peach growers who have suffered from systemic overproduction and low commodity prices. Those negative economic conditions are the result of declining demand for canned peaches over the past two decades and increasing competition in the domestic market from imported canned peaches. Economic conditions in the domestic clingstone peach industry were further challenged in 2025 by the closure of a canned fruit processing facility in California, leaving only one cooperatively owned peach canning company, operating two processing facilities, in the state.

Need for a Diversion Program

Domestic production of clingstone peaches is concentrated in California. Although there are more than 200 peach varieties, there are just two basic types: clingstone and freestone. Clingstone peaches—so named because their flesh "clings" to the stone, or pit—are almost exclusively canned due to their ability to retain flavor and textural consistency. Other relatively minor uses include frozen peaches, baby food, and fruit concentrate for juice. Freestone peaches—so named because their flesh is readily removed from the stone—are primarily produced for the fresh market, with secondary outlets including the frozen and dried fruit market.

Peaches are grown commercially in more than 20 states. The National Agricultural Statistics Service (NASS) reported that, in 2024, California produced about 75 percent of all types of peaches (clingstone and freestone) grown in the U.S. Other significant peach producing states, including South Carolina, Georgia, Pennsylvania, New Jersey, and Colorado, had a combined production of a little more than 24 percent of the U.S. total. NASS reports that U.S. production of processed

clingstone peaches totaled approximately 312,650 tons in 2024. Of this total, 299,170 tons, or 96 percent, were produced in California.

Globally, China and Greece are the world's top producers of canned peaches and have been the largest exporters to the U.S. According to the Foreign Agricultural Service (FAS), the U.S. has imported an average of approximately 53,000 tons of canned peaches from Greece per year over the last three years, followed closely by China with an average of 50,000 tons. Thailand, Chile, Spain, and South Africa are other top exporters to the U.S., each averaging between 2,500 tons to 5,500 tons of canned peaches per year since 2023.

Since the 1990s, domestic canned peach production has been declining, with NASS reporting that California clingstone peach production has fallen from 530,000 tons in 2004 to 228,250 tons in 2025. Once a net exporter of canned peaches, the U.S. has been a net importer for the past several decades as production has increasingly moved offshore. This increased reliance on imports is due to several factors, including high domestic labor and other input costs, subsidized over-production in competing countries, unfavorable exchange rates, and unfair, non-reciprocal trade practices. Labor costs, which account for more than two-thirds of a grower's direct production costs, as well as the costs of energy, chemicals, fertilizer, and equipment have climbed dramatically over the last few years. Producer prices have not kept pace with these increased costs.

The increased consumption of imported canned peaches has contributed to a significant consolidation of the domestic canned peach industry in California. Between 2005 and 2022, the number of growers declined from about 700 to approximately 450, according to the latest figures published by NASS. In addition, many of California's domestic fruit canning operations were permanently closed over that period. In the 1980s, there were 11 processors of canned peaches across the state. In 2000, the largest processor of clingstone peaches at the time, Tri-Valley Growers, declared bankruptcy and closed its eight canning facilities. The industry saw additional consolidation in the 2010s with the closure of Del Monte Foods' Kingsburg, CA plant in 2012 and Seneca Foods' Modesto, CA plant in 2018. Most recently, on July 1, 2025, Del Monte Foods declared bankruptcy and announced plans to close its sole remaining California cannery, leaving only a single processor entity, Pacific

Coast Producers (PCP), operating two processing facilities in the state.

As a result of these conditions, bearing acres of clingstone peaches in California have declined from an estimated 19,900 acres in 2014 to an estimated 13,300 acres in 2025. However, due in large part to 20-year peach contracts being offered by Del Monte Foods pre-bankruptcy, farmers planted more than 4,300 new acres of clingstone peach trees between 2023 and 2025. While some of this new acreage has been offset with concurrent acreage reductions elsewhere, the California Canning Peach Association (CCPA) estimates that, without extraordinary measures, bearing acres may increase to about 15,500 acres by 2028. The recent closure of the Del Monte Foods processing plant in Modesto, CA has greatly impaired the industry's ability to process all of the established clingstone peach production, leaving many growers without a market for their excess supply.

Once planted, clingstone peach trees take three years to produce fruit in commercial quantities. Once a peach grower has committed funds to the planting and maintenance of an orchard, it is difficult to reverse those decisions and recoup the costs. Because supply is slow to adjust to changing market conditions, without some remedial action the industry anticipates many years of canning peach production outpacing the demand for canned peaches, resulting in a continuation, if not a worsening, of disruptive market conditions.

As such, CCPA requested a diversion program on behalf of the clingstone peach growers to bring the supply and demand balance back to the industry. Established in 1922, CCPA is a nonprofit cooperative bargaining association, owned and directed by its member growers. CCPA negotiates an annual grower price and otherwise acts on behalf of its roughly 300 grower members, who collectively produce approximately 85 percent of the clingstone peaches grown in California.

Industry Self-Help Initiatives

The California clingstone peach industry has taken several steps to deal with its oversupply issues. The industry sponsored a diversion program in the spring of 2005, resulting in the removal of trees from approximately 2,000 acres. CCPA has also initiated and helped fund other efforts to aid the industry, including: research projects aimed at reducing the cost of production, export incentive programs to increase the volume of peach exports, and

encouraging its growers to limit new plantings to better align supply with demand. However, despite the industry's efforts to mitigate its systemic supply and demand imbalance, production of clingstone peaches continues to be well in excess of normal market needs.

Following the bankruptcy of Del Monte Foods, the company formally rejected all CCPA peach contracts for 2026 and future years, leaving over 5,600 acres of peaches—many recently planted—without a processor contract and without any viable alternative market outlets. The Program, wholly consisting of a reduction in peach production capacity through the removal of peach trees, will provide relief to the peach growers who have been harmed by the contraction of the domestic peach canning industry and will assist the industry in achieving a more balanced supply-demand situation in both the short- and long-term.

Tree Diversion Program

On January 13, 2026, the California clingstone peach industry requested \$9 million in Federal funds, inclusive of administrative costs, to reestablish the Clingstone Peach Diversion Program—a voluntary tree removal program initially implemented in 2005 (70 FR 67306, November 4, 2005). CCPA has pledged an additional \$1.5 million of their funds to augment the Federal funds when the Program is effectuated.

Under the parameters of the Program, the industry expects that at least 3,000 bearing acres of clingstone peach trees will be removed, or approximately 22 percent of the 13,900 acres currently in production. To be eligible for the Program, growers must have had verifiable commercial production under a processor contract for deliveries during the 2025 crop year, with some exceptions for young trees. Non-bearing acres and orchards that have been abandoned, previously removed, or which the land is slated to be sold for commercial purposes—such as shopping centers or housing developments—will not be eligible for participation, except under certain conditions. Orchards which were contracted with a processor for crop year 2025, but which were removed on or after October 1, 2025, following the termination or rejection of such contracts due to the bankruptcy of the processor, may be eligible for reimbursement, provided that both production and tree removal can be verified and the applicant meets all other Program terms and conditions. However, growers who delivered their 2025 clingstone peach crop to a

cooperative processor, and subsequently divested their cooperative processor membership rights, will not be eligible to participate in the Program or receive compensation for removal of their clingstone peach trees.

The Program will be jointly administered by AMS and CCPA under a cooperative agreement. Any California clingstone peach grower wishing to participate in the Program will be required to file an application with CCPA on a form, "Application for Clingstone Peach Diversion Program," approved by OMB. The application period will begin on Monday, August 3, 2026, following publication of this rule announcing the terms and conditions of the Program. Applications will be accepted for 30 days on a rolling basis and will be approved in the order of receipt on a first-come, first-served basis, until either the 30-day period has elapsed or the \$9 million of AMS funds are fully allocated.

Each applicant will be required to provide the information needed by AMS and CCPA to administer the Program, including, but not limited to, the location of the orchard from which trees will be removed, the total acreage to be removed, and the tonnage that was harvested from the applicable acreage in 2025. Following OMB approval, the necessary information will be collected on an application form titled, "Application for Clingstone Peach Diversion Program." Applicants must provide a Tax Identification Number (TIN) or Social Security Number (SSN), as well as a System for Award Management Unique Entity Identifier number (SAM UEI), to be eligible to participate or receive a diversion payment under the Program. SAM UEI numbers are assigned to growers after registering with the Federal Government via the [SAM.gov](https://www.sam.gov) website. Applicants will also certify that no tonnage has been, or will be, harvested in the 2026 crop year, that all equity holders in the participating acreage consent to the filing of the application, and that the land has not been, and will not be, sold for commercial development. Further, the applicant must agree not to replant clingstone peach trees on the same acreage for 10 years after the trees are removed, with consequences for non-compliance. CCPA will review each application for completeness and make every reasonable effort to contact growers to obtain any missing information prior to administrative rejection of the application.

Each approved applicant will be notified of their eligibility by CCPA on another form, "Notification of Clingstone Peach Tree Removal," a form

also to be approved by OMB. Once tree removal is completed, the approved grower will be required to fill out a portion of the "Notification" form, certifying to CCPA and AMS that they removed the clingstone peach trees as agreed and the date of such removal, and verifying the correct grower contact and identification information (TIN or SSN, as well as SAM UEI). The remainder of the form will be completed by a CCPA staff member. The staff member will verify that the approved block of clingstone peach trees has been removed, list the equivalent 2025 tonnage removed from production, and indicate the total amount of money due to the grower. The AMS-funded payment to growers will be made via a Federal Government payment system. Growers will need to register their business entity (or entities) with the Federal Government as directed on the application form to receive payment. There will not be an alternative mechanism to pay growers outside of the designated payment system.

Under the Program, growers will be paid \$175 per ton (\$150 per ton from AMS and \$25 per ton pledged from CCPA) based on their verifiable 2025 peach production from the acreage committed to the tree diversion program, provided that payments will not exceed \$4,000 per acre (AMS and CCPA total). In addition, payments under the Program will not be less than \$1,500 per acre (AMS and CCPA total), allowing some compensation for trees removed from acreage that have not yet achieved full production but otherwise meet all of the other Program conditions.

AMS will pay growers \$150 per verifiable ton, subject to the aforementioned minimum and maximum amounts, via a Federal Government payment system. CCPA has pledged to pay growers an additional \$25 per verifiable ton. All CCPA payments to growers will be made independent of the Government payment system. AMS has no authority to mandate or effectuate the CCPA pledge, and payments to growers, if made, will be made directly from CCPA to the growers, under such terms and methods as CCPA establishes.

To be eligible for the Program, trees must currently be bearing or be young trees of pre-bearing age that were planted under a contract. Dead trees, or previously abandoned orchards, will not be eligible to participate. Trees will have to be removed no later than 60 days following the date of approval by CCPA.

Growers who participate in the Program and subsequently replant

clingstone peach trees in the same location within the 10-year period following removal of the trees will be required to refund all payments received to USDA, plus interest, on the replanted acreage. Because it takes new trees at least three years to be commercially productive, this provision will effectively remove the acreage covered under the Program from the commercial production of clingstone peaches for at least 13 years.

As previously stated, the Program is expected to reduce California clingstone peach acreage by at least 3,000 acres. Based on the most recent 3-year industry average annual clingstone peach yield of 16.6 tons per acre, removal of trees from 3,000 acres could reduce annual canned peach production by approximately 50,000 tons. The decrease in production from this one-time diversion program will help align supply of clingstone peaches with demand into the future while still ensuring that the market is adequately supplied. In addition, the Program will provide the clingstone peach industry with the economic opportunity to concentrate its efforts on rebuilding canned peach demand instead of coping with issues related to oversupply.

As noted earlier, AMS will provide \$9 million to fund the Program, inclusive of administrative costs, with CCPA pledging an additional \$1.5 million to be administered separately by CCPA. Applications will be approved until the allocated AMS and CCPA funds have been committed, or the 30-day application period has elapsed, whichever comes first. Each participating grower will have no more than 60 days following the date of approval by CCPA.

Based on the provisions of the Program, total payments to growers (both AMS and CCPA commitments) will range from \$1,500 to \$4,000 per acre, which is expected to cover most of the costs of removing the trees, as well as preparing the land for other uses. Under the Program parameters, even if a grower had a yield greater than 22.9 tons per acre on the acreage committed for removal, the payment to the grower will not exceed the maximum of \$4,000 per acre (\$3,429 from AMS funds and up to \$571 from CCPA) as provided by this rule. Conversely, if a selected block of land had a 2025 yield of 8.6 tons per acre or less, or the acreage had not achieved maturity (young trees less than four years old which did not produce enough fruit to warrant harvesting), the grower will receive the minimum of \$1,500 per acre (\$1,286 from AMS funds and up to \$214 from CCPA). The \$175 per ton payment, as well as the upper

and lower limits to the amount paid per acre, are considered necessary to help ensure that enough growers participate in the Program to achieve the stated goals. The costs of tree removal relative to participating in the Program may vary depending on the number of acres removed. Some cost savings may accrue to growers when larger blocks of acreage are removed under the Program.

According to CCPA, the estimated cost of tree removal, inclusive of the removal of roots and associated debris, field leveling and tilling, fumigation applications, and weed suppression management, are estimated to be approximately \$2,800 per acre. As such, the \$1,500–\$4,000 per acre total payment authorized under the Program is expected to offset a significant portion of the cost associated with tree removal for a qualified grower participant. A participating grower's ability to plant alternative crops on the cleared acreage is considered an additional option that may help offset the cost of the Program. Grafting another type of tree, other than a clingstone peach tree, onto the remaining rootstock after the removal of the clingstone peach tree trunks will also be allowed under the Program, further expanding the commercial options for participating growers.

The current economic conditions within the industry, specifically weak demand, reduced per capita consumption of peaches, stagnant domestic shipments and exports, increasing low-priced imports, and declining grower prices and revenues are expected to limit the incentives for replanting acreage to clingstone peach trees in the near future, thus contributing to the justification of this Program.

Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis. The purpose of the RFA is to fit regulatory actions to the scale of business subject to actions in order that small businesses will not be unduly or disproportionately burdened.

At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural producers of clingstone peaches as those having annual receipts equal to or less than \$3,500,000 (NAICS code 111339, Other Noncitrus Fruit Farming). Meanwhile, small agricultural service firms are defined as those having annual receipts of equal to or less than \$34,000,000 (NAICS code 115114,

Postharvest Crop Activities) (13 CFR 121.201).

In the 2022 Census of Agriculture, NASS reported a total of 468 clingstone peach producing farm operations in California, with 14,142 total acres. To calculate the number of small growers that meet the SBA definition of annual receipts equal to or less than \$3.5 million, the amount of acreage required to produce the volume of peaches at an average price to reach \$3.5 million must be estimated. For that purpose, NASS price and yield data for 2024 is the most recent available.

For 2024, the average California price for clingstone peaches was \$0.314 per pound (\$628 per ton) and clingstone peach average yield was reported at 33,200 pounds (16.6 tons) per acre. These figures are utilized to estimate the amount of acreage required to produce the volume of clingstone peaches to reach the SBA threshold of \$3.5 million. To generate \$3.5 million in annual receipts, at an average grower price of \$0.314 per pound, a grower would need to produce 11,146,497 pounds of clingstone peaches (\$3.5 million divided by \$0.314 per pound equals 11,146,497 pounds). Given an average production of 33,200 pounds per acre, approximately 336 acres would be required for a clingstone peach grower to achieve \$3.5 million in annual receipts (11,146,497 pounds divided by 33,200 pounds per acre equals 335.74 acres).

According to the 2022 Census, the number of clingstone peach acres harvested in California was 14,142 acres. Dividing the number of clingstone peach acres (14,142) by the estimated number of clingstone peach growers (468) yields average acres per farm of approximately 30.2 acres, which is considerably below the estimated 336 acres required per grower to generate \$3.5 million in sales. Thus, the majority of the 468 clingstone peach farms counted in California by the 2022 Census may be considered small entities by the SBA standard.

NASS data also show the total value of utilized clingstone peach production was \$144.3 million in 2024. Given that there were only two clingstone peach processing entities in operation in California in 2024, and that only one entity is currently in operation in the state, a reasonable assumption would be that the one remaining clingstone peach processor would be considered a large entity based on the SBA definition of having annual receipts of equal to or less than \$34 million.

This rule reestablishes provisions under the clingstone peach diversion program (7 CFR 82) for the 2026 to 2036

period. Authority for the Program is provided in clause (3) of section 32 of the Act. Participation in the Program is voluntary, so individual growers, both large and small, can weigh the benefits and costs of the Program before deciding whether to participate.

Economic Assessment of the Diversion Program

To assess the potential impact that the Program could have on prices growers receive for their product, two potential options were considered: Abandonment, and continued production. Projected grower prices and inventories were calculated assuming the implementation of the Program and comparisons were then drawn between the potential economic benefits and costs of this implementation and the status quo alternative were no such Program implemented.

The analysis assumes that approximately 3,000 acres of clingstone peach orchards will be removed through the Program. Considering all factors, this is expected to result in the reduction of bearing acreage from 13,261 in 2025 to approximately 11,000 acres by 2028. That estimate is derived by taking the 2025 crop year bearing acreage of 13,261, subtracting the Program acreage (3,000 acres), adding in recently established acreage that was previously under contract and is expected to begin bearing fruit in crop year 2028 (2,000 acres), and removing additional acreage that is expected to be taken out of production by growers outside of the Program (1,261 acres) (13,261 current acres minus 3,000 tree pull acres plus 2,000 acres of new bearing trees minus 1,261 acres removed outside of the Program equals approximately 11,000 acres of bearing clingstone peaches in crop year 2028).

Under the Program provisions reestablished herein, acreage is estimated to be reduced to 11,000 acres in 2028. It is assumed that there will be no economic incentive to plant clingstone peach trees outside of the Program, given the expected market outlook, that might add to that acreage estimate. Further, demand for clingstone peaches is estimated to be equal to what can be produced on 11,000 acres moving forward, potentially creating supply and demand equilibrium.

Prior to its bankruptcy filing in July 2025, Del Monte Foods had contracted 4,650 acres of clingstone peaches for canning. Using 2024 yield data from NASS of 16.6 tons per acre, and \$628 price per ton, the total value of production delivered to Del Monte may be estimated at \$48,475,320 (4,650 acres times 16.6 tons per acres times \$628 per

ton equals \$48,475,320 total value of production).

In 2017, the University of California, Davis (UC Davis) published a cost of production study for clingstone peaches. UC Davis is currently working on an updated study considering the recent increase in cost of inputs, however, that study is not yet available as of the publication of this rule. Based on the 2017 UC Davis study, the cost of production per acre of clingstone peaches is \$8,825. Using this per acre cost of production estimate, the cost of production for the 4,650 acres contracted by Del Monte Foods may be estimated at \$41,036,250 (\$8,825 per acre times 4,650 acres equals \$41,036,250). Using the estimated total value of production (\$48,475,320) and estimated total cost of production (\$41,036,250), total calculated returns to growers using that data would have been approximately \$7,439,070 (\$48,475,320 minus \$41,036,250), or nearly \$1,600 per acre (\$7,439,070 total returns divided by 4,650 acres equals \$1,599.80 return per acre).

The bankruptcy of Del Monte Foods leaves only one buyer of California clingstone peaches for canning, Pacific Coast Producers (PCP), which is cooperatively owned by growers. CCPA reports that PCP has contracted 10,400 acres of clingstone peaches for 2026 from both its members and independent growers. The 10,400 contracted acres is the maximum that PCP can process through its two canning facilities. Based on CCPA estimated total number of acres at the beginning of 2026, that will leave approximately 3,500 acres of clingstone peach production with no buyers without intervention (13,900 total acres of clingstone peaches minus 10,400 PCP contracted acres equals 3,500 acres).

Prior to its bankruptcy, Del Monte Foods had contracted with growers to plant additional acreage of clingstone peaches in the hopes of expanding production. CCPA has indicated that there are an additional 1,400 acres of clingstone peaches that have not reached full production to date. Total acreage of clingstone peaches incurring costs but without contracts is estimated to be 4,900 acres (3,500 acres in production plus 1,400 acres planted not in production equals 4,900 acres).

Clingstone peach growers without a contract may face difficulty finding a buyer for their peaches. According to NASS, the 2022–2024 three-year average of the total production of clingstone peaches sold in the fresh market was less than one percent. With so many clingstone peach acres without a processor contract for 2026, prices are

expected to decrease significantly for any alternative market outlet for such peaches due to oversaturation of the market.

Additionally, in October 2025, California's Assembly Bill 732 (AB 732) became effective, which authorizes county agricultural commissioners to penalize owners of neglected or abandoned orchards that become public nuisances, such as breeding environments for pests or diseases. Under AB 732, if landowners are found to have neglected or abandoned their orchards, landowners can face fines of \$500 to \$1,000 per acre.

In considering the potential economic environment for clingstone peaches without a tree pull program, AMS reviewed two possible options that growers without contracts may consider for the 2026 crop year; (1) abandonment of peach orchards, and (2) producing clingstone peaches without a processor contract. Analysis of the two options follows:

Option 1: Abandonment

Growers decide to abandon their clingstone peach orchards. Abandonment would result in the smallest economic cost/loss to the growers as growers would not incur any variable production costs, but there would still be fixed costs and fees associated with owning the land such as taxes and insurance. UC Davis estimates those fixed costs at \$298 per acre. Factoring in that AB 732 can fine growers \$500 to \$1,000 per acre for neglecting or abandoning their orchards, growers may incur a loss of between \$798 to \$1,298 per acre (\$275 property tax plus \$23 property insurance equals \$298 cost per acre; add \$500 AB 732 fine equals \$798 total cost per acre or \$1,000 AB 732 fine equals \$1,298 total cost per acre).

Therefore, the total industry cost/loss of Option 1 could range from a lower bound estimate of \$3,910,200 (\$798 total cost per acre times 4,900 acres equals \$3,910,200 total loss) to \$6,360,200 (\$1,298 total cost per acre times 4,900 acres equals \$6,360,200 total loss).

Option 2: Continued Production

Growers decide to continue to produce clingstone peaches. This option would most likely result in the largest loss to the growers. Growers would incur the full cost of production (\$8,825 per acre) with limited market options. That cost could be reduced if the fruit was produced but not subsequently harvested (reduced by the \$1,627 harvest cost). Assuming insignificant returns from possible sales, and most fruit abandoned, Option 2 could have

the potential for a total industry loss of \$35,270,200 (\$8,825 cost of production per acre minus \$1,627 cost of harvest equals \$7,198 cost of non-producing acres times 4,900 acres equals \$35,270,200 total industry loss).

The economic effect of the Program, on a per acre basis, is expected to dramatically reduce losses and bring grower returns closer to a break-even level. With the level of imports anticipated to continue to increase, and with the level of exports and domestic demand anticipated to continue to decrease, it is assumed that there will not be an economic incentive to expand production after implementation of the Program. It will remain up to the growers to control costs and to expand demand to ensure their longer-term economic stability.

In addition to the direct impact a tree removal program is expected to have on grower price and revenue, there are other indirect impacts. By design, a tree pull program assists an over-supplied industry by decreasing the volume of fruit that is produced. Without a tree removal program, large quantities of clingstone peaches could continue to be produced, and even harvested, but may not be utilized by processors. Growers would have to cover the total cost of production, harvest, and transportation, but would likely only receive payments on fruit that is actually canned. Further, in an attempt to sell the excessive inventories, packers might reduce wholesale prices, which in turn leads to market share battles and lower prices being passed back to growers. A more balanced supply and demand situation will allow growers and packers to jointly continue developing markets in ways that benefit the entire industry.

Costs and Benefits of the Program

CCPA projects the cost of removing a clingstone peach tree is \$20, or approximately \$2,800 per acre. The cost estimate excludes the establishment of a new irrigation system (if necessary for alternative crops) and the cost of establishing an alternative crop. The projected cost to remove 3,000 acres of clingstone peaches is \$8.4 million (3,000 acres times \$2,800 removal cost per acre equals \$8.4 million).

Economic assessment of the Program indicates that it is expected to benefit growers (particularly small, under-capitalized growers), processors, and others associated with the clingstone peach industry. The Program is expected to remove 3,000 or more acres of clingstone peach production. At that level, CCPA projects that growers will be paid approximately \$8,715,000 in total (3,000 acres times 16.6 yield per

ton times \$175 per ton equals \$8,715,000), which should cover the majority of the growers' tree removal expense.

Administrative Cost of the Program

The major direct cost of the Program will be the payment to growers for removing their clingstone peach trees. A total of \$9 million, less the costs associated with local administration of the Program by CCPA, will be made available by AMS for the Program. Administrative costs for reviewing applications and verifying tree removal are expected to be about \$125,000. Major expense categories for administration of the Program include costs for salaries and benefits, vehicle rental and maintenance, and insurance, overhead, and supplies.

Total grower costs associated with the completion of the Program applications, payment requests, and record maintenance for the period specified after tree removal are expected to be about \$2,327.

Overall Assessment of the Program

Payments made under this Program will help California clingstone peach growers by addressing the oversupply problem that is adversely impacting their industry. Reestablishing the peach tree diversion Program is expected to reduce excess supply more quickly than if the industry relied on market forces alone. While market forces could also result in supplies being reduced, such an adjustment may occur more slowly, with resultant economic hardships for growers and processors. In addition, the Program may be beneficial in reducing the risk of loan default for lenders that financed clingstone peach growers and could also help small, under-capitalized growers stay in business. Such small growers are often efficient, but do not have adequate resources to continue to operate given the current depressed conditions within their industry.

The total cost for the Program will be \$10.5 million (\$9 million provided by AMS and \$1.5 million pledged by the industry) with the bulk of those funds to be paid to growers, and a small amount going to CCPA for reimbursement of administrative costs. Additionally, the aggregate total cost to all growers is an estimated \$2,327 for compliance with the application and record-keeping requirements of the program.

The estimated average benefit to growers available under the Program to compensate for tree removal is a total of \$2,607 per acre. This is calculated by determining the difference between the Program payment per acre and the

growers fixed cost per acre (\$175 per ton times 16.6 yield per ton equals \$2,905 per acre Program payment; \$275 property tax per acre plus \$23 property insurance per acre equals \$298 grower fixed costs per acre) (\$2,905 minus \$298 equals \$2,607). The Program is expected to result in a benefit for the growers who participate in the program, assuming no additional variable costs are incurred, and help offset the costs associated with tree removal. While the Program is not expected to generate positive net returns for growers in the short run, the long-term viability of the industry will be strengthened under the Program.

This cost calculation assumes that the acreage on which trees are removed remains idle, and that growers will therefore absorb all fixed costs on that acreage. To the extent that the land is put to other productive uses, growers will not be absorbing all fixed costs of producing clingstone peaches, and grower benefits will be higher. If growers could earn more income from alternative crops, it follows that processors would be forced to pay more to obtain the peaches from the growers. These higher costs could be passed on to consumers through higher retail prices or could be absorbed as reduced operating margins for processors, wholesalers, or retailers. Adjustments in retail prices, as well as retailer and processor margins, are anticipated to change with or without the Program.

Another cost of the Program is the reduced economic activity due to the growers purchasing fewer inputs (labor, chemicals, etc.) because of the reduction in the number of clingstone peach acres managed and harvested. Farm laborers and agricultural supply firms such as chemical manufacturers and distributors could realize less revenue because of the reduced need for their services and goods. To the extent that acreage removed may be replanted to alternative crops, the costs associated with removal could be offset by purchases of labor and supplies to produce such alternative crops. However, the total cost of the Program is difficult to quantify and is not included in this analysis.

Conclusion

Based on all available information, USDA has determined that there is a systemic surplus of clingstone peaches in the market, there is excess clingstone peach production capacity, and reestablishment of growers' purchasing power will be encouraged by using section 32 funds to reduce clingstone peach production capacity under this Program. USDA has further determined that the Program, as reestablished

herein, will be a long-term solution to the perpetual oversupply situation that exists in the clingstone peach industry and will provide financial relief to growers.

Each grower participating in the Program will be required to agree to not replant clingstone peaches on the land from which the trees were removed for 10 years following the date the trees are removed. The grower's commitment to not replant peach trees on the Program approved land is a guarantee by the participant that no one (and not just the participant) will replant the land to clingstone peaches for the agreement period. Only those persons who are current owners of the land, and have not contracted to sell the land, will be eligible to participate in the Program. Participating growers must guarantee that they have not made prior arrangements to sell the land, or to remove the trees from the land but retain ownership for non-agricultural commercial purposes like shopping centers, housing developments, or similar purposes. Inclusion of such non-agricultural land in the Program will not serve the expressed purposes of the Program.

A 60-day comment period is provided to allow interested persons the opportunity to respond to this interim rule, including any regulatory and informational impacts of this action on small businesses. This interim rule will have immediate effect so that those clingstone peach growers who choose to participate in the Program can implement individual tree removal plans in a timely manner and can plant alternative crops, if they so choose, on the acreage where peach trees are to be removed within the 2026 crop year. The Program is voluntary in nature and there is not any regulatory burden associated with this rule. All written comments received within the comment period will be considered before a final determination is made on this matter.

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

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

After consideration of all relevant material presented, including the information and recommendations submitted and other available information, AMS has determined that this interim rule is consistent with, and will tend to effectuate the purposes of, the Act.

Good Cause Analysis

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. This rule makes funds available to producers that will facilitate the removal of clingstone peach trees to reduce canning peach production. Participation in the Program is voluntary, has no regulatory effect, and was re-established following a request from the clingstone peach industry.

It is necessary for this rule to be immediately effective due to the peach growing season. Clingstone peach growers, who are under severe downward economic pressure due to chronic oversupply, are currently making decisions regarding their peach production and alternative cropping plans. The availability of this diversion program will materially influence those decisions. The cropping season in the production area has already started, and any delay in implementing the Program could limit the options that producers have at their disposal and may negatively impact economic outcomes, as has already been evidenced by the series of cannery closures over the last fifteen years. Further, clingstone peach growers are not only aware of this action but have requested it and are anticipating its enactment. Finally, this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), AMS will request OMB approval of the collection of information under the USDA Generic Solution for Solicitation for Funding Opportunity Announcements—OMB form number 0503–0028. This information collection is a generic collection used by USDA for one time funding opportunity announcements. Since the agency does not need to collect new information, such as progress reports, beyond the expiration of this generic information collection, set to expire October 2027, there is no need to submit a regular generic information package.

List of Subjects in 7 CFR Part 82

Administrative practice and procedures, Agriculture, Peaches, Reporting and record keeping

requirements, Surplus agricultural commodities.

For the reasons set forth in the preamble, AMS amends 7 CFR part 82 as follows:

PART 82—CLINGSTONE PEACH DIVERSION PROGRAM

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 7 U.S.C. 612c.

■ 2. Revise and republish § 82.2 to read as follows:

§ 82.2 Administration.

The Clingstone Peach Diversion Program will be administered under the general direction and supervision of the Deputy Administrator, Specialty Crops Program, Agricultural Marketing Service, United States Department of Agriculture, and will be implemented in cooperation with the California Canning Peach Association (CCPA). CCPA, or its authorized representative, does not have authority to modify or waive any of the provisions of this subpart. The Administrator or delegatee, in the Administrator's or delegatee's sole discretion, may modify deadlines to serve the goals of the Program. In all cases, payments under this part are subject to the availability of funds.

■ 3. Amend § 82.3 by:

■ a. Removing the paragraph designations;

■ b. Revising the definition of "Application";

■ c. Removing the definition of "Calendar year";

■ d. Revising the definition of "Diversion" and "Grower";

■ e. Adding definitions for "Notification" and "Program" in alphabetical order;

■ f. Revising the definition "Removal or removed"; and

■ g. Adding a definition for "USDA" in alphabetical order.

The additions and revisions read as follows:

§ 82.3 Definitions.

For the purpose of this part, the terms shall have the following meaning:

* * * * *

Application means the "Application for Clingstone Peach Diversion Program" form as approved by the Office of Management and Budget (OMB).

* * * * *

Diversion means the removal of clingstone peach trees in accordance with Program parameters as defined by this part.

Grower means an individual, partnership, association, or corporation

who grows clingstone peaches for canning.

Notification means the "Notification of Clingstone Peach Tree Removal" form approved by OMB.

Program means the Clingstone Peach Diversion Program as authorized by section 32 of the Agricultural Adjustment Act Amendment of 1935, as amended, and as established by this part.

Removal or removed means that the clingstone peach trees are no longer standing and capable of producing a clingstone peach crop. The grower can accomplish removal by any means the grower desires. Grafting another type of tree, other than a clingstone peach variety, to the rootstock remaining after the clingstone peach tree trunk has been removed will qualify as removal under this Program.

USDA means the United States Department of Agriculture.

■ 4. Revise § 82.4 to read as follows:

§ 82.4 Length of Program.

This Program is effective August 3, 2026, through May 31, 2036. Grower applications to participate in the Program will begin being accepted August 3, 2026, and will continue to be accepted until September 1, 2026. A grower diverting clingstone peaches by removing peach trees must complete the diversion no later than 60 days after the grower has been notified they are approved to participate in the Program.

■ 5. Revise § 82.5 to read as follows:

§ 82.5 General requirements.

(a) To be eligible for the Program, the trees to be removed must be clingstone peach type and be fruit-bearing, or non-bearing, immature trees that were planted under contract prior to July 1, 2025.

(b) Orchards that were not under contract with a processor for the 2025 crop, abandoned orchards, and dead trees will not qualify for participation.

(c) Growers who delivered their 2025 clingstone peach crop to a cooperative processor as a member of the cooperative, and subsequently divested their cooperative membership rights, will not be eligible to participate in the Program or receive compensation for removal of their clingstone peach trees.

(d) The block of trees considered for removal under the Program must be easily definable by separations from other blocks of similar but non-participating trees and contain at least 1,000 eligible trees or an entire orchard.

(e) Except as otherwise provided in paragraph (f) of this section, clingstone peach tree removal shall not take place until the grower has been informed, in

writing, that the grower's application has been approved. Growers will have 60 days after the notification date of Program approval to complete the diversion.

(f) Trees removed by a grower after October 1, 2025, but prior to the effective date of the Program, may be eligible for participation under the Program provided that:

(1) The orchard was contracted with a processor for delivery of clingstone peaches for crop year 2025;

(2) Such contract was subsequently rejected for 2026 and future crop year deliveries;

(3) 2025 crop year production can be verified;

(4) Tree removal can be verified; and

(5) The applicant meets all other Program terms and conditions.

(g) Non-bearing, immature orchards previously under contract with a processor may be eligible for the minimum payment under § 82.6(a) provided that:

(1) Trees were planted under a contractual agreement prior to July 1, 2025;

(2) Tree removal can be verified; and

(3) The applicant meets all other Program terms and conditions.

(h) Any grower participating in the Program must agree not to replant clingstone peach trees on the land cleared under the Program through May 31, 2036. Participants bear responsibility for ensuring that trees are not replanted, whether by themselves, by successors to the land, or by any other person, until after May 31, 2036. If trees are replanted before May 31, 2036, by any person or persons, participants must refund all USDA payments, with interest, made in connection with such participation in the Program.

(i) Any grower participating in the Program must certify that no 2026 crop year peach production has been, or will be, harvested or marketed from the acreage approved for participation in the Program.

■ 6. Revise § 82.6 to read as follows:

§ 82.6 Rate of payment; total payments.

(a) Applications to participate in the Program will be processed on a first-come, first-served basis. Approved growers will be paid \$150 per ton by AMS based on their verifiable 2025 crop year production of clingstone peaches from the block of clingstone peach trees removed under the Program, up to a maximum of \$3,429 per acre (up to \$4,000 per acre total including CCPA pledged funds). Regardless of verifiable 2025 production, approved growers will receive a minimum of \$1,286 per acre

from (up to \$1,500 per acre total including CCPA pledged funds).

(b) Grower payments, as described in paragraph (a) of this section, are limited to payments that will be made by AMS. Payments made to growers by AMS are exclusive of any amounts that may or may not be pledged to be paid, or are actually paid, by CCPA to growers who participate in the Program. AMS will not guarantee any payments that CCPA has pledged to pay to approved growers for clingstone peach tree removal in conjunction with the Program and will not be held liable for any non-performance of such promises made by CCPA.

(c) Payment under paragraph (a) of this section will only be made after tree removal has been verified by the CCPA staff.

(d) AMS payments to growers under the Program are intended to compensate such growers for the costs of tree removal. AMS will not make any other payments or concessions with respect to such removals other than the amount(s) stipulated in paragraph (a) of this section. The grower will be solely responsible for arranging, contracting, executing, and/or paying for the tree removal on the approved acreage.

(e) Total available funding under the Program is limited to \$9,000,000 of AMS funds. No additional expenditures shall be made unless the Administrator or delegatee, in their sole and exclusive discretion, shall, in writing, declare otherwise.

■ 7. Revise and republish § 82.7 to read as follows:

§ 82.7 Eligibility for payment.

(a) If total applications for payment do not exceed \$9,000,000, less the costs of administration, grower payments, as set forth in § 82.6, will be made under the Program to any grower of clingstone peaches who complies with the requirements in § 82.8 and all other terms and conditions in this part.

(b) If applications for participation in the Program authorized by this part exceed \$9,000,000, less administration costs, CCPA will approve the applications (subject to the requirements in § 82.8) in the order in which the completed applications are received in the CCPA office to the extent that funds are available. Applications received after total outlays exceed the amount of money available will be denied.

■ 8. Amend § 82.8 by revising paragraphs (b) through (e) to read as follows:

§ 82.8 Application and approval for participation.

* * * * *

(b) Applications for participation in the Program can be obtained from the CCPA office at 2600 River Plaza Drive, Suite 200, Sacramento, CA 95833; telephone: (916) 925-9131; email: treepull@calpeach.com.

(c) Any grower desiring to participate in the Program must file an application with CCPA prior to September 1, 2026. The application shall be accompanied by a copy of any two of the following four documents: Plot Map from the County Assessor Office; Irrigation Tax Bill; County Property Tax Bill; or any other documents containing an Assessor's Parcel Number. Such application shall include at least the following information:

(1) The name, address, telephone number, tax identification number or Social Security number of the grower, and System for Award Management Unique Entity Identifier Number (SAM UEI);

(2) The location and total acreage, or number of trees, to be diverted;

(3) The net acreage to be diverted;

(4) The 2025 clingstone peach production from the trees (not required for eligible immature, non-bearing trees);

(5) If the land with respect to which the clingstone peach trees will be removed is subject to a mortgage, statutory lien, or other equity interest, the grower must obtain from the holder of such interest a written statement that such party agrees to the enrollment of such land in the Program to the extent determined necessary by AMS. Obtaining such assent shall be the responsibility of the applicant who shall alone bear any responsibilities which may extend to such third parties;

(6) A statement that the applicant agrees to comply with all of the regulations established for the Program;

(7) The applicant shall sign the application certifying that the information contained in the application is true and correct; and

(8) The names of the processor(s) who were contracted to receive the clingstone peaches from the grower in 2025.

(d) CCPA shall review each application received by the deadline to determine whether all the required information has been provided and that the information is correct.

(e) After application reviews and confirmation of eligible trees are completed, CCPA shall notify each applicant, in writing, as to whether or not their application has been approved and the tonnage approved for payment

after removal. If an application is not approved, the notification shall specify the reason(s) for disapproval.

* * * * *

■ 9. Revise § 82.9 to read as follows:

§ 82.9 Inspection and certification of diversion.

Removal of clingstone peach trees under the Program must be completed within 60 days of receipt of the Notification of Clingstone Peach Tree Removal form. When the removal of the clingstone peach trees is complete, the grower will notify CCPA on the Notification of Clingstone Peach Tree Removal form provided by CCPA. CCPA will certify that the trees approved for removal from the acreage have been removed and notify AMS to release payment.

■ 10. Revise and republish § 82.10 to read as follows:

§ 82.10 Claim for payment.

To obtain payment for the trees removed, the grower must submit to CCPA by December 31, 2026, a completed Notification of Clingstone Peach Tree Removal form provided by CCPA. Such form shall include CCPA's certification that the qualifying trees from the acreage have been removed. AMS will then issue payment authorization to the grower in the amount of \$150 per eligible ton removed, or the amount consistent with the minimum and maximum payment per acre as specified in § 82.6. AMS has no authority over the issuance of payments made to growers by CCPA under the Program.

■ 11. Revise the introductory text of § 82.11 to read as follows:

§ 82.11 Compliance with Program provisions.

If AMS or CCPA determines that any provision(s) of this part have not been complied with by the grower, the grower will not be entitled to diversion payments in connection with tree removal. If a grower does not comply with all the terms of this part, including the requirement specified in § 82.5(h), the grower must refund any payment made in connection with the Program, and will also be liable for any other damages incurred as a result of such failure. AMS may deny any grower the right to participate in the Program or the right to receive payments in connection with any diversion previously made under the Program, or both, if AMS determines that:

* * * * *

■ 12. Revise and republish § 82.15 to read as follows:

§ 82.15 Appeals.

Any grower who is dissatisfied with a determination made pursuant to this part may make a request for reconsideration or appeal of such determination. The Deputy Administrator of the Specialty Crop Program shall establish the procedure for such appeals.

■ 13. Amend § 82.16 by:

■ a. Removing paragraph (e);

■ b. Redesignating paragraphs (f) and (g) as paragraphs (e) and (f), respectively; and

■ c. Revising and republishing newly redesignated paragraph (f).

The revision and republication read as follows:

§ 82.16 Refunds; joint and several liability.

* * * * *

(f) In the event that a benefit under this part was provided as the result of erroneous information provided by the grower, or was erroneously or improperly paid for any other reason, the benefit must be repaid with any applicable interest, subject to paragraphs (c) and (d) of this section.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–15525 Filed 7–30–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2026–2905; Airspace Docket No. 25–ANM–164]

RIN 2120–AA66

Amendment of United States Area Navigation Routes (RNAV) T–285 and T–286 in the Vicinity of Thedford, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the published coordinates of the Thedford, NE, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) in the legal descriptions of Area Navigation (RNAV) routes T–285 and T–286 in the vicinity of Thedford, NE. The FAA is taking this action due to discovering that the published coordinates were incorrect by a distance of 344 feet.

DATES: Effective date 0901 UTC, October 29, 2026. The Director of the Federal

Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of this final rule and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from www.federalregister.gov.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it updates the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

History

A third-party survey of the location of the Thedford, NE, VOR/DME discovered that the published coordinates were incorrect. There was a discrepancy of 344 feet between the former coordinates and the correct coordinates. The Thedford VOR/DME is listed in the legal descriptions of RNAV Routes T–285 and T–286. This rule corrects the coordinates for the Thedford VOR/DME in the descriptions of these two routes.

Incorporation by Reference

United States Area Navigation Routes areas are published in paragraph 6011 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 amends the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by updating the geographical coordinates of the Thedford, NE, VOR/DME in the legal descriptions of RNAV Routes T–285 and T–286 in the vicinity of Thedford, NE. Specifically, the geographic coordinates for the Thedford VOR/DME are updated from “lat. 41°58'53.99” N, long. 100°43'08.55” W” to “lat. 41°58'54.04” N, long. 100°43'13.08” W”

Good Cause for Bypassing and Comment

The Administrative Procedure Act (APA) authorizes agencies to dispense with ordinary notice and comment requirements for rules when the agency for “good cause” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B). This rule updates the geographical coordinates of the Thedford, NE, VOR/DME in the legal descriptions of RNAV Routes T–285 and T–286. This action will not impose any additional substantive restrictions or requirements on the persons affected by these regulations as it only updates the coordinates of an already established Navigational Aid. The action constitutes “a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.” *Mack Trucks, Inc. v. EPA*, 682 F.3d 87, 94 (D.C. Cir. 2012). Therefore, the FAA finds good cause that notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

Regulatory Notices and Analyses

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 Order 2100.6B, “Rulemaking and Guidance Procedure” (March 10, 2025); and (3) is expected to impose, at most, de minimis costs. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of amending geographical coordinates of the Thedford VOR/DME in the legal descriptions of RNAV Routes T-285 and T-286 qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures*, paragraph B-2.5(a) which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points

(see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes), and paragraph B-2.5(k), which categorically excludes from further environmental impact review the publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change the concentration of aircraft on these tracks. As such, this action is not expected to result in any potentially significant environmental impacts. Additionally, in accordance with Appendix B, paragraph B-1 of FAA Order 1050.1G, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact statement.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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, effective September 15, 2025, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T-285 NORTH PLATTE, NE (LBF) TO HURON, SD (HON) [AMENDED]

North Platte, NE (LBF)	VOR/DME	(Lat. 41°02′55.34″ N, long. 100°44′49.55″ W)
Thedford, NE (TDD)	VOR/DME	(Lat. 41°58′54.04″ N, long. 100°43′13.08″ W)
MARSS, NE	FIX	(Lat. 42°27′48.92″ N, long. 100°36′15.32″ W)
Valentine, NE (VTN)	NDB	(Lat. 42°51′41.85″ N, long. 100°32′58.73″ W)
LKOTA, SD	WP	(Lat. 43°15′28.00″ N, long. 100°03′14.00″ W)
LESNR, SD	WP	(Lat. 43°29′16.06″ N, long. 099°45′41.55″ W)
Huron, SD (HON)	DME	(Lat. 44°26′24.30″ N, long. 098°18′39.89″ W)

* * * * *

T-286 FONIA, ND TO BOWLR, KS [AMENDED]

FONIA, ND	FIX	(Lat. 48°15′35.07″ N, long. 103°10′37.54″ W)
Dickinson, ND (DIK)	VORTAC	(Lat. 46°51′36.14″ N, long. 102°46′24.60″ W)
JELRO, SD	FIX	(Lat. 45°48′43.83″ N, long. 102°51′46.96″ W)
Rapid City, SD (RAP)	VORTAC	(Lat. 43°58′33.74″ N, long. 103°00′44.38″ W)
Gordon, NE (GRN)	NDB	(Lat. 42°48′03.90″ N, long. 102°10′45.82″ W)
Thedford, NE (TDD)	VOR/DME	(Lat. 41°58′54.04″ N, long. 100°43′13.08″ W)
BOKKI, NE	FIX	(Lat. 41°39′54.99″ N, long. 099°52′17.00″ W)
Grand Island, NE (GRI)	VOR/DME	(Lat. 40°59′02.50″ N, long. 098°18′53.20″ W)
HTHWY, NE	WP	(Lat. 40°12′01.96″ N, long. 096°12′22.51″ W)
Robinson, KS (RBA)	DME	(Lat. 39°51′03.00″ N, long. 095°25′23.00″ W)
BOWLR, KS	FIX	(Lat. 39°37′21.29″ N, long. 095°11′00.26″ W)

* * * * *

Issued in Washington, DC, on July 29, 2026.

Alex W. Nelson,

Manager, Rules and Regulations Group.

[FR Doc. 2026–15603 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2025–2636; Airspace
Docket No. 25–AWA–6]

RIN 2120–AA66

Amendment of Class B Airspace; New York, NY

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class B airspace in New York, NY, to exclude Prohibited Area 75 (P-75) that overlies the residence of the President of the United States. P-75 is simultaneously established through a separate rulemaking action under Docket No. FAA–2025–2635. Additionally, the FAA makes technical amendments to geographic coordinates, an airport name, and navigational aid (NAVAID) type in the airspace description to

conform to the National Airspace System Resource (NASR) database.

DATES: Effective date 0901 UTC, October 29, 2026. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of this final rule and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the www.federalregister.gov.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Ashley Toth, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies terminal airspace as required to preserve the safe and efficient flow of air traffic in the New York, NY, area.

Background

On September 16, 2025, the U.S. Department of Homeland Security, USSS requested that the FAA establish a prohibited area at the presidential residence in New York, NY, to enhance the level of security provided to the President of the United States. In order to provide adequate safeguards for the

protection of the President, it is necessary to designate certain airspace above the presidential residence at New York, NY, as a prohibited area. Under the provision of 14 CFR 73.83, no person may operate an aircraft within that area without permission from the using agency. In response to that request, Prohibited Area P-75, New York, NY, is established concurrent with this action under Docket No. FAA-2025-2635. The New York, NY, Class B airspace overlies the presidential residence where Prohibited Area P-75 is established. Consequently, the New York, NY, Class B airspace, Areas A and E, must be amended concurrently to exclude this prohibited area airspace.

Accordingly, this action amends the description of the New York, NY, Class B airspace to exclude Prohibited Area P-75, which is defined as an area beginning at lat. 40°45'52" N, long. 073°57'11" W; then counterclockwise along an arc with a 1 nautical mile (NM) radius centered at lat. 40°45'46" N, long. 073°58'30" W; to lat. 40°44'48" N, long. 73°58'09" W, with a straight line to the point of beginning, and extending from the surface to 1,000 feet above ground level (AGL).

Incorporation by Reference

Class B airspace designations are published in paragraph 3000 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 amends the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by modifying the New York, NY, Class B, Area A and Area E, airspace legal descriptions to exclude Prohibited Area P-75. The FAA is taking this action due to the concurrent establishment of Prohibited Area P-75 under Docket No. FAA-2025-2635.

Additionally, the FAA makes technical amendments to airport and NAVAID information contained in the airspace description to conform to current data listed in the NASR database and current formatting requirements. The geographic coordinates for the airport reference point (ARP) for the John F. Kennedy International Airport,

NY, the point "lat. 40°38'25" N, long. 73°46'40" W" is changed to "lat. 40°38'24" N, long. 073°46'43" W" The geographic coordinates for the ARP for the Newark International Airport, NJ, the point "lat. 40°41'34" N, long. 74°10'07" W" is changed to "lat. 40°41'33" N, long. 074°10'07" W" The name of the "Newark International Airport, NJ" is changed to the "Newark Liberty International Airport, NJ." The NAVAID name "Kennedy (JFK) Very High Frequency Omnidirectional Range/ Tactical Air Navigation (VORTAC)" is changed to the "Kennedy VOR/Distance Measuring Equipment (VOR/DME)." The NAVAID name "LaGuardia (LGA) VOR/Distance Measuring Equipment (DME)" is changed to the "LaGuardia VOR/DME." Finally, the geographic coordinates for the LaGuardia VOR/DME, the point "lat. 40°47'02" N, long. 73°52'07" W" is changed to "lat. 40°47'01" N, long. 073°52'07" W"

Good Cause for Bypassing Notice and Comment

Under 5 U.S.C. 553, federal agencies engaged in informal rulemaking must provide the public with a notice of proposed rulemaking and an opportunity for public participation. However, 5 U.S.C. 553(b)(B) exempts a rule from these requirements "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Courts have construed these exceptions narrowly, but have nonetheless accepted determinations of good cause that notice and comment is unnecessary in "those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public." *See Mack Trucks, Inc. v. EPA*, 682 F.3d 87, 94 (D.C. Cir. 2012). This action implements airspace exclusions necessitated by separate rulemaking and also includes ministerial updates. Public comment would not have the potential to alter the action because it is automatically triggered and required by the establishment of P-75. Therefore, the FAA finds good cause that notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

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 Order 2100.6B, “Rulemaking and Guidance Procedure” (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting. Since this is a routine matter that only affects air traffic procedures and air navigation, the FAA certifies that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of amending the New York, NY, Class B airspace qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and in accordance with FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures*, paragraph B–2.5(a), which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (*see* 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with the FAA’s NEPA implementation policy and procedures regarding extraordinary circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact statement.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 3000 Class B Airspace

* * * * *

AEA NY B New York, NY [Amended]

John F. Kennedy International Airport, NY (Primary Airport)

(Lat. 40°38′24″ N, long. 073°46′43″ W)

LaGuardia Airport, NY (Primary Airport)

(Lat. 40°46′38″ N, long. 073°52′21″ W)

Newark Liberty International Airport, NJ (Primary Airport)

(Lat. 40°41′33″ N, long. 074°10′07″ W)

Kennedy VOR/DME

(Lat. 40°37′58″ N, long. 073°46′17″ W)

LaGuardia VOR/DME

(Lat. 40°47′01″ N, long. 073°52′07″ W)

Boundaries

That airspace up to and including 7,000 feet MSL.

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within an 8-mile radius circle of Kennedy (JFK) VOR/DME; within a 4-mile radius circle centered at lat. 40°41′30″ N, long. 074°09′59″ W; and within a 6-mile radius circle of LaGuardia (LGA) VOR; excluding the portion within Prohibited Area P–75, excluding the airspace within and below Areas B, J and K hereinafter described, and excluding that airspace east of LaGuardia Airport bounded by a line beginning at the point of intersection of the LGA VOR/DME 071° radial and the 6-mile arc of the LGA VOR/DME, thence clockwise along the LGA VOR/DME 6-mile arc to the LGA 093° radial, thence westerly to the intersection of the Clearview Expressway with a line extending from the LaGuardia 093° radial 6-mile DME fix to the southern edge of Bowne Park; thence to the southern edge of Leavitts Park; thence direct to the JFK VORTAC 340° radial 9-mile DME fix; direct to the JFK VORTAC 341° radial 10-mile DME fix; thence direct to the point of beginning.

Area B. That airspace extending upward from above 500 feet MSL to and including 7,000 feet MSL within an 8-mile radius circle of JFK VORTAC south of a line beginning at the intersection of the JFK VORTAC 237° radial and the Atlantic Ocean shoreline, thence easterly along the shoreline to its intersection with the JFK VORTAC 125° radial 5-mile DME fix, thence northerly along the 5-mile DME arc to and easterly along the JFK VORTAC 94° radial to the 8-mile radius circle of JFK VORTAC; that airspace within a 6-mile radius circle of LGA VOR/DME bounded by a line beginning at the intersection of the 6-mile radius circle and the LGA VOR/DME 039° radial, thence southwesterly along the LGA VOR/DME 039° radial to and southerly along the Bronx shoreline to the north stanchion of the

Throggs Neck Bridge, thence direct to the intersection of the LGA VOR/DME 071° radial and the 6-mile radius circle of LGA VOR/DME, thence counterclockwise along the 6-mile radius circle to the point of beginning; and that airspace between the 4-mile and the 6.5-mile radii of a circle centered at lat. 40°41′30″ N, long. 074°09′59″ W; excluding that airspace within and below Areas C, J and K hereinafter described.

Area C. That airspace extending upward from above 800 feet MSL to and including 7,000 feet MSL within a 6.5-mile radius circle centered at lat. 40°41′30″ N, long. 074°09′59″ W, and bounded by a line beginning at the point where the 6.5-mile radius circle intersects U. S. Highway No. 1, thence northeast along U. S. Highway No. 1 to its point of intersection with a 4-mile radius circle centered at lat. 40°41′30″ N, long. 074°09′59″ W, at the Esso Research Center, thence direct to the public service power plant, thence direct to the Staten Island Expressway at its point of intersection with the 4-mile radius circle, thence east via the Staten Island Expressway to Richmond Avenue, thence south along Richmond Avenue to the 6.5-mile radius circle, thence clockwise along the 6.5-mile radius circle to the point of beginning.

Area D. That airspace extending upward from above 1,100 feet MSL to and including 7,000 feet MSL within the area between the east and west banks of the East River extending from the LGA VOR/DME 6-mile arc to the north end of Roosevelt Island.

Area E. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within the area bounded by a line beginning at the intersection of the 20-mile radius circle of JFK VORTAC and the JFK VORTAC 208° radial, thence counterclockwise along the 20-mile arc to its intersection with the Long Island shoreline, thence southwest along the Long Island shoreline to and counterclockwise along the 13-mile radius circle of JFK VORTAC to and counterclockwise along the 11-mile radius circle of LGA VOR/DME to the LGA VOR/DME 351° radial, thence direct to the LGA VOR/DME 283° radial at the LGA VOR/DME 17-mile DME fix, thence counterclockwise along a 10-mile radius circle centered at lat. 40°41′30″ N, long. 074°09′59″ W, to its intersection with the Colts Neck VORTAC 005° radial, thence direct to the intersection of the Colts Neck VORTAC 034° radial and the New Jersey shoreline at Sandy Hook, thence south along the New Jersey shoreline to the point of beginning; and that airspace within 2 miles each side of the Newark ILS Runway 4L localizer course, extending from the CHESA outer marker to 6 miles southwest of the outer marker, excluding that airspace within and below Areas A, B, and C previously described; excluding the portion within Prohibited Area P–75; and excluding the airspace within and below Areas F, J and K hereinafter described.

Area F. That airspace extending upward from 1,800 feet MSL to and including 7,000 feet MSL within an area bounded by a line beginning at the intersection of the LGA VOR/DME 337° radial and the Conrail Railroad tracks, thence south and west along the railroad tracks to the LGA VOR/DME

299° radial, thence direct south to the intersection of the 6-mile radius circle of LGA VOR/DME and the west bank of the Hudson River, thence south along the west bank of the Hudson River to its intersection with and then counterclockwise along the 6.5-mile radius circle centered at lat. 40°41'30" N, long. 074°09'59" W, to and southwest along the New Jersey Highway Route No. 22 to and clockwise along a 10-mile radius circle centered at lat. 40°41'30" N, long. 074°09'59" W, to LGA VOR/DME 283° radial, thence direct to the point of beginning.

Area G. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius circle centered at lat. 40°41'30" N, long. 074°09'59" W, within a 20-mile radius circle of JFK VORTAC; and within a 20-mile radius circle of LGA VOR/DME, excluding the airspace within and below Areas A, B, C, D, E, and F previously described and excluding the airspace within and below Areas H and J hereinafter described.

Area H. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL between the 13- and 20-mile radii circles of JFK VORTAC bounded on the north by the JFK VORTAC 050° radial and on the south by the Long Island shoreline, excluding that airspace north of Hempstead Turnpike and west of the Seaford-Oyster Bay Expressway.

Area J. That airspace extending upward from above 1,200 feet MSL to and including 7,000 feet MSL within a 6.5-mile radius circle centered at lat. 40°41'30" N, long. 074°09'59" W, and bounded by a line beginning at the intersection of the 6.5-mile radius circle and the tracks of the Central Railroad of New Jersey, thence eastward along the railroad tracks to their point of intersection with the 4-mile radius circle centered at lat. 40°41'30" N, long. 074°09'59" W, thence counterclockwise along the 4-mile radius circle to U. S. Highway No. 1 thence southwest along U. S. Highway No. 1 to the 6.5-mile radius circle, thence clockwise along the 6.5-mile radius circle to the point of beginning; and that airspace beginning at the north stanchion of the Throggs Neck Bridge, thence westerly to the Kennedy VOR/DME 341° radial 10-mile DME fix, thence southerly to the Kennedy VOR/DME 340° radial 9-mile DME fix, thence direct to the southern edge of Leavitts Park, thence direct to the south edge of Bowne Park, thence easterly to the intersection of the Clearview Expressway with a line extending from the south edge of Bowne Park to the LaGuardia 093° radial 6-mile DME fix; thence northerly along the Clearview Expressway to the north stanchion of the Throggs Neck Bridge.

Area K. That airspace extending upward from 1,300 feet MSL, to and including 7,000 feet MSL, north of LaGuardia Airport, within the area beginning on the west bank of the Hudson River at lat. 40°57'45" N, long. 073°54'48" W, (near Alpine Tower) thence south along the west bank of the Hudson River to intersect the Colts Neck VOR/DME 012° radial, thence southwest along the Colts Neck 012° radial to the Hudson River shoreline, thence south along the shoreline to the Verrazano-Narrows Bridge, thence east

along the Bridge to the east bank of the Hudson River, thence north along the east bank of the Hudson River to lat. 40°38'39" N, long. 074°02'03" W, thence north along a line drawn direct to the southwestern most point of Governors Island, thence north along a line drawn direct to the southwest tip of Manhattan Island, thence north along the east bank of the Hudson River to the LGA VOR/DME 11-mile arc, north of LaGuardia Airport, thence counterclockwise along the 11-mile arc to lat. 40°57'54" N, long. 073°54'23" W, thence to the point of beginning.

* * * * *

Issued in Washington, DC, on July 28, 2026.

Alex W. Nelson,

Manager, Rules and Regulations Group.

[FR Doc. 2026–15552 Filed 7–29–26; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–5644; Airspace Docket No. 26–ANE–4]

RIN 2120–AA66

Amendment of Class D Airspace and Class E Airspace Over Groton, CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E airspace over Groton, CT. This action reduces the dimensions of the Groton, CT, Class D airspace to a 4.2-mile radius of the airport, excluding that airspace within a 1-mile radius of Elizabeth Field, Fishers Island, NY. This action updates the geographic coordinates for the Groton-New London Airport, Groton, CT, and the Elizabeth Field Airport, Fishers Island, NY, in the associated airspace legal descriptions. This action also updates the airport name for the Elizabeth Field Airport in the Groton, CT Class D airspace legal description. This action also replaces “Airport/Facility Directory” in the Groton, CT Class D airspace legal description with “Chart Supplement” to comply with current FAA guidance. This action also removes the exclusions of adjacent Class E airspace areas from the Groton, CT and Fishers Island, NY Class E airspace legal descriptions to comply with current FAA guidance.

DATES: Effective 0901 UTC, October 29, 2026. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA

Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours a day, 365 days a year. An electronic copy of this document may also be downloaded from www.federalregister.gov.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, as well as subsequent amendments, can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20597; Telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT:

Marc Ellerbee, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–5589.

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 amends Class D and Class E airspace in Groton, CT, and Class E airspace in Fishers Island, NY.

History

The FAA published an NPRM for Docket No. FAA–2026–5644 in the **Federal Register** (91 FR 31648; May 28, 2026), proposing to amend Class D and Class E airspace in Groton, CT, and Class E airspace in Fishers Island, NY. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class D and Class E airspace designations are published in paragraphs 5000 and 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 amends the latest version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by modifying Class D and Class E airspace over Groton, CT and Fishers Island, NY. A review of the Groton, CT Class D airspace revealed a need for a reduction in the lateral dimensions of the airspace to properly contain Instrument Flight Rules (IFR) operations at the Groton-New London Airport. This action reduces the lateral dimensions of the Groton, CT Class D airspace from a 5-mile radius of the Groton-New London Airport, excluding that airspace within a 1-mile radius of Elizabeth Field to a 4.2-mile radius of the airport, excluding that airspace within a 1-mile radius of Elizabeth Field. This action also updates the geographic coordinates of the Groton-New London Airport in the Groton, CT Class D and Class E airspace legal descriptions from (lat. 41°19'48" N, long. 72°02'42" W) to (lat. 41°19'48" N, long. 72°02'43" W), which is one second of longitude.

This action also updates the geographic coordinates of the Elizabeth Field Airport, Fishers Island, NY, in the Groton, CT Class D airspace legal description from (lat. 41°15'07" N, long. 72°01'54" W) to (lat. 41°15'08" N, long. 72°01'54" W), which is one second of latitude. This action also updates the airport name for the Elizabeth Field Airport in the Groton, CT Class D airspace legal description. This action also updates the verbiage in the Groton, CT Class D airspace legal description from "Airport/Facility Directory" to "Chart Supplement" to comply with current FAA guidance. This action also removes the exclusion for the adjacent Class E airspace area of Westerly, RI from the Groton, CT Class E airspace legal description in order to comply with current FAA guidance.

This action also updates the geographic coordinates of the Elizabeth

Field Airport, Fishers Island, NY, in the Fishers Island, NY Class E airspace legal description from (lat. 41°15'05" N, long. 72°01'54" W) to (lat. 41°15'08" N, long. 72°01'54" W), which is three seconds of latitude. This action also removes the exclusions for the adjacent Class E airspace areas of Montauk, NY; Westerly, RI; and Groton, CT, from the Fishers Island, NY Class E5 airspace legal description in order to comply with current FAA guidance.

Regulatory Notices and Analyses

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 Order 2100.6B, "Rulemaking and Guidance Procedure" (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting for operators choosing to navigate around the controlled airspace. Since these amendments are routine and the expected impact to operators is de minimis, the FAA certifies that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1G, "FAA National Environmental Policy Act Implementing Procedures" paragraph B-2.5(a). This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 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 5000. Class D Airspace
* * * * *

ANE CT D Groton, CT [Amended]

Groton-New London Airport, CT
(Lat. 41°19'48" N, long. 72°02'43" W)
Elizabeth Field, NY
(Lat. 41°15'08" N, long. 72°01'54" W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.2-mile radius of the Groton-New London Airport; excluding that airspace within a 1-mile radius of Elizabeth Field. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

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

* * * * *

ANE CT E5 Groton, CT [Amended]

Groton-New London Airport, CT
(Lat. 41°19'48" N, long. 72°02'43" W)
Groton VOR
(Lat. 41°19'49" N, long. 72°03'07" W)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Groton-New London Airport, and within 1.3 miles each side of the Groton VOR 048° radial extending from the 7.5-mile radius to 15.6 miles northeast of the VOR.

AEA NY E5 Fishers Island, NY [Amended]

Elizabeth Field, NY
(Lat. 41°15'08" N, long. 72°01'54" W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Elizabeth Field.

* * * * *

Issued in College Park, Georgia, on July 29, 2026.

Gregory R. Garmon,

Acting Manager, Airspace & Procedures North Team, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2026–15556 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2026–0826; Airspace
Docket No. 25–AAL–162]

RIN 2120–AA66

**Amendment of United States Area
Navigation Route T–388 in the Vicinity
of Kodiak, Alaska**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends United States Area Navigation Route (RNAV) T–388 in the vicinity of Kodiak, Alaska. The FAA is taking this action to increase the route structure connectivity in Alaska.

DATES: Effective date 0901 UTC, October 29, 2026. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 71, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from www.federalregister.gov.

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

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the

agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Air Traffic Services (ATS) route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published an NPRM for Docket No. FAA–2026–0826 in the **Federal Register** (91 FR 5690; February 8, 2026), proposing to amend RNAV Route T–388 in the vicinity of Kodiak, Alaska. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

RNAV Routes are published in paragraph 6011 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 amends the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

The FAA is amending 14 CFR part 71 by modifying RNAV Route T–388 in the vicinity of Kodiak, Alaska.

T–388: Prior to this final rule, T–388 extended between the Wixer, AK, waypoint (WP) and the Baily, AK, Fix. The FAA is extending the airway to the Kodiak, AK, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) located at the Kodiak Airport. As amended, T–388 extends between the Wixer WP and the Kodiak VOR/DME.

Regulatory Notices and Analyses

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 Order 2100.6B, “Rulemaking and Guidance Procedure” (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting for operators choosing to navigate around the controlled airspace. Since these amendments are routine and the expected impact to operators is de minimis, the FAA certifies that this proposed rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of amending RNAV Route T–388 qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures*, paragraph B–2.5(a) which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points); and paragraph B–2.5(k), which categorically excludes from further environmental impact review the publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change the concentration of aircraft on these tracks. As such, this action is not expected to result in any potentially significant environmental impacts. Additionally, in accordance with Appendix B, paragraph B–1 of FAA Order 1050.1G, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact statement.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 6011 United States Area Navigation Routes

* * * * *

T-388 WIXER, AK TO KODIAK, AK (ODK) [AMENDED]

WIXER, AK	WP	(Lat. 56°54'29.00" N, long. 158°36'10.00" W)
ZOPAB, AK	WP	(Lat. 57°09'28.12" N, long. 157°48'14.87" W)
HEBMI, AK	WP	(Lat. 57°24'13.13" N, long. 156°51'24.77" W)
ZEMIR, AK	WP	(Lat. 57°51'13.88" N, long. 154°02'28.16" W)
BAILY, AK	WP	(Lat. 57°54'33.79" N, long. 152°54'36.97" W)
Kodiak, AK (ODK)	VOR/DME	(Lat. 57°46'30.13" N, long. 152°20'23.42" W)

* * * * *

Issued in Washington, DC, on July 29, 2026.

Alex W. Nelson,

Manager, Rules and Regulations Group.

[FR Doc. 2026–15599 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 73**

[Docket No. FAA–2025–2635; Airspace Docket No. 25–AWA–5]

RIN 2120–AA66

Establishment of Prohibited Area P–75; New York, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Prohibited Area 75 (P–75) in the vicinity of the New York, NY, residence of the President of the United States. The United States Secret Service (USSS) requested that the FAA restrict aircraft operations in the vicinity of President Trump's New York residence. To provide adequate safeguards for the USSS to fully secure the non-Governmental property and USSS protectees in the interest of national security, the FAA is establishing a prohibited area in the immediate vicinity of the presidential residence.

DATES: Effective date 0901 UTC, October 29, 2026.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

An electronic copy of this document may also be downloaded from www.federalregister.gov.

FOR FURTHER INFORMATION CONTACT:

Ashley Toth, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:**I. Executive Summary**

The FAA is adding a regulation to Title 14 of the Code of Federal Regulations (14 CFR) part 73, subpart C establishing a prohibited area in the vicinity of Trump Tower in New York, New York. The prohibited area is necessary according to the United States Secret Service (USSS) to protect the President, secure the non-Governmental property in accordance with the Presidential Protection Assistance Act of 1976, and exercise its authority under 18 U.S.C. 3056 and 3056A.

Section 73.95 creates Prohibited Area P–75 (P–75). P–75 will prohibit aircraft operations from the surface to 1,000 feet above ground level (AGL) beginning at lat. 40°45'52" N, long. 073°57'11" W; then counterclockwise along an arc with a 1 nautical mile (NM) radius centered at lat. 40°45'46" N, long. 073°58'30" W; to lat. 40°44'48" N, long. 73°58'09" W, with a straight line to the point of beginning. In other words, P–75 will cover a circle with a 1 NM radius centered on Trump Tower and with a flat edge on the southeast side that parallels the East River. Aircraft operations will not be permitted within P–75 unless the using agency, which would be USSS, granted authorization to enter the area.

II. Authority for this Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs,

describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft, the efficient use of airspace, and the protection of individuals and property on the ground. This regulation is within the scope of that authority as it establishes prohibited area airspace in the vicinity of New York, NY, to protect persons and property on the ground and to enhance national security.

III. Background and Final Rule

The FAA published an NPRM for Docket No. FAA–2025–2635 in the **Federal Register** (91 FR 23187; April 30, 2026), proposing to establish Prohibited Area 75 (P–75) in the vicinity of the New York, NY, residence of the President of the United States. Two comments were received, both of which supported the proposal. One commenter expressed that the rule will provide permanent charting of the prohibited area, which will enhance situational awareness. The commenter also opined that the rule effectively balances national security with efficiency, by preserving East River VFR corridors. The other commenter favorably remarked upon the past precedent of establishing prohibited areas over presidential residences, and supported greater protection for the president in light of past assassination attempts. The commenter also claimed that the affected airspace should be largely devoid of aircraft based on minimum altitude requirements. He alleged that the rule would have some impacts on certain operators, but that the FAA had appropriately minimized these impacts with the low ceiling and overall dimensions of the prohibited area. This final rule adopts the proposal without any changes.

This action amends 14 CFR part 73, subpart C by establishing Prohibited Area P-75, New York, NY. The prohibited area extends from the surface to 1,000 feet above ground level (AGL), and is defined as an area beginning at lat. 40°45'52" N, long. 073°57'11" W; then counterclockwise along an arc with a 1 nautical mile (NM) radius centered at lat. 40°45'46" N, long. 073°58'30" W; to lat. 40°44'48" N, long. 73°58'09" W, with a straight line to the point of beginning. In other words, P-75 covers a circle with a 1 NM radius centered on Trump Tower and with a flat edge on the southeast side that parallels the East River. Aircraft operations within P-75 are prohibited unless the using agency, the USSS, grants authorization to enter the area.¹

The size of the prohibited area is based on discussions between the FAA and USSS and meets security needs while minimizing impact on operators and the general public. Specifically, in its coordination with USSS, the FAA sought to ensure minimal impact on helicopter operations and other operations that are routinely conducted along the Hudson and East River corridors. The FAA specifically carved out an area over the East River that is within 1 NM of Trump Tower to allow helicopter operations along the East River to continue. The prohibited area achieves the objective of maintaining the efficient flow of air traffic while also meeting the security requirements associated with USSS's request. The FAA constructed the prohibited area in a way that avoids typical aircraft routes. On October 20, 2025, the FAA issued a Special Security Instruction (SSI) flight restriction, under 14 CFR 99.7, that temporarily restricted all flight operations in the vicinity of the presidential residence at New York, NY. Prior to the SSI flight restriction, only law enforcement helicopters, air ambulance aircraft, and unmanned aircraft systems operated in this area. Additionally, per 14 CFR 73.83, if authorization has been granted by the using agency, which would be USSS, aircraft could still gain access to the area.

Regulatory Notices and Analyses

Regulatory Flexibility Act

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 Order 2100.6B, "Rulemaking and Guidance Procedure" (March 10, 2025); and (3) is anticipated to have a minimal economic impact, as it only affects air traffic procedures and air navigation, resulting in at most de minimis costs from minor rerouting of flights. Since this is a routine matter that only affects air traffic procedures with de minimis impact on operators, it is certified that this rule does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, they be the basis for U.S. standards.

The FAA has assessed the potential effect of this rule and determined that it has legitimate domestic objectives of safety and security. The rule will not impact exports. As a result, the FAA does not consider this rule as creating an unnecessary obstacle to foreign commerce.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires the FAA to consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork

Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. The FAA determined that there will be no information collection associated with the rule.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and in accordance with FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures*, paragraph B-2.6(d), which categorically excludes from further environmental impact review the issuance of regulatory documents (*e.g.*, Notices of Proposed Rulemaking and issuance of Final Rules) covering administrative or procedural requirements. (Does not include air traffic procedures; specific air traffic procedures that are categorically excluded are identified under Appendix B, Paragraph B-2.5 of this Order). In accordance with the FAA's NEPA implementation policy and procedures regarding extraordinary circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact statement. In accordance with FAA Order 7400.2, section 32-4-7 regarding environmental analysis of Prohibited Area and Alert Area designations, such designations are actions that are neither permissive nor enabling, and therefore, environmental assessments or statements are not required when designating these areas.

Executive Order Determinations

Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. The FAA has determined this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

¹ 14 CFR 73.83 states that "No person may operate an aircraft within a prohibited area unless authorization has been granted by the using agency."

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Consistent with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures, the FAA ensures Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to affect uniquely or significantly their respective Tribes. The FAA did not identify any unique or significant effects, environmental or otherwise, on Tribes resulting from this rule.

Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution or Use

The FAA analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The FAA has determined it is not a “significant energy action” under the E.O. and will not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to (1) meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or (2) prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609 and determined this action has no effect on international regulatory cooperation.

Executive Order 14192, Unleashing Prosperity Through Deregulation

This rule is not an Executive Order 14192 regulatory action because it is being issued with respect to a national security or homeland security function of the United States.

Lists of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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

§ 73.95 P–75 New York, NY [New]

■ 2. Section 73.95 is amended as follows:

* * * * *

P–75 New York, NY [New]

Boundaries. Beginning at lat. 40°45′52″ N, long. 073°57′11″ W; then counterclockwise along a 1 NM arc centered at lat. 40°45′46″ N, long. 073°58′30″ W; to lat. 40°44′48″ N, long. 073°58′09″ W; to the point of beginning.

Designated altitudes. Surface to 1,000 feet AGL.

Time of designation. Continuous.

Using agency. United States Secret Service, Washington, DC.

* * * * *

Issued in Washington, DC on July 28, 2026.

Alex W. Nelson,

Manager, Rules and Regulations Group.

[FR Doc. 2026–15554 Filed 7–29–26; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0959]

RIN 1625–AA00

Safety Zone; Fireworks Display, Ohio River, Follansbee, WV

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Ohio River on August 1, 2026, from mile marker 70 to mile marker 71, near Follansbee, WV. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Marine Safety Unit Pittsburgh, or their designated representative.

DATES: This rule is effective August 1, 2026. It will be enforced from 9:30 p.m. to 11:30 p.m.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2026–0959.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST3 Jakob Wassler-Beck, Marine Safety Unit Pittsburgh Waterways Management Division, U.S. Coast Guard; telephone 206–815–6624, or email STL-SMB-MSUPittsburgh-Waterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard received notification that fireworks will be launched from the shore on the Ohio River near Follansbee, WV. The Captain of the Port (COTP) Pittsburgh has determined that potential hazards associated with fireworks are a safety concern for anyone within a mile of the fireworks display. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard was notified of this event on July 9, 2026, but we must establish this safety zone by August 1, 2026, to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

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

III. Discussion of the Rule

This rule establishes a safety zone on August 1, 2026 from 9:30 p.m. to 11:30 p.m. The safety zone will cover all navigable waters between mile marker 70 to 71 on the Ohio river. Vessels and persons will not be allowed to enter the zone during this time, unless authorized by the Captain of the Port.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

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

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

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

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

E. Environment

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T08–0959 to read as follows:

§ 165.T08–0959 Safety Zone; Fireworks Display, Ohio River, Follansbee, WV.

(a) *Location.* The following area is a safety zone: All navigable waters on the Ohio River between mile marker 70 and mile marker 71.

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

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of

this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (206) 815–6624. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 9:30 p.m. to 11:30 p.m. on August 1, 2026.

Michael W. Metz,

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

[FR Doc. 2026–15535 Filed 7–30–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2026–2245; FRL–13485–01–R1]

Air Plan Approval; Rhode Island; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Rhode Island State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the State of Rhode Island and approved by the EPA. In this final rule, the EPA is also notifying the public of corrections and clarifying changes in the Code of Federal Regulations tables that identify the materials incorporated by reference into the Rhode Island SIP. This update affects the materials that are available for public inspection at the National Archives and Records Administration and the EPA Regional Office.

DATES: This rule is effective on July 31, 2026.

ADDRESSES: The SIP materials for which incorporation by reference into 40 CFR part 52 is finalized through this action are available for inspection at the following location: U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact

listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection.

FOR FURTHER INFORMATION CONTACT:

Meredith Gutierrez, Air and Radiation Division (Mail Code 5-MD), U.S. Environmental Protection Agency—Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109–3912; telephone number: (617) 918–1193, or by email at gutierrez.meredith@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each State must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to the EPA. Once these control measures and strategies are approved by the EPA, and after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52, “Approval and Promulgation of Implementation Plans,” of title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the State regulation approved by the EPA is not reproduced in its entirety in 40 CFR part 52 but is “incorporated by reference.” This means that the EPA has approved a given State regulation or specified changes to the given regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows the EPA and the public to monitor the extent to which a State implements a SIP to attain and maintain the NAAQS and to take enforcement action for violations of the SIP.

The SIP is a living document which the State can revise as necessary to address the unique air pollution problems in the State. Therefore, the EPA from time to time must take action on proposed revisions containing new or revised State regulations. A submission from a State can revise one or more rules in their entirety, or portions of rules. The State indicates the changes in the submission (such as by using redline/strikethrough text) and the EPA then takes action on the requested changes. The EPA establishes a docket for its actions using a unique Docket Identification Number, which is listed in each action. These dockets and the complete submission are available for viewing on www.regulations.gov.

On May 22, 1997 (62 FR 27968), the EPA revised the procedures for incorporating by reference, into the CFR, materials approved by the EPA into each SIP. These changes revised the format for the identification of the SIP in 40 CFR part 52, streamlined the mechanisms for announcing the EPA approval of revisions to a SIP, and streamlined the mechanisms for the EPA’s updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for the EPA to maintain “SIP Compilations” that contain the federally approved regulations and source specific permits submitted by each State agency.

The EPA generally updates these SIP Compilations every few years. Under the revised procedures, the EPA must periodically publish an informational document in the rules section of the **Federal Register** notifying the public that updates have been made to a SIP Compilation for a particular State. The EPA began applying the 1997 revised procedures to the Rhode Island SIP on August 9, 1999 (64 FR 43083), with additional updates to IBR information on July 14, 2006 (71 FR 40014) and November 24, 2008 (73 FR 70873). In this action, Region 1 is updating the SIP Compilation for IBR information since November 24, 2008.

A. Added Regulations

- Air Pollution Control General Definitions Regulation: General Definitions
- Air Pollution Control Regulation 44: Control of Volatile Organic Compounds from Adhesives and Sealants
- Air Pollution Control Regulation 49: Transportation Conformity
- Air Pollution Control Regulation 51: Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing

- Rhode Island General Laws, Title 23, Chapter 23–23: Air Pollution
- Rhode Island General Laws, Title 23, Chapter 23–23.1: Air Pollution Episode Control
- Rhode Island General Laws, Title 36, Chapter 36–14: Code of Ethics

B. Revised Regulations

- Air Pollution Control Regulation 1: Visible Emissions
- Air Pollution Control Regulation 3: Particulate Emissions from Industrial Processes
- Air Pollution Control Regulation 4: Open Fires
- Air Pollution Control Regulation 6: Continuous Emission Monitors
- Air Pollution Control Regulation 7: Emission of Air Contaminants Detrimental to Persons or Property
- Air Pollution Control Regulation 8: Sulfur Content of Fuels
- Air Pollution Control Regulation 9: Air Pollution Control Permits
- Air Pollution Control Regulation 11: Petroleum Liquids Marketing and Storage
- Air Pollution Control Regulation 12: Incinerators
- Air Pollution Control Regulation 14: Recordkeeping and Reporting
- Air Pollution Control Regulation 15: Control of Organic Solvent Emissions
- Air Pollution Control Regulation 19: Control of Volatile Organic Compounds from Surface Coating Operations
- Air Pollution Control Regulation 21: Control of Volatile Organic Compounds from Printing Operations
- Air Pollution Control Regulation 25: Control of VOC Emissions from Cutback and Emulsified Asphalt
- Air Pollution Control Regulation 26: Control of Organic Solvent Emissions from Manufacturers of Synthesized Pharmaceutical Products
- Air Pollution Control Regulation 27: Control of Nitrogen Oxides Emissions
- Air Pollution Control Regulation 30: Control of Volatile Organic Compounds from Automobile Refinishing Operations
- Air Pollution Control Regulation 31: Control of VOCs from Commercial and Consumer Products
- Air Pollution Control Regulation 32: Control of Volatile Organic Compounds from Marine Vessel Loading Operations
- Air Pollution Control Regulation 33: Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings
- Air Pollution Control Regulation 34: Rhode Island Vehicle Inspection/Maintenance Program
- Air Pollution Control Regulation 35: Control of Volatile Organic

Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations

- Air Pollution Control Regulation 36: Control of Emissions from Organic Solvent Cleaning
- Air Pollution Control Regulation 37: Rhode Island's Low Emission Vehicle Program
- Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1: Rhode Island Motor Vehicle Inspection/Maintenance Program

C. Removed Regulations

- Air Pollution Control Regulation 17: Odors
- Air Pollution Control Regulation 18: Control of Emissions from Organic Solvent Cleaning
- Air Pollution Control Regulation 41: NO_x Budget Trading Program

D. Added Single Source Specific Orders

- US Watercraft, LLC in Warren, Rhode Island (File No. 01–05–AP)

E. Removed Single Source Specific Orders

- Tillotson-Pearson in Warren, Rhode Island (File No. 90–1–AP)

II. EPA Action

In this action, the EPA is providing notification of an update to the materials incorporated by reference into the Rhode Island SIP as of December 22, 2025, and identified in 40 CFR 52.2070(c) and (d). This update includes SIP materials submitted by Rhode Island and approved by the EPA since the most recent IBR update. See 73 FR 70873 (November 24, 2008).

III. Good Cause Exemption

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs, makes corrections and clarifying changes to the tables in the CFR, and makes ministerial changes to the prefatory heading to the tables in the CFR. Under section 553 of the APA, an agency may find good cause where procedures are “impracticable, unnecessary, or contrary to the public interest.” Public comment for this

administrative action is “unnecessary” and “contrary to the public interest” since the codification (and corrections) only reflect existing law. Immediate notice of this action in the **Federal Register** benefits the public by providing the public notification of the updated Rhode Island SIP Compilation and notification of corrections to the Rhode Island “Identification of Plan” portion of the CFR. Further, pursuant to section 553(d)(3), making this action immediately effective benefits the public by immediately updating both the SIP Compilation and the CFR “Identification of plan” section (which includes table entry corrections).

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of regulations and source specific orders promulgated by Rhode Island, previously approved by the EPA and federally effective before December 22, 2025, contained in 40 CFR 52.2070(c), *EPA-Approved regulations*, and 40 CFR 52.2070(d), *EPA-approved State Source specific requirements*, as described in section II. of this preamble. The EPA is also removing certain EPA-approved regulations and the source specific order for Tillotson-Pearson in Warren, Rhode Island, as described in section II. of this preamble. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993);

- Is not subject to an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 29, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: July 23, 2026.

Mark Sanborn,

Regional Administrator, EPA Region 1.

For the reasons stated in the preamble the Environmental Protection Agency amends part 52 of chapter I, title 40 of the Code of Federal Regulations to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart OO—Rhode Island

■ 2. In § 52.2070 is amended by revising paragraphs (b), (c), (d), and (e) to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to December 22, 2025, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after December 22, 2025, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 1 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations

which have been approved as part of the State Implementation Plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference may be inspected at the New England Regional Office of EPA at 5 Post Office Square—Suite 100, Boston, MA 02109–3912; the EPA, Air and Radiation Docket and Information Center, Room Number 3334, EPA West Building, 1301 Constitution Ave. NW, Washington, DC 20460, and the National Archives and Records Administration (NARA). If you wish to obtain materials from a docket in the EPA Regional Office, please call phone number (617) 918–1668; for material from a docket in EPA Headquarters Library, please call the Office of Air and Radiation (OAR) at phone number (202) 566–1742. You may inspect the material with an EPA approval date prior to December 22, 2025, at 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.

(c) *EPA-Approved regulations.*

EPA-APPROVED RHODE ISLAND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
Air Pollution Control Generation Definitions Regulation.	General Definitions	2/9/2018	9/3/2020, 85 FR 54924	Excluding 0.3 Application section.
Air Pollution Control Regulation 1.	Visible Emissions	7/19/2007	7/22/2016, 81 FR 47708	All of Air Pollution Control Regulation 1 is approved with the exception of section 1.5.3 of the General Provisions which was formally withdrawn from consideration as part of the SIP revision.
Air Pollution Control Regulation 2.	Handling of Soft Coal	2/22/1977	5/7/1981, 46 FR 25446.	
Air Pollution Control Regulation 3.	Particulate Emissions from Industrial Processes.	7/19/2007	7/22/2016, 81 FR 47708	All of Air Pollution Control Regulation 3 is approved with the exception of section 3.4.3 of the General Provisions and the “director discretion” provisions in section 3.3(a) which were formally withdrawn from consideration as part of the SIP revision.
Air Pollution Control Regulation 4.	Open Fires	7/19/2007	7/22/2016, 81 FR 47708	All of Air Pollution Control Regulation 4 is approved with the exception of section 4.5.3 of the General Provisions which was formally withdrawn from consideration as part of the SIP revision.
Air Pollution Control Regulation 5.	Fugitive Dust	2/22/1977	5/7/1981, 46 FR 25446.	
Air Pollution Control Regulation 6.	Continuous Emission Monitors.	7/19/2007	7/22/2016, 81 FR 47708	All of Air Pollution Control Regulation 6 is approved with the exception of section 6.4.3 of the General Provisions which was formally withdrawn from consideration as part of the SIP revision.
Air Pollution Control Regulation 7.	Emission of Air Contaminants Detrimental to Persons or Property.	7/19/2007	7/22/2016, 81 FR 47708	All of Air Pollution Control Regulation 7 is approved with the exception of section 7.5.3 of the General Provisions and the air toxics provisions in sections 7.4.1(b), (c), and (d), which were formally withdrawn from consideration as part of the SIP revision.
Air Pollution Control Regulation 8.	Sulfur Content of Fuels ...	1/9/2017	8/13/2018, 83 FR 39888	Excluding sections 8.7 and 8.8.3 which were not submitted by the State.
Air Pollution Control Regulation 9.	Air Pollution Control Permits.	4/5/2018	10/2/2019, 84 FR 52364	Amend definitions in Section 9.5: “Baseline concentration”; “Increment”; “Major Source Baseline Date”; “Major Stationary Source”; “Minor Source Baseline Date”; “Regulated NSR Pollutant”; “Subject to Regulation”. Replace Section 9.5.3(a) with new language codified as Section 9.9.2. Replace Section 9.5.3(c)(5)c with new language codified as Section 9.9.2.A.5.e(3).

EPA-APPROVED RHODE ISLAND REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
Air Pollution Control Regulation 10.	Air Pollution Episodes	2/22/1977	5/7/1981, 46 FR 25446.	Replace the table at Section 5.5 with a new table codified as Section 9.9.4.A.
Air Pollution Control Regulation 11.	Petroleum Liquids Marketing and Storage.	2/18/2024	11/20/2025, 90 FR 52241 ...	Department of Environmental Management regulation containing vapor recovery requirements. Approving all sections.
Air Pollution Control Regulation 12.	Incinerators	7/19/2007	7/22/2016, 81 FR 47708	All of Air Pollution Control Regulation 12 is approved with the exception of section 12.8.3 of the General Provisions and the "director discretion" provisions in sections 12.5(a) and (c), which were formally withdrawn from consideration as part of the SIP revision.
Air Pollution Control Regulation 13.	Particulate Emissions from Fossil Fuel Fired Steam or Hot Water Generating Units.	10/5/1982	3/29/1983, 48 FR 13026.	
Air Pollution Control Regulation 14.	Record Keeping and Reporting.	7/19/2007	7/22/2016, 81 FR 47708	All of Air Pollution Control Regulation 14 is approved with the exception of section 14.4.3 of the General Provisions which was formally withdrawn from consideration as part of the SIP revision.
Air Pollution Control Regulation 15.	Control of Organic Solvent Emissions.	2/9/2018	9/3/2020, 85 FR 54924	Excluding 15.2 Application section.
Air Pollution Control Regulation 16.	Operation of Air Pollution Control System.	2/22/1977	5/7/1981, 46 FR 25446.	
Air Pollution Control Regulation 19.	Control of Volatile Organic Compounds from Surface Coating Operations.	2/9/2018	9/3/2020, 85 FR 54924	Excluding 19.2 Application section.
Air Pollution Control Regulation 21.	Control of Volatile Organic Compounds from Printing Operations.	2/9/2018	9/3/2020, 85 FR 54924	Excluding 21.2 Application section.
Air Pollution Control Regulation 25.	Control of VOC Emissions from Cutback and Emulsified Asphalt.	2/9/2018	9/3/2020, 85 FR 54924	Excluding 25.3 Application section.
Air Pollution Control Regulation 26.	Control of Organic Solvent Emissions from Manufacture of Synthesized Pharmaceutical Products.	2/9/2018	9/3/2020, 85 FR 54924	Excluding 26.2 Application section.
Air Pollution Control Regulation 27.	Control of Nitrogen Oxide Emissions.	2/9/2018	9/3/2020, 85 FR 54924	Excluding 27.2 Application section.
Air Pollution Control Regulation 29.3.	Emissions Caps	4/28/1995	3/22/1996, 61 FR 11731	This rule limits a source's potential to emit, therefore avoiding RACT, Title V Operating Permit.
Air Pollution Control Regulation 30.	Control of Volatile Organic Compounds from Automobile Refinishing Operations.	7/19/2007	7/22/2016, 81 FR 47708	All of Air Pollution Control Regulation 30 is approved with the exception of section 30.9.3 of the General Provisions which was formally withdrawn from consideration as part of the SIP revision, and section 30.2.2 which was not submitted as part of the SIP revision.
Air Pollution Control Regulation 31.	Control of Volatile Organic Compounds from Consumer Products.	1/9/2017	4/1/2021, 86 FR 17071	All of APCR No. 31 is approved with the exception of 31.2 "Application" which the state did not submit as part of the SIP revision.
Air Pollution Control Regulation 32.	Control of Volatile Organic Compounds from Marine Vessel Loading Operations.	7/19/2007	7/22/2016, 81 FR 47708	All of Air Pollution Control Regulation 32 is approved with the exception of section 32.7.3 of the General Provisions which was formally withdrawn from consideration as part of the SIP revision, and section 32.2.2 which was not submitted as part of the SIP revision.
Air Pollution Control Regulation 33.	Control of Volatile Organic Compounds from Architectural Coatings and Industrial Maintenance Coatings.	7/21/2020	4/1/2021, 86 FR 17071	All of APCR No. 33 is approved with the exception of 33.2 "Application" which the state did not submit as part of the SIP revision.
Air Pollution Control Regulation 34.	Rhode Island Motor Vehicle Inspection and Maintenance Program.	12/25/2018	11/18/2025, 90 FR 51510 ...	Department of Environmental Management regulation containing I/M standards. Approving all sections.
Air Pollution Control Regulation 35.	Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations.	2/9/2018	9/3/2020, 85 FR 54924	Excluding 35.2 Application section.
Air Pollution Control Regulation 36.	Control of Emissions from Organic Solvent Cleaning.	5/3/2022	9/1/2023, 88 FR 60342	Revisions made to part 36 for consistency with NESHAP for Halogenated Solvent Cleaning (40 CFR part 63, subpart T).
Air Pollution Control Regulation 37.	Rhode Island's Low Emission Vehicle Program.	12/22/2005	8/19/2015, 80 FR 50203	Adopts California LEV II standards.
Air Pollution Control Regulation 38.	Nitrogen Oxides Allowance Program.	6/10/1998	6/2/1999, 64 FR 29567.	

EPA-APPROVED RHODE ISLAND REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
Air Pollution Control Regulation 44.	Control of Volatile Organic Compounds from Adhesives and Sealants.	2/9/2018	9/3/2020, 85 FR 54924	Excluding 44.2 Application section.
Air Pollution Control Regulation 45.	Rhode Island Diesel Engine Anti-Idling Program.	7/19/2007	3/27/2008, 73 FR 16203	Limits idling for diesel on-highway and non-road engines.
Air Pollution Control Regulation 49.	Transportation Conformity	10/20/2011	3/10/2015, 80 FR 12561.	
Air Pollution Control Regulation 51.	Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing.	2/9/2018	9/3/2020, 85 FR 54924	Excluding 51.2 Application section.
Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1.	Rhode Island Motor Vehicle Inspection/Maintenance Program.	1/28/2009	5/25/2018, 83 FR 24223	Division of Motor Vehicles regulation for the light-duty vehicle I/M program. Approving all sections except section 1.12.2 "Penalties" and section 1.13 "Proceedings for Enforcement" which were excluded from the SIP submittal.
Rhode Island General Laws, Title 23, Chapter 23-23.	Air Pollution	Submitted 1/2/2013 ¹ ..	4/20/2016, 81 FR 23175	Section 23-23-5—Powers and duties of the director.
Rhode Island General Laws, Title 23, Chapter 23-23.1.	Air Pollution Episode Control.	Submitted 1/2/2013 ¹ ..	4/20/2016, 81 FR 23175	Section 23-23-16—Emergencies. Section 23-23.1-5—Proclamations of episode and issuance of orders.
Rhode Island General Laws, Title 36, Chapter 36-14.	Code of Ethics	Submitted 1/2/2013 ¹ ..	4/20/2016, 81 FR 23175	Section 36-14-1—Declaration of policy. Section 36-14-2—Definitions. Section 36-14-3—Code of ethics. Section 36-14-4—Persons subject to the code of ethics. Section 36-14-5—Prohibited activities. Section 36-14-6—Statement of conflict of interest. Section 36-14-7—Interest in conflict with discharge of duties.

¹ This is the date Rhode Island submitted these Rhode Island General Laws to EPA for approval.

(d) *EPA-approved State Source specific requirements.*

EPA-APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanations
Narragansett Electric Company South Street Station in Providence.	A.H. File No. 83-12-AP	8/29/1983	7/27/1984, 49 FR 30177	Revisions to Air Pollution Control Regulation 8, "Sulfur Content of Fuels," specifying maximum sulfur-in-coal limits (1.21 lbs/MMBtu on a 30-day rolling average and 2.31 lbs/MMBtu on a 24-hour average). These revisions approve Section 8.3.4, "Large Fuel Burning Devices Using Coal," for South Street Station only.
Stanley Bostitch, Bostitch Division of Textron.	A.H. File No. 85-8-AP ...	6/6/1985	12/11/1986, 51 FR 44604	RIDEM and Bostitch administrative consent agreement effective 6/6/85. Requires Bostitch to reformulate certain solvent-based coatings to low/no solvent formulation by 12/31/86. Also addendum dated 9/20/85 defining emission limitations reformulated coatings must meet. (A) An administrative consent agreement between the RIDEM and Bostitch Division of Textron. (B) A letter to Bostitch Division of Textron from the RIDEM dated September 20, 1985 which serves as an addendum to the consent agreement. The addendum defines the emission limitations which Bostitch's Division of Textron reformulated coatings must meet.
Keene Corporation, East Providence, RI.	A.H. File No. 85-10-AP	9/12/1985	8/31/1987, 52 FR 32793	RIDEM and Keene Corporation administrative consent agreement effective 9/12/85. Granting final compliance date extension for the control of organic solvent emissions from six paper coating lines. (A) Letter from the RIDEM dated November 5, 1985 submitting revisions to the RI SIP. (B) An administrative consent agreement between the RIDEM and Keene Corporation.
Tech Industries	File No. 86-12-AP	11/24/1987	3/10/1989, 54 FR 10145	RIDEM and Tech Industries original administrative consent agreement (86-12-AP) [except for provisions 7 and 8] effective 6/12/86, an addendum effective 11/24/87, defining and imposing reasonably available control technology to control volatile organic compounds. (A) An administrative consent agreement (86-12-AP), except for Provisions 7 and 8, between the RIDEM and Tech Industries effective June 12, 1986.

EPA-APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS—Continued

Name of source	Permit No.	State effective date	EPA approval date	Explanations
University of Rhode Island.	A.P. File No. 87–5–AP ...	3/17/1987	9/19/1989, 54 FR 38517	(B) An addendum to the administrative consent agreement (86–12–AP) between the RIDEM and Tech Industries. The addendum was effective November 24, 1987. (C) Letters dated May 6, 1987; October 15, 1987; and January 4, 1988 submitted to the EPA by the RIDEM. Revisions to the SIP submitted by the RIDEM on April 28, 1989, approving a renewal of a sulfur dioxide bubble for the University of Rhode Island.
University of Rhode Island.	File No. 95–50–AP	3/12/1996	9/2/1997, 62 FR 46202 ..	An administrative consent agreement between RIDEM and University of Rhode Island, Alternative NO _x RACT (RI Regulation 27.4.8).
Providence Metallizing in Pawtucket, Rhode Island.	File No. 87–2–AP	4/24/1990	9/6/1990, 55 FR 36635 ..	Define and impose RACT to control volatile organic compound emissions. (A) Letter from the RIDEM dated April 26, 1990, submitting a revision to the RI SIP. (B) An administrative consent agreement (87–2–AP) between the RIDEM and Providence Metallizing effective July 24, 1987. (C) An amendment to the administrative consent agreement (87–2–AP) between the RIDEM and Providence Metallizing effective May 4, 1989. (D) An addendum to the administrative consent agreement (87–2–AP) between the RIDEM and Providence Metallizing effective April 24, 1990.
Rhode Island Hospital ..	File No. 95–14–AP	11/27/1995	9/2/1997, 62 FR 46202 ..	Alternative NO _x RACT. An administrative consent agreement between the RIDEM and RI Hospital.
Osram Sylvania Incorporated.	File No. 96–06–AP	9/4/1996	9/2/1997, 62 FR 46202 ..	Alternative NO _x RACT. (A) An Administrative consent agreement between the RIDEM and Osram Sylvania Incorporated, file no. 96–06–AP, effective September 4, 1996. (B) An air pollution Permit approval, no. 1350 Osram Sylvania Incorporated issued by RIDEM effective May 14, 1996.
Algonquin Gas Transmission Company.	File No. 95–52–AP	12/5/1995	9/2/1997, 62 FR 46202 ..	Alternative NO _x RACT. (A) Letter from the RIDEM dated September 17, 1996 submitting a revision to the RI SIP. (B) An administrative consent agreement between RIDEM and Algonquin Gas Transmission Company, effective on December 5, 1995.
Bradford Dyeing Association, Inc.	File No. 95–28–AP	11/17/1995	9/2/1997, 62 FR 46202 ..	Alternative NO _x RACT. An administrative consent agreement between RIDEM and Bradford Dyeing Association, Inc.
Hoechst Celanese Corporation.	File No. 95–62–AP	11/20/1995	9/2/1997, 62 FR 46202 ..	Alternative NO _x RACT. An administrative consent agreement between RIDEM and Hoechst Celanese Corporation.
Naval Education and Training Center in Newport.	File No. 96–07–AP	3/4/1996	9/2/1997, 62 FR 46202 ..	Alternative NO _x RACT. An administrative consent agreement between RIDEM and Naval Education and Training Center in Newport.
Rhode Island Economic Development.	File No. 96–04–AP	9/2/1997	6/2/1999, 64 FR 29567 ..	Alternative NO _x RACT. A consent agreement between RIDEM and Rhode Island Economic Development Corporation's Central Heating Plant in North Kingstown.
Cranston Print Works ...	A.H. File No. 95–30–AP	12/19/1995	12/2/1999, 64 FR 67495	Non-CTG VOC RACT Determination.
CCL Custom Manufacturing.	A.H. File No. 97–02–AP	4/10/1997; and 10/27/1999.	12/2/1999, 64 FR 67495	Non-CTG VOC RACT Determination.
Victory Finishing Technologies.	A.H. File No. 96–05–AP	5/24/1996	12/2/1999, 64 FR 67495	Non-CTG VOC RACT Determination.
Quality Spraying and Stenciling.	A.H. File No. 97–04–AP	10/21/1997; and 7/13/1999.	12/2/1999, 64 FR 67495	Non-CTG VOC RACT Determination.
Guild Music	A.H. File No. 95–65–AP	11/9/1995	12/2/1999, 64 FR 67495	Non-CTG VOC RACT Determination.
US Watercraft, LLC in Warren, Rhode Island.	File No. 01–05–AP	7/16/2003; and 2/11/2004	9/21/2017, 82 FR 44101	VOC RACT approval and amendment.

(e) *Nonregulatory.*

RHODE ISLAND NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
Notice of public hearing	Statewide	Submitted 2/9/1972	6/15/1972, 37 FR 11914	Proposed Implementation Plan Regulations, RI Department of Health.

RHODE ISLAND NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
Miscellaneous non-regulatory additions to the plan correcting minor deficiencies.	Statewide	Submitted 2/29/1972.	7/27/1972, 37 FR 15080	Approval and promulgation of Implementation Plan Miscellaneous Amendments, RI Department of Health.
Compliance schedules	Statewide	Submitted 4/24/1973.	6/20/1973, 38 FR 16144	Submitted by RI Department of Health.
AQMA identifications for the State of Rhode Island.	Statewide	Submitted 4/11/1974.	4/29/1975, 40 FR 18726	Submitted by RI Department of Health.
Letter identifying Metropolitan Providence as an AQMA.	Metropolitan Providence	Submitted 9/6/1974	4/29/1975, 40 FR 18726	Submitted by the Governor.
A comprehensive air quality monitoring plan, intended to meet requirements of 40 CFR part 58.	Statewide	Submitted 1/8/1980	1/15/1981, 46 FR 3516 ..	Submitted by the RI Department of Environmental Management Director.
Attainment plans to meet the requirements of Part D of the Clean Air Act, as amended in 1977. Included are plans to attain the carbon monoxide and ozone standards and information allowing for the redesignation of Providence to non-attainment for the primary TSP standard based on new data.	Statewide	Submitted 5/14/1979; 6/11/1979; 8/13/1979; 1/8/1980; 1/24/1980; 3/10/1980; 3/31/1980; 4/21/1980; 6/6/1980; 6/13/1980; 8/20/1980; 11/14/1980; 3/4/1981; 3/5/1981; and 4/16/1981.	5/7/1981, 46 FR 25446 ..	Attainment plans to meet the requirements of Part D of the Clean Air Act, as amended in 1977.
A program for the review of construction and operation of new and modified major stationary sources of pollution in non-attainment areas.				
Certain miscellaneous provisions unrelated to Part D are also included.				
Section VI, Part II, "Stationary Source Permitting and Enforcement" of the narrative.	Statewide	Submitted 5/14/1982; and 7/1/1982.	6/28/1983, 48 FR 29690	As submitted by RIDEM on May 14, 1982 and July 1, 1982 for review of new major sources and major modifications in nonattainment areas. Also included are revisions to add rules for banking emission reductions.
Revisions to the Rhode Island State Implementation Plan for attainment of the primary National Ambient Air Quality Standard for ozone.	Statewide	Submitted 5/14/1982; 7/1/1982; 7/7/1982; 10/4/1982; and 3/2/1983.	7/6/1983, 48 FR 31026 ..	Submitted by the Department of Environmental Management.
1982 Ozone Attainment Plan.				
Revisions to attain and maintain the lead NAAQS.	Statewide	Submitted 7/7/1983	9/15/1983, 48 FR 41405	Submitted by the Department of Environmental Management.
Section VI, Part II of the associated narrative of the RI SIP.	Statewide	Submitted 1/27/1984; 2/6/1984; and 6/6/1984.	7/6/1984, 49 FR 27749 ..	To incorporate the requirements for the Prevention of Significant Deterioration of 40 CFR 51.24, permitting major stationary sources of lead and other miscellaneous changes.
Letter from RIDEM submitting an amendment to the RI State Implementation Plan.	Statewide	Submitted 1/14/1994; and 6/14/1994.	10/30/1996, 61 FR 55897	A revision to the RI SIP regarding ozone monitoring. RI will modify its SLAMS and its NAMS monitoring systems to include a PAMS network design and establish monitoring sites. The State's SIP revision satisfies 40 CFR 58.20(f) PAMS requirements.
Section VII of the RI SIP Ambient Air Quality Monitoring.				
Letter from RIDEM submitting revisions.	Statewide	Submitted 3/15/1994.	10/30/1996, 61 FR 55897	Revision to the RI SIP regarding the State's Contingency Plan.
Letter from RIDEM submitting revision—Rhode Island's 15 Percent Plan and Contingency Plan.	Statewide	Submitted 3/15/1994.	4/17/1997, 62 FR 18712	The revisions consist of the State's 15 Percent Plan and Contingency Plan. EPA approved only the following portions of these submittals: 15 Percent Plan—the EPA approved the calculation of the required emission reductions, and the emission reduction credit claimed from surface coating, printing operations, marine vessel loading, plant closures (0.79 tons per day approved out of 0.84 tons claimed), cutback asphalt, auto refinishing, stage II, reformulated gas in on-road and off-road engines, and tier I motor vehicle controls. Contingency Plan—the EPA approved the calculation of the required emission reduction, and a portion of the emission reduction credits claimed from Consumer and Commercial Products (1.1 tons per day approved out of 1.9 tons claimed), and architectural and industrial maintenance (AIM) coatings (1.9 tons per day approved out of 2.4 tons claimed).

RHODE ISLAND NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
Letter from RIDEM submitting revision for Clean Fuel Fleet Substitution Plan.	Providence (all of Rhode Island) nonattainment area.	10/5/1994	3/9/2000, 65 FR 12474.	EPA concurrently disapproved portions of these SIP submissions, as discussed within Section 52.2084(a)(2).
Letter outlining commitment to National LEV.	Statewide	2/22/1999	3/9/2000, 65 FR 12476 ..	Includes details of the State's commitment to National LEV.
Negative Declaration for Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation and Reactor Processes Control Techniques Guidelines Categories.	Statewide	Submitted 4/5/1995	12/2/1999, 64 FR 67495.	
October 1, 1999, letter from Rhode Island Department of Environmental Management.	Statewide	Submitted 10/1/1999.	12/27/2000, 65 FR 81743	Submitted Air Pollution Control Regulation No. 14, "NO _x Budget Trading Program," and the "NO _x State Implementation Plan (SIP) Call Narrative."
"NO _x State Implementation Plan (SIP) Call Narrative," September 22, 1999.	Statewide	Submitted 10/1/1999.	12/27/2000, 65 FR 81743.	
November 9, 1999, letter from Rhode Island Department of Environmental Management.	Statewide	Submitted 11/9/1999.	12/27/2000, 65 FR 81743	Stating RI's intent to comply with applicable reporting requirements.
Negative Declaration for Aerospace Coating Operations Control Techniques Guideline Category.	Statewide	Submitted 3/28/2000.	7/10/2000, 65 FR 42290.	
September 20, 2001, letter from Rhode Island Department of Environmental Management.	Statewide	Submitted 9/20/2001.	6/20/2003, 68 FR 36921	Submitting the "NO _x State Implementation Plan (SIP) Call Narrative," revised September 2001.
NO _x State Implementation Plan (SIP) Call Narrative, revised September 2001.	Statewide	Submitted 9/20/2001.	6/20/2003, 68 FR 36921.	
Submittal to meet Clean Air Act Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standard.	Statewide	12/14/2007	7/8/2011, 76 FR 40248 ..	This action addresses the following Clean Air Act requirements: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
RACT Demonstration included in Chapter 6 of the Rhode Island Attainment Plan for the 8-Hour Ozone National Ambient Air Quality Standard.	Statewide	Submitted 4/30/2008.	3/13/2012, 77 FR 14691.	
Negative declarations included in the Rhode Island Attainment Plan for the 8-Hour Ozone National Ambient Air Quality Standard.	Statewide	Submitted 4/30/2008.	3/13/2012, 77 FR 14691	Includes negative declarations for the following Control Techniques Guideline Categories: Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds (1977); Leaks from Petroleum Refinery Equipment (1978); Manufacture of Pneumatic Rubber Tires (1978); Large Petroleum Dry Cleaners (1982); Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins (1983); Synthetic Organic Chemical Mfg Equipment Fugitive Emissions (1984); Synthetic Organic Chemical Mfg Air Oxidation Processes (1984).
Rhode Island Regional Haze SIP	Statewide	Submitted 8/7/2009	5/22/2012, 77 FR 30214.	Conditional approval for certain aspects related to PSD in 2016 is fully approved in 2019. 10/2/2019, 84 FR 52366.
Infrastructure SIP for the 2008 ozone NAAQS.	Statewide	Submitted 1/2/2013; and 3/26/2018.	4/20/2016, 81 FR 23175	
Infrastructure SIP for the 2008 lead NAAQS.	Statewide	Submitted 10/26/2011; and 3/26/2018.	4/20/2016, 81 FR 23175	Infrastructure SIP approved except for element (H) which was disapproved. See 52.2077.
Infrastructure SIP for the 2010 NO ₂ NAAQS.	Statewide	Submitted 1/2/2013; and 3/26/2018.	4/20/2016, 81 FR 23175	Conditional approval for certain aspects related to PSD in 2016 is fully approved in 2019. 10/2/2019, 84 FR 52366.
Infrastructure SIP for the 1997 PM _{2.5} NAAQS.	Statewide	Submitted 9/10/2008; and 3/26/2018.	4/20/2016, 81 FR 23175	Infrastructure SIP approved except for element (H) which was disapproved. See 52.2077.
				Conditional approval for certain aspects related to PSD in 2016 is fully approved in 2019. 10/2/2019, 84 FR 52366.
				Infrastructure SIP approved except for element (H) which was disapproved. See 52.2077.

RHODE ISLAND NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
Infrastructure SIP for the 1997 PM _{2.5} NAAQS.	Statewide	Submitted 9/10/2008.	4/20/2016, 81 FR 23175	Approved submittal, except for certain aspects related to PSD which were conditionally approved and element (H) which was disapproved. See 52.2077.
Infrastructure SIP for the 2006 PM _{2.5} NAAQS.	Statewide	Submitted 11/6/2009; and 3/26/2018.	4/20/2016, 81 FR 23175	Conditional approval for certain aspects related to PSD in 2016 is fully approved in 2019. 10/2/2019, 84 FR 52366.
Infrastructure SIP for 2010 SO ₂ NAAQS.	Statewide	Submitted 6/27/2014.	4/20/2016, 81 FR 23175	Infrastructure SIP approved except for element (H) which was disapproved. See 52.2077.
Rhode Island Regional Haze Five Year Progress Report.	Statewide	Submitted 1/7/2015	7/20/2016, 81 FR 47036.	Approved submittal, except for certain aspects related to PSD which were conditionally approved and element (H) which was disapproved. See 52.2077.
Transport SIP for the 2008 Ozone Standard.	Statewide	Submitted 6/23/2015.	10/13/2016, 81 FR 70631	State submitted a transport SIP for the 2008 ozone standard which shows it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).
Transport SIP for the 1997 Ozone Standard.	Statewide	Submitted 4/30/2008.	4/10/2017, 82 FR 17124	State submitted a transport SIP for the 1997 ozone standards which shows it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).
Transport SIP for the 1997 Particulate Matter Standard.	Statewide	Submitted 4/30/2008.	4/10/2017, 82 FR 17124	State submitted a transport SIP for the 1997 particulate matter standards which shows it does not significantly contribute to particulate matter nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).
Transport SIP for the 2006 Particulate Matter Standard.	Statewide	Submitted 11/6/2009.	4/10/2017, 82 FR 17124	State submitted a transport SIP for the 2006 particulate matter standards which shows it does not significantly contribute to particulate matter nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).
Transport SIP for the 2010 NO ₂ and SO ₂ Standards.	Statewide	10/15/2015	12/19/2017, 82 FR 60121.	
I/M SIP Narrative	Statewide	Submitted 2/17/2017.	5/25/2018, 83 FR 24223	Narrative describing how the Rhode Island I/M program meets the requirements in the federal I/M rule.
Reasonably Available Control Technology State Implementation Plan Revision 2008 and 2015 Ozone National Ambient Air Quality Standards.	Statewide	Submitted 9/20/2019.	9/3/2020, 85 FR 54924.	
Infrastructure SIP for the 2015 ozone NAAQS.	Statewide	10/15/2020	10/14/2021, 86 FR 57058	This submittal is approved with respect to the following CAA elements or portions thereof: 110(a)(2)(A); (B); (C); (D) except (D)(i)(I) and (D)(i)(II)—visibility protection; (E); (F); (G); (J); (K); (L); and (M). This submittal is disapproved for element (H). See § 52.2077.
Transport SIP for the 2015 Ozone Standard.	Statewide	Submitted 9/23/2020.	12/10/2021, 86 FR 70409	State submitted a transport SIP for the 2015 ozone standard which shows that it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).
Infrastructure SIP and Transport SIP for the 2012 PM _{2.5} NAAQS.	Statewide	12/6/2017	5/31/2022, 87 FR 32316; and 9/13/2022, 87 FR 55916.	This submittal is approved with respect to the following CAA elements: 110(a)(2)(A); (B); (C); (D); (E); (F); (G); (J); (K); (L); and (M). This submittal is disapproved for (H). This approval includes the Transport SIP for the 2012 PM _{2.5} NAAQS, which shows that Rhode Island does not significantly contribute to PM _{2.5} nonattainment or maintenance in any other state.
Infrastructure SIP for the 2015 ozone NAAQS.	Statewide	Submitted 9/23/2020; and 10/15/2020.	10/14/2021, 86 FR 57060; and 4/9/2026, 91 FR 17852.	The submittal is approved with respect to the following CAA elements or portions thereof: 110(a)(2)(A); (B); (C); (D) except (D)(i)(I); (E); (F); (G); (J); (K); (L); and (M). This submittal is disapproved for element (H). See § 52.2077.
Rhode Island Regional Haze Plan for 2nd planning period 2018–2028.	Statewide	3/7/2025	4/9/2026, 91 FR 17852 ..	Approves full plan.

[FR Doc. 2026–15493 Filed 7–30–26; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES**Administration for Children and Families****45 CFR Parts 201, 204, 205, 225, 233, 234, 235, 237, 260, 261, 262, 263, 264, 265, 270, 283, 284, 286, and 287****RIN 0970–AD38****Reducing Bureaucracy and Burden for Family Assistance Programs****AGENCY:** Office of Family Assistance (OFA), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).**ACTION:** Final rule.

SUMMARY: This final rule amends the Grants to States for Public Assistance Programs regulations, the General Administration—State Plans and Grant Appeals regulations, the General Administration—Public Assistance Programs regulations, the Training and Use of Subprofessionals and Volunteers regulations, the Coverage and Conditions of Eligibility in Financial Assistance Programs regulations, the Financial Assistance to Individuals regulations, the Administration of Financial Assistance Programs regulations, the Fiscal Administration of Financial Assistance Programs regulations, the General Temporary Assistance for Needy Families (TANF) Provisions regulations, the Ensuring That Recipients Work regulations, the Accountability Provisions—General regulations, the Expenditures of State and Federal TANF Funds regulations, the Other Accountability Provisions regulations, the Data Collection and Reporting Requirements regulations, the High Performance Bonus Awards regulations, the Implementation of Section 403(a)(2) of the Social Security Act Bonus to Reward Decrease in Illegitimacy Ratio regulations, the Methodology for Determining Whether an Increase in a State or Territory's Child Poverty Rate Is the Result of the TANF Program regulations, the Tribal TANF Provisions regulations, and The Native Employment Works (NEW) Program regulations to eliminate unnecessary or obsolete regulations. A plain language summary of the final rule is posted at <https://www.regulations.gov>.

DATES: *Effective date* September 29, 2026.**FOR FURTHER INFORMATION CONTACT:**Adam N. Jones, Deputy Chief of Staff, Immediate Office of the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services, Washington, DC 202–417–0115 or Deregulation@acf.hhs.gov.**SUPPLEMENTARY INFORMATION:****I. Statutory Authority**

This final rule is being issued under the authority granted to the Secretary of Health and Human Services by the Social Security Act, as amended (42 U.S.C. 301 *et seq.*), including titles I, IV–A, IV–D, X, XIV, and XVI(note) of the Social Security Act which authorizes the administration of public assistance, child support enforcement, and other family assistance programs. This rulemaking is further supported by Section 1102 of the Social Security Act (42 U.S.C. 1302), which provides the Secretary with general authority to make and publish regulations necessary for the efficient administration of programs under the Act. These statutory authorities provide the basis for the regulations codified at 45 CFR parts 201, 204, 205, 225, 233, 234, 235, 237, 260, 261, 262, 263, 264, 265, 270, 283, 284, 286, and 287.

II. Background

45 CFR parts 201, 204, 205, 225, 233, 234, 235, and 237 comprise the core regulatory framework governing the administration of public assistance and related programs authorized under the Social Security Act and administered by HHS, primarily through the ACF. Originally promulgated to implement Aid to Families with Dependent Children (AFDC) and other categorical assistance programs prior to enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. 104–193), these regulations to established administrative, fiscal, and program integrity requirements applicable to States, Territories, and, where applicable, Tribal agencies operating federally funded assistance programs.

These parts establish State plan requirements, Federal financial participation (FFP) standards, reporting and recordkeeping obligations, hearing and appeals processes, eligibility and payment provisions, and administrative enforcement mechanisms. They include general administrative provisions (Part 201), public assistance reporting requirements (Part 205), financial management standards (Part 201 and related subparts), program-specific requirements for assistance and services (Part 233), and fair hearing and appeals procedures (Part 205). Collectively,

these regulations provide the uniform administrative structure under which States, Tribes, and Territories receive and administer Federal funds for cash assistance and related benefit programs.

45 CFR parts 260 through 265 establish the regulatory framework for the TANF program, enacted under title IV–A of the Social Security Act as amended by PRWORA in 1996. Originally published in 1999 and subsequently amended, these regulations govern the purposes of TANF (Part 260), work participation requirements (Part 261), eligible and ineligible uses of Federal TANF funds (Part 263), State reporting requirements (Part 265), penalty and corrective action procedures (Part 262), and data collection and verification standards (Part 264).

The TANF regulations define key statutory terms such as “assistance,” “work activities,” and “work-eligible individual,” and establish the methodology for calculating State work participation rates. They also set forth maintenance-of-effort (MOE) requirements, limitations on administrative expenditures, and procedures for determining and appealing financial penalties. Together, these parts provide the accountability and performance measurement structure for the TANF block grant program while preserving State flexibility in program design.

45 CFR part 270, “High Performance Bonus Awards” governs the bonus funds awarded to States for meeting certain TANF measures. The regulations lay out the amount in bonuses provided, explain the measures and what factors ACF uses to determine each state's scores.

45 CFR part 283 “Implementation of Section 403(A)(2) of the Social Security Act Bonus to Reward Decrease in Illegitimacy Ratio” governs the bonuses given to states who lowered illegitimacy. The regulations describe what data a state had to submit to be considered for the bonus, how ACF would consider the data, and the amounts of the bonus.

45 CFR part 284 “Methodology for Determining Whether an Increase in a State or Territory Child Poverty Rate is the Result of the TANF Program” governs the previous requirement under 42 U.S.C. 613(i) for determining child poverty rates. The regulations explain the method of determining child poverty rates and corrective action required if the poverty rate increased by over five percent in a two-year period.

45 CFR part 286 “Tribal TANF Provisions” establishes the regulatory requirements governing the approval

and administration of Tribal TANF programs. Promulgated following statutory authorization for Tribal administration of TANF, this part specifies Tribal plan content requirements, funding methodologies, reporting obligations, and procedures for plan amendments and corrective actions. It provides for direct Federal funding to eligible federally recognized Tribes and Tribal consortia and outlines the process for determining Tribal family assistance grant amounts based on historical State expenditures.

45 CFR part 287 “The Native Employment Works (NEW) Program” describes the rules for implementing the program described in Section 412(a)(2) of the Social Security Act. This part lists plan requirements, allowable expenditures under the program, and reporting requirements.

Taken together, these regulatory parts form an integrated framework governing the administration, funding, accountability, and oversight of TANF, Tribal TANF, child support enforcement, and related assistance programs. They establish uniform procedures for State and Tribal plans, financial management, reporting, performance measurement, enforcement, and appeals, while implementing statutory requirements designed to promote program integrity, fiscal stewardship, and the effective delivery of services to low-income families.

III. Executive Summary

This final rule removes multiple regulations that are either unnecessary or wholly obsolete. The regulations removed and reserved by this final rule can be categorized into three groups: those that are duplicative, those that are better suited in a sub-regulatory format, or those that are obsolete.

The duplicative regulations are those that exist yet, carry no impact as the authority and requirements stated in the regulation exist or are stated elsewhere such as in statute. This renders the language found in the regulation to be either duplicative or otherwise generally unnecessary.

The regulations that are better suited to a sub-regulatory document are those that generally read like a Frequently Asked Questions document or are overly prescriptive and carry technical details that belong in programmatic instruction. These documents are being removed and reserved in order to allow them to be published in the more appropriate format.

Finally, obsolete regulations are those that are outdated. This includes regulations that refer to grant programs

that are no longer funded, practices that are no longer followed, or are no longer relevant.

Effective Date

This final rule will become effective 60 days from the date of its publication.

Severability

The provisions of this final rule are intended to be severable, such that, in the event a court were to invalidate any particular provision or deem it to be unenforceable, the remaining provisions would continue to be valid. The changes address a variety of issues relevant to the Office of Family Assistance. None of the provisions contained herein are central to an overall intent of the final rule, nor are any provisions dependent on the validity of other, separate provisions.

IV. Summary of Public Comments

ACF published a notice of proposed rulemaking (NPRM) in the **Federal Register** on May 26, 2026, (91 FR 30538) proposing revisions to 45 CFR parts 201, 204, 205, 225, 233, 234, 235, 237, 260, 261, 262, 263, 264, 265, 270, 283, 284, 286, and 287. ACF provided a 30-day comment period during which interested parties could submit comments in writing electronically through *Regulations.gov* or via email to the Immediate Office of the Assistant Secretary.

During the 30-day comment period, ACF received 6 total comments from one individual, two legal advocacy organizations (Western Center on Law and Poverty and the Legal Aid Foundation of Los Angeles), one public policy think tank (Foundation for Government Accountability), one State agency (The Maryland Department of Human Services), and one Tribal government (the Washoe Tribe of Nevada and California). All comments received were posted on *www.regulations.gov*.

Of the 6 submissions received, all 6 comments were unique, and none were duplicative. At the conclusion of the public comment period, HHS analyzed the content of the comments to inform the development of the final rule. All comments were reviewed to determine each commenter's support or opposition towards the policies proposed in the NPRM.

Public comments reflected a range of perspectives, with most commenters generally supportive of the intent of removing outdated and obsolete regulations, though many commenters identified specific sections they believed did not meet the parameters of obsolete or unnecessary. One

commenter supported the NPRM and identified no provisions of opposition, whereas another commenter stated complete opposition to the entire NPRM and identified no areas of support. The remaining commenters listed specific sections that they wanted to retain for various reasons as discussed below. All responsive comments informed our consideration of the final rule.

The preamble in this final rule discusses the changes to current regulations. Where language of previous regulations remains unchanged, the preamble explanation and interpretation of that language published with all prior final rules are also retained, unless specifically modified in the preamble to this rule.

V. General Comments and Cross-Cutting Issues

This final rule includes the removal of multiple sections of regulations relating to 45 CFR parts 201, 204, 205, 225, 233, 234, 235, 237, 260, 261, 262, 263, 264, 265, 270, 283, 284, 286, and 287. HHS received and reviewed comments on the proposed changes. Following review of all comments, HHS has maintained all proposed changes from the NPRM. Specific comments are discussed below.

As stated above, most commenters were generally supportive of the intent of removing outdated and obsolete regulations but identified specific sections they believed did not meet the parameters of obsolete or unnecessary. These specific comments are discussed in Section VI.

There were four general or cross cutting comments made by the commenters. The first commenter was the individual who urged HHS to not finalize this rule and stated that the regulations were “needed” but did not provide any information to justify this claim. With the limited information provided, HHS cannot provide any more specific response than below in the Section-by-Section discussion.

The second commenter with cross-cutting comments was Foundation for Government Accountability (FGA), who said that they supported HHS's efforts to distinguish between outdated text and non-binding guidance as compared to active regulatory requirements. FGA encouraged HHS to finalize the proposed rule as published to reduce administrative burden and to allow states and grantees to focus on current statutory obligations. HHS agrees with the commenter's stated rationale for issuing a final action to repeal the stated Sections.

The third commenter with cross-cutting or general comments was from the Washoe Tribe of Nevada and

California who encouraged HHS to engage in more regular Tribal consultation for regulations affecting Tribal communities. HHS agrees and will continue to consult with Tribal leaders to the extent possible.

The final commenter with broad spectrum comments was the Maryland Department of Human Services who said that they disagreed with the classification of “duplicative of statute” and “better suited for sub-regulatory guidance” as acceptable reasons to remove a regulation. The commenter argued that while language may repeat statutory requirements, it “applies uniformity” and creates a “baseline” for States. The commenter further asserted that moving regulations to sub-regulations removes the ability for public comment and creates less durability between administrations.

HHS respectfully disagrees that language that is duplicative of statute should also remain in regulation as we believe it can serve to confuse the public about what unique requirements exist. Furthermore, for Sections that are to be moved to sub-regulatory guidance, these are in reference to items that “clarify” regulatory or statutory text without providing new requirements and therefore do not belong as regulations.

HHS acknowledges the thoughts, both in support and opposition to the proposal, raised by the commenters and moves forward with rescinding the requirements as proposed.

VI. Section-by-Section Discussion of Comments and Regulatory Provisions

HHS received comments about changes proposed to specific subparts of the regulation. Below, HHS identifies each subpart, whether or not they received comments, summarizes the comments, responds to them accordingly, and identifies HHS’s final action.

45 CFR part 201 Grants to States for Public Assistance Programs

§ 201.0 Scope and Applicability

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC’s former responsibilities now falling under the TANF program, following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the

statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 201.1 General Definitions

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC’s former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. . While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart A—Approval of State Plans and Certification of Grants

§ 201.3 Approval of State Plans and Amendments

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC’s former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 201.4 Administrative Review of Certain Administrative Decisions

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC’s former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that

Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 201.5 Grants

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC’s former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 201.6 Withholding of Payment; Reduction of Federal Financial Participation in the Costs of Social Services and Training

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC’s former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 201.7 Judicial Review

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC’s former responsibilities now falling under the TANF program following its

creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart B—Review and Audits

§ 201.10 Review of State and Local Administration

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 201.11 Personnel Merit System Review

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 201.12 Public Assistance Audits

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform

era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: One commentor was concerned that while this Section was promulgated in connection with the AFDC program, that this applied beyond AFDC. The commentor stated that present day federal audit and grant management requirements seem to address many of the functions that are included in this Section. The commentor was concerned that the proposed rule did not identify which authorities would be assuming these grant management responsibilities.

Response: The Department appreciates the commentor's concern regarding the continued administration of Federal grant management and audit responsibilities. Although § 201.12 was promulgated in connection with the former AFDC program and may have addressed matters beyond that program, the regulation is obsolete because AFDC was replaced by the TANF program under PRWORA. Removing this obsolete AFDC regulation does not eliminate applicable Federal audit or grant management requirements. Those requirements continue to be governed by applicable statutes and government-wide Federal grant management and audit requirements. For grant programs, including TANF, these requirements are found 2 CFR part 200 Subpart F. Accordingly, the Department is finalizing the removal and reservation of § 201.12 as proposed.

§ 201.13 Action on Audit and Review Findings

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam,

Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: One commentor was concerned that while this Section was promulgated in connection with the AFDC program, that this applied beyond AFDC. The commentor stated that present day federal audit and grant management requirements seem to address many of the functions that are included in this Section. The commentor was concerned that the proposed rule did not identify which authorities would be assuming these grant management responsibilities.

Response: The Department appreciates the commentor's concern regarding the continued administration of Federal audit and grant management responsibilities. Actions on audit and review findings are governed by other government-wide statutes and regulations. For HHS grants, including TANF, the management and audit requirements are covered by 2 CFR part 200. Accordingly, the Department is finalizing the removal and reservation of § 201.13 as proposed.

§ 201.14 Reconsideration Under Section 1116(d) of the Act

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While these provisions still apply to child support enforcement under IV–D of the Social Security Act, as well as the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 201.15 Deferral of Claims for Federal Financial Participation

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's

former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While these provisions still apply to child support enforcement under IV-D of the Social Security Act as well as Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 201.67 Treatment of Uncashed or Cancelled Checks

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 201.70 Treatment of Replacement Checks

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

45 CFR part 204 General Administration—State Plans and Grant Appeals

Part 204, which is inclusive of 45 CFR parts 204.1, 204.2, 204.3, and 204.4, was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Part. Thus, this final rule removes and reserves this Part.

45 CFR part 205 General Administration—Public Assistance Programs

§ 205.5 Plan Amendments

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.10 Hearings

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general

administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were two comments specifically on this Section. This final rule removes and reserves this Section.

Comment: A commenter was concerned that this Section should not be removed because it outlines detailed hearing requirements for public assistance programs. They are concerned that the NPRM did not identify another authority that provides a framework to address these hearing and administrative review procedures and request further clarity on how disputes concerning benefits and eligibility will continue to be resolved.

Response: The Department appreciates the commenter's concern regarding the continued availability of fair hearing and administrative review procedures. Section 205.10 was promulgated in connection with the former AFDC program, which was replaced by the TANF program under PRWORA. Section 205.10 governed the administration of the former AFDC program and is no longer mandatory now that PRWORA has been replaced by TANF. Removing this regulation does not alter any applicable statutory or constitutional requirements governing the administration of public assistance programs. This rulemaking is limited to removing redundant or obsolete regulations and does not establish or modify hearing procedures for TANF or other programs. Although certain states still cite the 205.10 hearing procedures for TANF appeals, they can continue to use the same procedures even without the regulation in place. Accordingly, the Department is finalizing the removal and reservation of § 205.10 as proposed.

Comment: A commenter was concerned that this Section should not be removed as it explains the AFDC hearing requirement when there is no equivalent right set out under TANF. The commenter urged HHS to not repeal this Section, but rather to promulgate new regulations that would apply to the TANF program as they insist that as TANF is a federal program, there ought to be a floor for a fair hearing process to ensure the constitutional right to due process.

Response: The Department appreciates the commenter's recommendation that it promulgate hearing regulations applicable to the TANF program. This rulemaking, however, is limited to removing redundant or obsolete regulations and is

not intended to establish new regulatory requirements for TANF. Section 205.10 governed the former AFDC program and is obsolete following the replacement of AFDC by TANF under PRWORA. Accordingly, the Department is finalizing the removal and reservation of § 205.10 as proposed.

§ 205.25 Eligibility of Supplemental Security Income Beneficiaries for Food Stamps or Surplus Commodities

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.30 Methods of Administration

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.32 Procedures for Issuance of Replacement Checks

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists.

There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.35 Mechanized Claims Processing and Information Retrieval Systems; Definitions

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.36 State Plan Requirements

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: A commenter stated that this Section established a mechanism through which States documented program operations and administrative changes. Their concern was that the NPRM did not identify whether existing TANF regulations would provide similar documentation regarding the administration of the program for advocates, administrators, beneficiaries, and future policymakers.

Response: The Department appreciates the commenter's concern regarding documentation of State program operations and administrative changes. Section 205.36 established State plan requirements for the former AFDC program and is obsolete following the replacement of AFDC by the TANF program under PRWORA. The documentation requirements applicable to the TANF program are established by section 402(a) of the Social Security Act. Accordingly, the Department is finalizing the removal and reservation of § 205.36 as proposed.

§ 205.37 Responsibilities of the Administration for Children and Families (ACF)

This Section was established for the AFDC Program which was in effect from

1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.38 Federal Financial Participation (FFP) for Establishing a Statewide Mechanized System

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.45 Federal Financial Participation in Relation to State Emergency Welfare Preparedness

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.70 Availability of Agency Program Manuals

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still

operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.100 Single State Agency

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: A commenter stated that they believe TANF should keep a requirement to have a single State agency operating under a State plan with statewide operations. The commenter feared that without this requirement, federal review and enforcement would be severely hindered and complicated.

Response: The Department appreciates the commenter's concern regarding the administration and oversight of State TANF programs. Section 205.100 established a single State agency requirement for the former AFDC program and is obsolete following the replacement of AFDC by the TANF program under PRWORA. For TANF, section 402(a)(4) of the Social Security Act requires a certification by the chief executive officer of the State identifying the State agency or agencies that will administer and supervise the program. Accordingly, the Department is finalizing the removal and reservation of § 205.100 as proposed.

§ 205.101 Organization for Administration

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform

era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: A commenter stated that they believe TANF should keep a requirement to have a single State agency operating under a State plan with statewide operations. The commenter feared that without this requirement, federal review and enforcement would be severely hindered and complicated.

Response: Response: The Department appreciates the commenter's concern regarding the organization and oversight of State TANF program administration. Section 205.101 established organizational requirements for the administration of the former AFDC program and is obsolete following the replacement of AFDC by the TANF program under PRWORA. For TANF, section 402(a)(4) of the Social Security Act requires a certification by the chief executive officer of the State identifying the State agency or agencies that will administer and supervise the program. Accordingly, the Department is finalizing the removal and reservation of § 205.101 as proposed.

§ 205.120 Statewide Operation

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: A commenter stated that they believe TANF should keep a requirement to have a single State agency operating under a State plan with statewide operations. The commenter feared that without this requirement, federal review and enforcement would be severely hindered and complicated.

Response: The Department appreciates the commenter's concern regarding the administration and oversight of State TANF programs. Section 205.120 established a statewide operation requirement for the former AFDC program and is obsolete following the replacement of AFDC by the TANF program under PRWORA. For TANF, section 402(a)(4) of the Social Security Act requires a certification by the chief executive officer of the State identifying the State agency or agencies that will administer and supervise the program. Accordingly, the Department is finalizing the removal and reservation of § 205.120 as proposed.

§ 205.130 State Financial Participation

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.150 Cost Allocation

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to

remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.160 Equipment—Federal Financial Participation

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.170 State Standards for Office Space, Equipment, and Facilities

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 205.190 Standard-Setting Authority for Institutions

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the

Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

45 CFR Part 225 Training and Use of Subprofessionals and Volunteers

Part 225, which is inclusive of 45 CFR parts 225.1, 225.2, and 225.3, was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Part. Thus, this final rule removes and reserves this Part.

45 CFR Part 233 Coverage and Conditions of Eligibility in Financial Assistance Programs

§ 233.21 Budgeting Methods for OAA, AB, APTD, and AABD

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.22 Determining Eligibility Under Prospective Budgeting

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.23 When Assistance Shall Be Paid Under Retrospective Budgeting

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.24 Retrospective Budgeting; Determining Eligibility and Computing the Assistance Payment in the Initial One or Two Months

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.25 Retrospective Budgeting; Computing the Assistance Payment After the Initial One or Two Months

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.26 Retrospective Budgeting; Determining the Eligibility After the Initial One or Two Months

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section.

Thus, this final rule removes and reserves this Section.

§ 233.27 Supplemental Payments Under Retrospective Budgeting

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.28 Monthly Reporting

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.29 How Monthly Reports Are Treated and What Notices Are Required

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.31 Budgeting Methods for AFDC

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.32 Payment and Budget Months (AFDC)

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.33 Determining Eligibility Prospectively for All Payment Months (AFDC)

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.34 Computing the Assistance Payment in the Initial One or Two Months (AFDC)

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.35 Computing the Assistance Payment Under Retrospective Budgeting After the Initial One or Two Months (AFDC)

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section.

Thus, this final rule removes and reserves this Section.

§ 233.36 Monthly Reporting (AFDC)

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.37 How Monthly Reports Are Treated and What Notices Are Required (AFDC)

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.38 Waiver of Monthly Reporting and Retrospective Budgeting Requirements; AFDC

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.39 Age

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section.

Thus, this final rule removes and reserves this Section.

§ 233.40 Residence

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.50 Citizenship and Alienage

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.51 Eligibility of Sponsored Aliens

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.52 Overpayment to Aliens

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.53 Support and Maintenance Assistance (Including Home Energy Assistance) in AFDC

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.60 Institutional Status

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.70 Blindness

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.80 Disability

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.100 Dependent Children of Unemployed Parents

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.101 Dependent Children of Unemployed Parents

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.106 Denial of AFDC Benefits to Strikers

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.107 Restriction in Payment to Households Headed by a Minor Parent

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.110 Foster Care Maintenance and Adoption Assistance

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 233.145 Expiration of Medical Assistance Programs Under Titles I, IV–A, X, XIV, and XVI of the Social Security Act

This Section was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

45 CFR Part 234 Financial Assistance to Individuals

Part 234, which is inclusive of 45 CFR parts 234.11, 234.60, 234.70, 234.75, 234.120, and 234.130, was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Part. Thus, this final rule removes and reserves this Part.

45 CFR Part 235 Administration of Financial Assistance Programs

Part 235, which is inclusive of 45 CFR parts 235.50, 235.60, 235.61, 235.62, 235.63, 235.64, 235.65, 235.66, 235.70, and 235.110, was established for the

AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There was one comment specifically on one Section within this Part: Section 235.50. This final rule removes and reserves this Part.

Comment: A commenter was concerned that the removal of Section 235.50 within this Part would eliminate the requirement that TANF staff meet the requirements of the Merit System of Personnel Administration under 5 CFR part 900, subpart F. The commenter stated that without Section 235.50 there would be no standards to ensure quality staff, equitable compensation, training, or freedom from partisan politics.

Response: The Department appreciates the commenter's concern regarding personnel standards for the administration of public assistance programs. Section 235.50 was promulgated in connection with the former AFDC program and is obsolete following the replacement of AFDC by the TANF program under PRWORA. Removing this obsolete AFDC regulation does not alter any otherwise applicable Federal personnel or merit system requirements. This rulemaking is limited to removing obsolete regulations and does not establish or modify personnel standards applicable to TANF programs. Accordingly, the Department is finalizing the removal and reservation of Part 235, including § 235.50, as proposed.

45 CFR Part 237 Financial Administration of Financial Assistance Programs

Part 237, which is only inclusive of 45 CFR part 237.50, was established for the AFDC Program which was in effect from 1935 to 1996. However, this program was replaced during the welfare reform era of the 1990s with many of AFDC's former responsibilities now falling under the TANF program following its creation in 1996. AFDC no longer exists. As such, the regulations do not need to remain on the books for a program that Congress eliminated. While some provisions relate to the Adult Assistance

programs that still operate in Guam, Puerto Rico, and the Virgin Islands, the statute provides sufficient authority for general administrative and procedural operations of these programs to be addressed in sub-regulatory guidance. There were no comments specifically on this Part. Thus, this final rule removes and reserves this Part.

45 CFR Part 260 General TANF Provisions

Subpart A—What rules generally apply to the TANF program?

§ 260.10 What does this part cover?

This Section does not provide any additional clarity, interpretation, or additional requirements. The removal of this Section will not affect program operations as the scope and authority for TANF are adequately defined elsewhere in the regulatory framework. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 260.32 What does the term “WtW cash assistance” mean?

This Section defines the term “WtW cash assistance.” This Section relates to the WtW program which has been unfunded since 2004, and therefore inactive for over 20 years. As this Part refers to an inactive program, the removal of this Part will not affect the operations for the TANF program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart B—What special provisions apply to victims of domestic violence?

§ 260.50 What is the purpose of this subpart?

This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 602(a)(7), the removal of this Section will not affect program operations for TANF. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: A commenter stated their opposition to the removal of this Section as they assert that removing this Section will inject ambiguity into a framework that protects survivors of domestic violence. The commenter recommended that if HHS were to remove this Section that the final rule should expressly affirm that the Family Violence Option (VFO) and the associated penalty relief framework in Sections 260.58 and 260.59 remain fully

in effect and that no substantive changes to survivor protections are intended.

Response: The Department appreciates the commenter's concern regarding the continued protection of survivors of domestic violence under the TANF program. The Department did not intend to, and this final rule does not, make any substantive changes to those protections. Section 260.50 merely restates statutory language found at 42 U.S.C. 602(a)(7) and does not impose requirements beyond those established by statute. Accordingly, while § 260.50 is removed as duplicative of the statute, the VFO established by statute, as well as the implementing provisions in §§ 260.58 and 260.59, remain in effect. Accordingly, the Department is finalizing the removal and reservation of § 260.50 as proposed.

§ 260.52 What are the basic provisions of the Family Violence Option (FVO)?

This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 602(a)(7)(A), the removal of this Section will not affect program operations for TANF. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: A commenter stated their opposition to the removal of this Section as they assert that removing this Section will inject ambiguity into a framework that protects survivors of domestic violence. The commenter recommended that if HHS were to remove this Section that the final rule should expressly affirm that the Family Violence Option (VFO) and the associated penalty relief framework in Sections 260.58 and 260.59 remain fully in effect and that no substantive changes to survivor protections are intended.

Response: The Department appreciates the commenter's concern regarding the continued protection of survivors of domestic violence under the TANF program. The Department did not intend to, and this final rule does not, make any substantive changes to those protections. Section 260.52 merely restates statutory language found at 42 U.S.C. 602(a)(7)(A) and does not impose requirements beyond those established by statute. Accordingly, while § 260.52 is removed as duplicative of the statute, the FVO established by statute, as well as the implementing provisions in §§ 260.58 and 260.59, remain in effect. Accordingly, the Department is finalizing the removal and reservation of § 260.52 as proposed.

Subpart C—What special provisions apply to states that were operating programs under approved waivers?

§ 260.70 What is the purpose of this subpart?

This Section refers to an outdated opportunity for states to continue to keep Section 1115 “welfare reform” waivers in place as described under Section 415 of the Social Security Act so long as the waivers were in place on August 22, 1996. This was designed to allow for states to maintain their policies as allowed by the waiver, if they were inconsistent with the amendments made by PRWORA. However, as all of these waivers were for a set period of time, conformity with PRWORA was required at the point of expiration. As such, the last state waiver expired in 2006, thus making any regulations relating to this process obsolete. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 260.71 What definitions apply to this subpart?

This Section refers to an outdated opportunity for states to continue to keep Section 1115 “welfare reform” waivers in place as described under Section 415 of the Social Security Act so long as the waivers were in place on August 22, 1996. This was designed to allow for states to maintain their policies as allowed by the waiver, if they were inconsistent with the amendments made by PRWORA. However, as all of these waivers were for a set period of time, conformity with PRWORA was required at the point of expiration. As such, the last state waiver expired in 2006, thus making any regulations relating to this process obsolete. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 260.72 What basic requirements must State demonstration components meet for the purpose of determining if inconsistencies exist with respect to work requirements or time limits?

This Section refers to an outdated opportunity for states to continue to keep Section 1115 “welfare reform” waivers in place as described under Section 415 of the Social Security Act so long as the waivers were in place on August 22, 1996. This was designed to allow for states to maintain their policies as allowed by the waiver, if they were inconsistent with the amendments made by PRWORA. However, as all of these waivers were

for a set period of time, conformity with PRWORA was required at the point of expiration. As such, the last state waiver expired in 2006, thus making any regulations relating to this process obsolete. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 260.73 How do existing welfare reform waivers affect the participation rates and work rules?

This Section refers to an outdated opportunity for states to continue to keep Section 1115 “welfare reform” waivers in place as described under Section 415 of the Social Security Act so long as the waivers were in place on August 22, 1996. This was designed to allow for states to maintain their policies as allowed by the waiver, if they were inconsistent with the amendments made by PRWORA. However, as all of these waivers were for a set period of time, conformity with PRWORA was required at the point of expiration. As such, the last state waiver expired in 2006, thus making any regulations relating to this process obsolete. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 260.74 How do existing welfare reform waivers affect the application of the Federal time-limit provisions?

This Section refers to an outdated opportunity for states to continue to keep Section 1115 “welfare reform” waivers in place as described under Section 415 of the Social Security Act so long as the waivers were in place on August 22, 1996. This was designed to allow for states to maintain their policies as allowed by the waiver, if they were inconsistent with the amendments made by PRWORA. However, as all of these waivers were for a set period of time, conformity with PRWORA was required at the point of expiration. As such, the last state waiver expired in 2006, thus making any regulations relating to this process obsolete. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 260.75 If a State is claiming a waiver inconsistency for work requirements or time limits, what must the Governor certify?

This Section refers to an outdated opportunity for states to continue to keep Section 1115 “welfare reform” waivers in place as described under Section 415 of the Social Security Act

so long as the waivers were in place on August 22, 1996. This was designed to allow for states to maintain their policies as allowed by the waiver, if they were inconsistent with the amendments made by PRWORA. However, as all of these waivers were for a set period of time, conformity with PRWORA was required at the point of expiration. As such, the last state waiver expired in 2006, thus making any regulations relating to this process obsolete. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 260.76 What special rules apply to States that are continuing evaluations of their waiver demonstrations?

This Section refers to an outdated opportunity for states to continue to keep Section 1115 “welfare reform” waivers in place as described under Section 415 of the Social Security Act so long as the waivers were in place on August 22, 1996. This was designed to allow for states to maintain their policies as allowed by the waiver, if they were inconsistent with the amendments made by PRWORA. However, as all of these waivers were for a set period of time, conformity with PRWORA was required at the point of expiration. As such, the last state waiver expired in 2006, thus making any regulations relating to this process obsolete. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

45 CFR Part 261 Ensuring That Recipients Work

§ 261.1 What does this part cover?

This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 602, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart A—What are the provisions addressing individual responsibility?

§ 261.10 What work requirements must an individual meet?

This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 602(a)(1)(A)(ii) and 42 U.S.C. 602(a)(1)(B)(iv), the removal of

this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 261.11 Which recipients must have an assessment under TANF?

This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 608(b), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 261.12 What is an individual responsibility plan?

This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 608(b)(2), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 261.13 May an individual be penalized for not following an individual responsibility plan?

This Section states the implications for an individual who receives benefits but does not follow an individual responsibility plan. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 608(b)(3), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 261.14 What is the penalty if an individual refuses to engage in work?

This Section states the penalties for individuals who receive benefits but refuse to work. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 607(e)(1) and 42 U.S.C. 609(a)(14), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 261.15 Can a family be penalized if a parent refuses to work because he or she cannot find child care?

This Section clarifies that a family cannot be penalized if a parent refuses to work because he or she cannot find child care. The Section further identifies penalties for a State if they penalize parents who are covered under this provision. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 607(e)(2) and 42 U.S.C. 609(a)(14), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 261.16 Does the imposition of a penalty affect an individual’s work requirement?

This Section declares that any penalty issued by a State against a family for failure to comply with TANF requirements does not represent a reduction in any wage paid to such individual. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 608(c), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart B—What are the provisions addressing state accountability?

§ 261.21 What overall work rate must a State meet?

This Section details that each State must achieve at least a 50 percent work participation rate, minus any caseload reduction credit. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 607(a)(1), (b)(1)–(3), the removal of this Section will not affect program operations for TANF. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: One commenter was concerned with the removal of this Section. They stated that other Sections that were not proposed for removal reference § 261.21 and that this could produce confusion. The recommendation was to either keep this Section, or to confirm that the 50

percent work participation credit and the accompanying calculation and caseload-reduction credit provisions that depend on them remain unchanged. The commenter also recommended that cross references be updated to ensure clarity.

Response: The Department appreciates the commenter's concern regarding clarity in the work participation rate requirements. In response to this comment, the Department intends to update cross-references in the regulations, as appropriate, to avoid confusion resulting from the removal of § 261.21. Section 261.21 merely restates the statutory work participation rate requirements found at 42 U.S.C. 607(a)(1) and (b)(1) through (3) and does not impose requirements beyond those established by statute. Removing this duplicative regulation does not alter the 50 percent work participation rate, the caseload reduction credit, or the methodology governing their application, all of which continue to be governed by the statute. Accordingly, the Department is finalizing the removal and reservation of § 261.21 as proposed.

§ 261.23 What two-parent work rate must a State meet?

This Section details that each State must achieve at least a 90 percent two-parent work participation rate, minus any caseload reduction credit. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 607(a)(2), (b)(1)–(3), the removal of this Section will not affect program operations for TANF. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: One commenter was concerned with the removal of this Section. They stated that other Sections that were not proposed for removal reference § 261.23 and that this could produce confusion. The recommendation was to either keep this Section, or to confirm that the 90 percent two-parent work participation rate and the accompanying calculation and caseload-reduction credit provisions that depend on them remain unchanged. The commenter also recommended that cross references be updated to ensure clarity.

Response: The Department appreciates the commenter's concern regarding clarity in the two-parent work participation rate requirements. In response to this comment, the Department intends to update cross-

references in the regulations, as appropriate, to avoid confusion resulting from the removal of § 261.23. Section 261.23 merely restates the statutory two-parent work participation rate requirements found at 42 U.S.C. 607(a)(2) and (b)(1) through (3) and does not impose requirements beyond those established by statute. Removing this duplicative regulation does not alter the 90 percent two-parent work participation rate, the caseload reduction credit, or the methodology governing their application, all of which continue to be governed by the statute. Accordingly, the Department is finalizing the removal and reservation of § 261.23 as proposed.

Subpart C—What are the work activities and how do they count?

§ 261.30 What are the work activities?

This Section provides a list of what is counted as work activities. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 607(d), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 261.33 What are the special requirements concerning educational activities in determining monthly participation rates?

This Section provides special requirements related to determining monthly work participation rates for instances including individuals in vocational training and individuals under 20 years of age. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 607(c)(2), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 261.35 Are there any special work provisions for single custodial parents?

This Section states that a single custodial parent or caretaker relative with a child below the age of six will be considered as engaged in work if they participate in qualified activities for at least 20 hours per week. This Section merely restates statutory language without adding any clarity, interpretation, or additional

requirements not already found in statute. As the language is already found at 42 U.S.C. 607(c)(2)(B), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 261.36 Do welfare reform waivers affect the calculation of a State's participation rates?

This Section discusses how a welfare reform waiver could impact a State's workforce participation rate. This Section refers to an inactive practice. The last "welfare reform waiver" expired in 2006, thus making this Section outdated and obsolete. Therefore, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart E—What penalties apply to states related to work requirements?

§ 261.54 Is a State subject to any other penalty relating to its work program?

This Section discusses that States are eligible to receive additional penalties for improperly imposing penalties on individuals. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 607(e) and 42 U.S.C. 609(a)(14), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart G—What nondisplacement rules apply in TANF?

§ 261.70 What safeguards are there to ensure that participants in work activities do not displace other workers?

This Section discusses what other safeguards exist to ensure that participants in work activities are not displacing other workers. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 607(f), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart H—How do welfare reform waivers affect state penalties?

§ 261.80 How do existing welfare reform waivers affect a State's penalty liability under this part?

This Section discusses how a welfare reform waiver could impact a State's penalty liability in relation to this Part. This Section refers to an inactive practice. The last "welfare reform waiver" expired in 2006, thus making this Section outdated and obsolete. Therefore, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

45 CFR Part 262 Accountability Provisions—General

§ 262.0 What definitions apply to this part?

This Section discusses that the general TANF definitions found in Part 260 apply to this Part as well. This Section cites back to 45 CFR 260.30 which already states that "the following definitions apply under parts 260 through 265 of this chapter." In other words, Part 260 establishes that those definitions are used throughout the subsequent five parts. Therefore, there is no need to restate that the definitions from 260 are utilized in Part 262. As this Section is duplicative, its removal will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 262.1 What penalties apply to States?

This Section details a list of TANF fiscal penalties that can be imposed on States. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 609, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

45 CFR Part 263 Expenditures of State and Federal TANF Funds

Subpart A—What rules apply to a state's maintenance of effort?

§ 263.1 How much State money must a State expend annually to meet the basic MOE requirement?

This Section describes the amount of money States are required to spend annually to meet the basic MOE requirement of the TANF program. This

Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 609, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 263.3 When do child care expenditures count?

This Section discusses when State funds expended on child care may be counted towards the basic MOE requirement. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 609, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 263.8 What happens if a State fails to meet the basic MOE requirement?

This Section details what penalties and actions ACF will take when a State fails to meet the basic MOE requirement. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 609, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 263.9 May a State avoid a penalty for failing to meet the basic MOE requirement through reasonable cause or corrective compliance?

This Section details that the reasonable cause and corrective compliance provisions would not prevent a State from penalties for failing to meet the basic MOE requirements as it does not apply. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 609(b)–(c), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart C—What rules apply to Individual Development Accounts?

§ 263.20 What definitions apply to Individual Development Accounts (IDAs)?

This Section defines terms related to the Individual Development Accounts. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 604(h), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 263.21 May a State use the TANF grant to fund IDAs?

This Section explains that a State may use Federal TANF funds or WtW dollars to fund IDAs for individuals eligible for TANF. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 604, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 263.22 Are there any restrictions on IDA funds?

This Section details the restrictions that apply to recipients of IDA funds. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 604, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

45 CFR Part 264 Other Accountability Provisions

§ 264.0 What definitions apply to this part?

This Section defines terms related to this Part. Specifically, it is broken down into two components: (1) that the general TANF definitions found in Part 260 apply to this Part as well, and (2) lists several additional terms not defined in Part 260. The first component of this Section cites back to 45 CFR 260.30 which already states that "the following definitions apply under parts 260 through 265 of this chapter." In other words, Part 260 establishes that

those definitions are used throughout the subsequent five parts. Therefore, there is no need to restate that the definitions from 260 are utilized in Part 264.

The second component of this Part merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 603 and 608, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart A—What specific rules apply for other program penalties?

§ 264.2 What happens if a State does not comply with the five-year limit?

This Section explains that if a State does not comply with the five-year assistance limit that they will face a penalty of a reduction of five percent of the adjusted State Family Assistance Grant (SFAG). This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 609(a)(9), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 264.40 What happens if a State does not repay a Federal loan?

This Section explains that when a State fails to repay a Federal loan that the SFAG payable for the succeeding fiscal year will deduct the amount of the loan balance plus all accumulated interest. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 609(a)(6), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 264.60 What policies and practices must a State implement to prevent assistance use in electronic benefit transfer transactions in locations prohibited by the Social Security Act?

This Section discusses that States must enact policies that prevent TANF or MOE funds from being used towards expenditures at liquor stores, casinos, and strip clubs. This merely restates statutory language without adding any

clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 608(a)(12), the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 264.61 What happens if a State fails to report or demonstrate it has implemented and maintained practices required in § 264.60?

This Section details that a State's failure to implement policies that restrict usage of TANF or MOE funds for liquor stores, casinos, or strip clubs will be subject to additional penalties. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 608, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart B—What are the requirements for the contingency fund?

§ 264.70 What makes a State eligible to receive a provisional payment of contingency funds?

This Section discusses the qualifications to receive a provisional payment of contingency funds and explicitly restricts the Tribes and Territories from being eligible to be deemed as a "needy State." This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 603(b), the removal of this Section will not affect program operations for TANF. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: One commenter was concerned that the removal of this Section could cause a lack of a clear statement of eligibility for the contingency fund.

Response: The Department appreciates the commenter's concern regarding clarity in the eligibility requirements for contingency funds. Section 264.70 merely restates the statutory eligibility requirements for contingency funds found at 42 U.S.C. 603(b) and does not impose requirements beyond those established by statute. Removing this duplicative

regulation does not alter the eligibility criteria for provisional contingency fund payments, which continue to be governed by the statute. Accordingly, the Department is finalizing the removal and reservation of § 264.70 as proposed.

§ 264.71 What determines the amount of the provisional payment of contingency funds that will be made to a State?

This Section discusses the methodology for calculating the amount of the provisional payment of contingency fund that can be awarded to a State. This Section contradicts the plain reading of the language found at 42 U.S.C. 603(b). Therefore, removing this Section will return the operation of the program to be in line with legislative intent. There was one commenter who commented specifically on this Section. This final rule removes and reserves this Section.

Comment: One commenter disagreed with the removal of this Section. The commenter stated that HHS's stated rationale, that this Section conflicted with a clear reading of statute, was inappropriate. The commenter stated that while this docket as a whole is intended to be "housekeeping," they believe this specific Section change represents a substantive policy change and thereby needs to propose a replacement methodology. The commenter further stated that HHS should explain how this Section is inconsistent with statute, propose a replacement methodology, and provide an analysis of how this could impact States.

Response: The Department appreciates the commenter's concern regarding the methodology for calculating provisional contingency fund payments. As explained in the proposed rule, § 264.71 is inconsistent with the methodology established by section 403(b) of the Social Security Act (42 U.S.C. 603(b)). Specifically, 42 U.S.C. 603(b)(3)(C) indicates the "total amount paid to a single State under subparagraph (A) during the month shall not exceed $\frac{1}{12}$ of 20 percent of the State family assistance grant" whereas the regulation at subsection (a) indicates the "amount that we will pay to a State in a fiscal year will not exceed an amount equal to $\frac{1}{12}$ times 20 percent of that State's SFAG for that fiscal year, multiplied by the number of eligible months for which the State has requested contingency funds." See 42 U.S.C. 603(b)(3)(c) (emphasis added) and 45 CFR 267.71(a) (emphasis added). Removing a regulation that is inconsistent with the governing statute does not establish a new methodology;

rather, it removes a regulatory provision that conflicts with the methodology enacted by Congress. Because the statute governs the calculation of provisional contingency fund payments, the removal of § 264.71 does not create uncertainty regarding the applicable methodology. The Department also considered whether States have developed reliance interests in the procedures reflected in § 264.71. Although States may need to adjust certain administrative processes, including submitting applications on a monthly basis and providing information necessary to support monthly payment determinations, the Department does not expect this removal to affect the amount of contingency funding for which an eligible State may qualify. The Department concludes that these limited administrative reliance interests do not warrant retaining a regulation that is inconsistent with section 403(b) of the Social Security Act. The Department intends to provide additional information regarding implementation through sub-regulatory guidance. Accordingly, the Department is finalizing the removal and reservation of § 264.71 as proposed.

Comment: The same commenter stated that they believe that the removal of this Section will produce such a substantial impact on States that the certifications that this rule produces no federalism implications under Executive Order 13132 and that this rule does not produce a “significant” economic impact under the Regulatory Flexibility Act is inaccurate. The commenter requests that a further notice be published in the **Federal Register** allowing for further comment from potentially impacted States.

Response: The Department disagrees with the commenter’s assertion that the removal of § 264.71 gives rise to federalism implications under Executive Order 13132 or a significant economic impact requiring additional analysis under the Regulatory Flexibility Act. The Regulatory Flexibility Act does not apply because these regulations are applicable to States and Territories, which are not small entities. As for Executive Order 13132, it only requires consultation if a regulation imposes substantial direct compliance costs or preempts State law. Because this action does not establish new requirements or impose new obligations beyond those already established by statute, the Department does not believe that additional notice or regulatory analyses are warranted. Accordingly, the Department is finalizing the removal and reservation of § 264.71 as proposed.

Subpart C—What rules pertain specifically to the spending levels of the territories?

§ 264.83 How will we know if a Territory failed to meet the Matching Grant funding requirements at § 264.80?

This Section discusses the requirement for Territories to submit information as required by other regulations on the quarterly Territorial Financial Report. The requirement of a quarterly report is procedural and therefore better addressed in sub-regulatory guidance. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 264.85 What rights of appeal are available to the Territories?

This Section states that Territories may appeal a disallowance to the Departmental Appeals Board. This Section does not need to be in regulation. ACF can enter a memorandum of understanding with the Departmental Appeals Board for appeals of disallowances under the Matching grant, or territories could go to Federal Court. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

45 CFR Part 265 Data Collection and Reporting Requirements

§ 265.6 Must States file reports electronically?

This Section details that each State must submit their reports electronically based on format specifications prescribed by HHS. HHS has the right to require reports to be completed in a particular format regardless of this regulation. Furthermore, as this Section states that the format will be specified by HHS, it already concedes that this regulation is not penultimate in the sense that there are other guidance documents that further detail report filing specifications. Therefore, the removal of this Section will not affect the operations for the TANF program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

45 CFR Part 270 High Performance Bonus Awards

Part 270, which is inclusive of 45 CFR parts 270.1, 270.2, 270.3, 270.4, 270.5, 270.6, 270.7, 270.8, 270.9, 270.10, 270.11, 270.12, and 270.13, are the regulatory provisions relating to the bonus to reward high performing States in the TANF program. The High Performance Bonus (HPB) had its funding eliminated through the Deficit

Reduction Act of 2005. Therefore, this program has been unfunded and inactive for over 20 years. As this Part refers to an inactive program, the removal of this Part will not affect the operations for the TANF program. There were no comments specifically on this Part. Thus, this final rule removes and reserves this Part.

45 CFR Part 283 Implementation of Section 403(a)(2) of the Social Security Act Bonus To Reward Decrease in Illegitimacy Ratio

Part 283, which is inclusive of 45 CFR parts 283.1, 283.2, 283.3, 283.4, 283.5, 283.6, 283.7, 283.8, and 283.9, are the regulatory provisions relating to the “Bonus to Reward Decrease in Illegitimacy Ratio”. This bonus program was eliminated through the Deficit Reduction Act of 2005. Therefore, this program has been unfunded and inactive for over 20 years. As this Part refers to an inactive program, the removal of this Part will not affect the operations for the TANF program. There were no comments specifically on this Part. Thus, this final rule removes and reserves this Part.

45 CFR Part 284 Methodology for Determining Whether an Increase in a State or Territory’s Child Poverty Rate is the Result of the TANF Program

Part 284, which is inclusive of 45 CFR parts 284.10, 284.11, 284.15, 284.20, 284.21, 284.30, 284.35, 284.40, 284.45, and 284.50, are the regulatory provisions relating to the methodology for determining the child poverty rates in the States and Territories. The Consolidated Appropriations Act of 2017 rewrote Section 413 of the Social Security Act which removed the provision authorizing this Part. Therefore, this regulation is inactive and no longer needs to exist. The removal of this Part will not affect the operations of the TANF program. There were no comments specifically on this Part. Thus, this final rule removes and reserves this Part.

45 CFR Part 286 Tribal TANF Provisions

Subpart A—General Tribal TANF Provisions

§ 286.15 Who is eligible to operate a Tribal TANF program?

This Section discusses how either an Indian Tribe or an intertribal consortium of eligible Indian Tribes can apply to operate a Tribal Family Assistance Program (TFAP). This Section imposes no requirements on Tribes and merely informs them of ACF policy. As a statement of policy, ACF

believes this provision would be more appropriate for sub-regulatory guidance. The removal of this Section will not affect program operations for TANF. There was one comment specifically on this Section. This final rule removes and reserves this Section.

Comment: One commenter was concerned that moving this Section from regulation into a sub-regulatory format could leave Tribes with reduced regulatory certainty. The commenter urged HHS to recognize the unique needs and nature of Tribal governments and that a one-size-fits all approach would inhibit the ability to be responsive to the individual needs of their communities.

Response: The Department appreciates the commenter's concern regarding regulatory certainty for Tribal governments and recognizes the unique circumstances of Tribal TANF programs. Section 286.15 merely restates the statutory framework governing Tribal eligibility to operate a Tribal Family Assistance Program and does not impose requirements beyond those established by statute. Removing this duplicative regulation does not alter the eligibility of Indian Tribes or intertribal consortia to operate Tribal TANF programs or otherwise change the requirements applicable to those programs. Accordingly, the Department is finalizing the removal and reservation of § 286.15 as proposed.

Subpart B—Tribal TANF Funding

§ 286.60 Must Tribes obligate all Tribal Family Assistance Grant funds by the end of the fiscal year in which they are awarded?

This Section states that Tribes are not required to obligate all Tribal Family Assistance Grant (TFAG) funds by the end of the fiscal year in which they are awarded. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 604, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart C—Tribal TANF Plan Content and Processing

§ 286.130 Does the recipient of Welfare-to-Work (WtW) cash assistance count towards a Tribe's TANF time limit?

This Section discusses the instances in which WtW cash assistance is counted towards a Tribe's TANF time

limit. This Section relates to the WtW program which has been unfunded since 2004, and therefore inactive for over 20 years. As this Section refers to an inactive program, the removal of this Section will not affect the operations for the TANF program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 286.175 What special provisions apply in Alaska?

This Section details the special requirements and allowances available to the State of Alaska. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 612, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 286.180 What is the process required for developing comparability criteria that are required in Alaska?

This Section describes that HHS will work with Tribes in Alaska as well as the State of Alaska to develop a process for the development and amendment of the comparability criteria. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 612, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart D—Accountability and Penalties

§ 286.235 What penalties cannot be excused?

This Section discusses that the two penalties that cannot be excused are the penalty for failure to repay a Federal loan and a penalty for failure to replace any reduction in the TFAG from other penalties. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 609 and in other regulations at 45 CFR 286.195, the removal of this Section will not affect program operations for TANF. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart E—Data Collection and Reporting Requirements

§ 286.285 How do the data collection and requirements affect Public Law 102–477 Tribes?

This Section describes the impacts of data collection and reporting for 102–477 Tribes. This Section restates the requirements for Tribes to comply with the reporting requirements as is already stated in Public Law 102–477. Therefore, this language is duplicative and the removal of this Section will not affect the operation of the TANF program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

45 CFR Part 287 The Native Employment Works (NEW) Program

Subpart A—General NEW Provisions

§ 287.5 What is the purpose and scope of the NEW Program?

This Section states the general purpose and scope of the NEW program. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 612, the removal of this Section will not affect the operations of the NEW Program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart B—Eligible Tribes

§ 287.15 Which Tribes are eligible to apply for NEW Program grants?

This Section discusses which Tribes are eligible to apply for the NEW Program. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 612, the removal of this Section will not affect the operations of the NEW Program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 287.20 May a Public Law 102–477 Tribe operate a NEW Program?

This Section clarifies that a Public Law 102–477 Tribe can operate a NEW Program so long as the Tribe is an “eligible Indian tribe.” This Section is merely an interpretation Public Law 102–477, as amended, and 42 U.S.C. 612(a)(2), which authorizes the NEW program. The removal of this Section will not affect the operation of the NEW Program. There were no comments

specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart C—NEW Program Funding

§ 287.35 What grant amounts are available under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) for the NEW Program?

This Section details the amount of funds that each Tribe will receive under PRWORA for the NEW Program. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 612, the removal of this Section will not affect the operations of the NEW Program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 287.40 Are there any matching funds requirements with the NEW Program?

This Section states that there are no matching fund requirements with the NEW Program. As the authorizing statute makes no mention of matching requirements, HHS is therefore not authorized to impose such requirements. This Section may be better suited in a sub-regulatory frequently asked questions document. The removal of this Section will not affect program operations for the NEW Program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 287.60 Are there additional financial reporting and auditing requirements?

This Section states that NEW Program grantees are required to comply with other Federal government and HHS-wide regulations regarding auditing and financial requirements. Irrespective of this Section, NEW Program grantees are required to comply with such regulations. The removal of this Section will not result in grantees no longer having to abide by general financial reporting requirements and will not affect program operations for the NEW Program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 287.65 What OMB circulars apply to the NEW Program?

This Section states which OMB circulars apply to the NEW Program. The circulars listed in this Section have since been superseded by the Uniform Guidance found at 2 CFR part 200. As

such, this Section is stating outdated and inaccurate information. Therefore, the removal of this Section will not affect the operation of the NEW Program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart D—Plan Requirements

§ 287.90 Are Tribes required to complete any certifications?

This Section states that Tribes are required to complete certain certifications for the NEW Program. The requirement that Tribes attain certain certifications exists in a variety of other locations including in other Federal government-wide statutes. Therefore, the removal of this Section will not affect the operation of the NEW Program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 287.95 May a Tribe operate both a NEW Program and a Tribal TANF program?

This Section clarifies that a Tribe may operate both a NEW Program as well as a Tribal TANF program so long as they meet the statutory requirements of both programs. Nothing in either authorizing statute indicates that a Tribe is prohibited from operating both programs, with each statute explicitly stating what Tribes are eligible to apply. This Section does not belong in regulation but could serve a useful purpose in a sub-regulatory format, such as a frequently asked questions document. The removal of this Section will not affect the operations of the NEW program or the TANF program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 287.100 Must a Tribe that operates both NEW and Tribal TANF programs submit two separate plans?

This Section states that a Tribe that operates both a NEW Program and a Tribal TANF program must submit two separate plans. The requirement for grantees to submit a plan is implied by having separate plan requirements in Part 286 (Tribal TANF) and Part 287 (NEW). This Section does not belong in regulation but could serve a useful purpose in a sub-regulatory format, such as a frequently asked questions document. The removal of this Section will not affect the operations of the NEW program or the TANF program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart E—Program Design and Operations

§ 287.105 What provisions of the Social Security Act govern the NEW Program?

This Section discusses what provisions of the Social Security Act govern the NEW Program. This Section merely restates statutory language without adding any clarity, interpretation, or additional requirements not already found in statute. As the language is already found at 42 U.S.C. 612, the removal of this Section will not affect the operations of the NEW Program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

Subpart F—Data Collection and Reporting Requirements

§ 287.165 What are the data collection and reporting requirements for Public Law 102–477 Tribes that consolidate a NEW Program with other programs?

This Section lists what other data collection and reporting requirements apply to Public Law 102–477 Tribes that choose to consolidate their NEW Program with other programs. This Section is outdated and unnecessary. Reporting requirements under Public Law 102–477 are governed by 25 U.S.C. 3410 and are the responsibility of the Bureau of Indian Affairs (BIA) in coordination with each agency. Therefore, guidance on reporting could be issued by BIA. The removal of this Section will not affect the operation of the NEW Program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

§ 287.170 What are the data collection and reporting requirements for a Tribe that operates both the NEW Program and a Tribal TANF program?

This Section lists what other data collection and reporting requirements apply to Tribes that operate both a NEW Program as well as a Tribal TANF program. This Section states that each Tribe must comply with the specific requirements found in the respective program statutes and regulations. That requirement is true regardless of this Section. The removal of this Section will not affect the operation of either the NEW Program or the TANF program. There were no comments specifically on this Section. Thus, this final rule removes and reserves this Section.

VII. Regulatory Process Matters

Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*, as amended) (PRA), all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. This final rule does not contain any information collections requiring OMB approval under the PRA and, therefore, will not create any new paperwork burdens or modify existing burdens subject to OMB review.

Executive Order 13132

Executive Order 13132 requires federal agencies to consult with State and local government officials if they develop regulatory policies with federalism implications that impose substantial direct compliance costs on state or local governments or preempt state law. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This final rule does not impose substantial compliance costs or pre-empt State law. The Sections the final rule is removing are duplicative and unnecessary regulations from the Office of Family Assistance rules. Therefore, in accordance with Section 6 of Executive Order 13132, it is determined that this action does not warrant the preparation of a federalism summary impact statement.

Assessment of Federal Regulations and Policies on Families

Assessment of Federal Regulations and Policies on Families Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. HHS believes it is not necessary to prepare a family policymaking assessment because the actions in this final rule will not have any impact on the autonomy or integrity of the family as an institution.

VIII. Regulatory Impact Analysis

We have examined the impacts of this final rule under Executive Order 12866, Executive Order 13563, Executive Order 14192, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded

Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866 and 13563 direct us to assess all benefits and costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits. Rules are “economically significant” under Executive Order 12866 Section 3(f)(1) if they “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.” Executive Order 14192 requires that any new incremental costs associated with significant new regulations “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations.” The Office of Information and Regulatory Affairs (OIRA) has determined that this final rule is not a significant action under Executive Order 12866 Section 3(f).

The Regulatory Flexibility Act (RFA) requires agencies to consider the impact of their regulatory proposals on small entities. Because this is simply repealing obsolete and unnecessary language, we certify that the final rule would not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (UMRA) generally requires that each agency conduct a cost-benefit analysis; identify and consider a reasonable number of regulatory alternatives; and select the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule before promulgating any proposed or final rule that includes a Federal mandate that may result in expenditures of more than \$100 million (adjusted for inflation) in at least one year by State, local, and tribal governments, in the aggregate, or by the private sector. Each agency issuing a rule with relevant effects over that threshold must also seek input from State, local, and tribal governments. The current threshold after adjustment for inflation is \$193 million, using the most current (2025) Implicit Price Deflator for the Gross Domestic Product. This final rule would not result in an expenditure in any year that meets or exceeds this amount.

IX. Tribal Consultation Statement

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires agencies to consult with Indian Tribes when

regulations have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Similarly, ACF’s Tribal Consultation Policy says that consultation is triggered for a new rule adoption that significantly affects tribes, meaning the new rule adoption has substantial direct effects on one or more Indian tribes, on the amount or duration of ACF program funding, on the delivery of ACF programs or services to one or more Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. ACF is nevertheless committed to consulting with Indian Tribes and Tribal leadership on this action to the extent practicable and permitted by law.

List of Subjects

45 CFR Part 201

Grant programs—social programs, Guam, Public assistance programs, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

45 CFR Part 204

Administrative practice and procedure, Grant programs—social programs, Public assistance programs.

45 CFR Part 205

Computer technology, Grant programs—social programs, Privacy, Public assistance programs, Reporting and recordkeeping requirements, Wages.

45 CFR Part 225

Grant programs—social programs, Public assistance programs, Volunteers.

45 CFR Part 233

Aliens, Grant programs—social programs, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 234

Grant programs—social programs, Health care, Public assistance programs, Rent subsidies.

45 CFR Part 235

Aid to Families with Dependent Children, Fraud, Grant programs—social programs, Public assistance programs.

45 CFR Part 237

Grant programs—social programs, Public assistance programs.

45 CFR Part 260

Administrative practice and procedure, Day care, Employment, Grant programs—social programs, Loan programs—social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 261

Administrative practice and procedure, Day care, Employment, Grant programs—social programs, Loan programs—social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 262

Administrative practice and procedure, Day care, Employment, Grant programs—social programs, Loan programs—social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 263

Administrative practice and procedure, Day care, Employment, Grant programs—social programs, Loan programs—social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 264

Administrative practice and procedure, Day care, Employment, Grant programs—social programs, Loan programs—social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 265

Administrative practice and procedure, Day care, Employment, Grant programs—social programs, Loan programs—social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 270

Grant programs—social programs, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 283

Family planning, Health statistics, Public assistance programs.

45 CFR Part 284

Grant programs—social programs, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 286

Administrative practice and procedure, Day care, Employment, Grant programs—social programs, Indians, Loan programs—social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Part 287

Administrative practice and procedure, Employment, Grant programs—social programs, Indians, Loan programs—social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, ACF amends 45 CFR parts 201, 204, 205, 225, 233, 234, 235, 237, 260, 261, 262, 263, 264, 265, 270, 283, 284, 286, and 287 as follows:

PART 201—GRANTS TO STATES FOR PUBLIC ASSISTANCE PROGRAMS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 42 U.S.C. 303, 603, 1203, 1301, 1302, 1316, 1353, and 1383 (note).

§§ 201.0, 201.1, 201.3, 201.4, 201.5, 201.6, 201.7, 201.10, 201.11, 201.12, 201.13, 201.14, 201.15, 201.67, and 201.70 [Removed and reserved]

■ 2. Remove and reserve §§ 201.0, 201.1, 201.3, 201.4, 201.5, 201.6, 201.7, 201.10, 201.11, 201.12, 201.13, 201.14, 201.15, 201.67, and 201.70.

PART 204—[REMOVED AND RESERVED]

■ 3. Under the authority of 42 U.S.C. 602(a)(44) and 1302 and sections 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 67 Stat. 631, remove and reserve part 204.

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

■ 4. The authority citation for part 205 continues to read as follows:

Authority: 42 U.S.C. 602, 603, 606, 607, 1302, 1306(a), and 1320b-7; 42 U.S.C. 1973gg-5.

§§ 205.5, 205.10, 205.25, 205.30, 205.32, 205.35, 205.36, 205.37, 205.38, 205.45, 205.70, 205.100, 205.101, 205.120, 205.130, 205.150, 205.160, 205.170, and 205.190 [Removed and reserved]

■ 5. Remove and reserve §§ 205.5, 205.10, 205.25, 205.30, 205.32, 205.35, 205.36, 205.37, 205.38, 205.45, 205.70, 205.100, 205.101, 205.120, 205.130, 205.150, 205.160, 205.170, and 205.190.

PART 225—[REMOVED AND RESERVED]

■ 6. Under the authority of Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302, remove and reserve part 225.

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

■ 7. The authority citation for part 233 continues to read as follows:

Authority: 42 U.S.C. 301, 602, 602 (note), 606, 607, 1202, 1302, 1352, and 1382 (note).

§§ 233.21, 233.22, 233.23, 233.24, 233.25, 233.26, 233.27, 233.28, 233.29, 233.31, 233.32, 233.33, 233.34, 233.35, 233.36, 233.37, 233.38, 233.39, 233.40, 233.50, 233.51, 233.52, 233.53, 233.60, 233.70, 233.80, 233.100, 233.101, 233.106, 233.107, 233.110, and § 233.145 [Removed and reserved]

■ 8. Remove and reserve §§ 233.21, 233.22, 233.23, 233.24, 233.25, 233.26, 233.27, 233.28, 233.29, 233.31, 233.32, 233.33, 233.34, 233.35, 233.36, 233.37, 233.38, 233.39, 233.40, 233.50, 233.51, 233.52, 233.53, 233.60, 233.70, 233.80, 233.100, 233.101, 233.106, 233.107, 233.110, and 233.145.

PART 234—[REMOVED AND RESERVED]

■ 9. Under the authority of 42 U.S.C. 602, 603, 606, and 1302, remove and reserve part 234.

PART 235—[REMOVED AND RESERVED]

■ 10. Under the authority of 42 U.S.C. 603, 616, and 1302, remove and reserve part 235.

PART 237—[REMOVED AND RESERVED]

■ 11. Under the authority of Section 1102 of the Social Security Act (42 U.S.C. 1302); 49 Stat. 647, as amended, remove and reserve part 237.

PART 260—GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROVISIONS

■ 12. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 601, 601 note, 603, 604, 606, 607, 608, 609, 610, 611, 619, and 1308.

§§ 260.10, 260.32, 260.50, 260.52, 260.70, 260.71, 260.72, 260.73, 260.74, 260.75, and 260.76 [Removed and reserved]

■ 13. Remove and reserve §§ 260.10, 260.32, 260.50, 260.52, 260.70, 260.71,

260.72, 260.73, 260.74, 260.75, and 260.76.

PART 261—ENSURING THAT RECIPIENTS WORK

■ 14. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 601, 602, 607, and 609; Pub. L. 109–171.

§§ 261.1 261.10, 261.11, 261.12, 261.13, 261.14, 261.15, 261.16, 261.21, 261.23, 261.30, 261.33, 261.35, 261.36, 261.54, 261.70, and 261.80 [Removed and reserved]

■ 15. Remove and reserve §§ 261.1, 261.10, 261.11, 261.12, 261.13, 261.14, 261.15, 261.16, 261.21, 261.23, 261.30, 261.33, 261.35, 261.36, 261.54, 261.70, and 261.80.

PART 262—ACCOUNTABILITY PROVISIONS—GENERAL

■ 16. The authority citation for part 262 continues to read as follows:

Authority: 31 U.S.C. 7501 *et seq.*; 42 U.S.C. 606, 609, and 610; Sec. 7102, Pub. L. 109–171, 120 Stat. 135; Sec. 4004, Pub. L. 112–96, 126 Stat. 197.

§§ 262.0 and 262.1 [Removed and reserved]

■ 17. Remove and reserve §§ 262.0 and 262.1.

PART 263—EXPENDITURES OF STATE AND FEDERAL TANF FUNDS

■ 18. The authority citation for part 263 continues to read as follows:

Authority: 42 U.S.C. 604, 607, 609, and 862a; Pub. L. 109–171.

§§ 263.1, 263.3, 263.8, 263.9, 263.20, 263.21, and 263.22 [Removed and reserved]

■ 19. Remove and reserve §§ 263.1, 263.3, 263.8, 263.9, 263.20, 263.21, and 263.22.

PART 264—OTHER ACCOUNTABILITY PROVISIONS

■ 20. The authority citation for part 264 continues to read as follows:

Authority: 31 U.S.C. 7501 *et seq.*; 42 U.S.C. 608, 609, 654, 1302, 1308, and 1337.

§§ 264.0, 264.2, 264.40, 264.60, 264.61, 264.70, 264.71, 264.83, and 264.85 [Removed and reserved]

■ 21. Remove and reserve §§ 264.0, 264.2, 264.40, 264.60, 264.61, 264.70, 264.71, 264.83, and 264.85.

PART 265—DATA COLLECTION AND REPORTING REQUIREMENTS

■ 22. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 603, 605, 607, 609, 611, and 613.

§ 265.6 [Removed and reserved]

■ 23. Remove and reserve § 265.6.

PART 270—[REMOVED AND RESERVED]

■ 24. Under the authority of 42 U.S.C. 603(a)(4), remove and reserve part 270.

PART 283—[REMOVED AND RESERVED]

■ 25. Under the authority of 42 U.S.C. 603, remove and reserve part 283.

PART 284—[REMOVED AND RESERVED]

■ 26. Under the authority of 42 U.S.C. 613(i), remove and reserve part 284.

PART 286—TRIBAL TANF PROVISIONS

■ 27. The authority citation for part 286 continues to read as follows:

Authority: 42 U.S.C. 601, 604, and 612; Public Law 111–5.

§§ 286.15, 286.60, 286.130, 286.175, 286.180, 286.235, and 286.285 [Removed and reserved]

■ 28. Remove and reserve §§ 286.15, 286.60, 286.130, 286.175, 286.180, 286.235, and 286.285.

PART 287—THE NATIVE EMPLOYMENT WORKS (NEW) PROGRAM

■ 29. The authority citation for part 287 continues to read as follows:

Authority: 42 U.S.C. 612.

§§ 287.5, 287.15, 287.20, 287.35, 287.40, 287.60, 287.65, 287.90, 287.95, 287.100, 287.105, 287.165, and 287.170 [Removed and reserved]

■ 30. Remove and reserve §§ 287.5, 287.15, 287.20, 287.35, 287.40, 287.60, 287.65, 287.90, 287.95, 287.100, 287.105, 287.165, and 287.170.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–15567 Filed 7–30–26; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[PS Docket Nos. 22–329, 25–224; FCC 26–38; FR ID 359234]

Modernization of the Nation's Alerting Systems; Protecting the Nation's Communications Systems From Cybersecurity Threats

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In the Report and Order, the Federal Communications Commission (the FCC or the Commission) seeks to preserve the public's trust in the Emergency Alert System (EAS) by requiring targeted cybersecurity improvements that will help protect against hijacking by cybercriminals and our nation's adversaries.

DATES: This rule is effective September 29, 2026.

FOR FURTHER INFORMATION CONTACT: For further information concerning the information contained in this document, please contact David Kirschner, Attorney Advisor, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, at 202–418–0695, or by email to David.Kirschner@fcc.gov, or George Donato, Associate Division Chief, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau at 202–418–0729, or by email to George.Donato@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (*Order*) in PS Docket Nos. 22–329 and 25–224, FCC 26–38, adopted on June 25, 2026, and released on June 29, 2026. A summary of the accompanying proposed rule in PS Docket Nos. 25–224, 15–94, and 15–91, FCC 26–38, adopted on June 25, 2026 and released on June 29, 2026 is published elsewhere in this issue of the **Federal Register**. The full text of this document is available at <https://docs.fcc.gov/public/attachments/FCC-26-38A1.pdf>.

Procedural Matters

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”

Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Report and Order on small entities.

Congressional Review Act. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Paperwork Reduction Act Analysis. This Report and Order does not contain proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3521. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, 44 U.S.C. 3506(c)(4).

Synopsis

Goals of the Nation's Alerting Systems

In the *Alerting Modernization NPRM*, we sought comment on the objectives that effective alert and warning systems should serve. Specifically, we sought comment on three possible core goals: (1) alerting systems should provide authorities with the ability to rapidly notify the public of emergencies that may put the public at risk; (2) alerting systems should be capable of delivering instructions that facilitate the protection of life and property; and (3) alerting systems should provide a mechanism for government officials to provide additional authoritative communications with the public before, during, and after an emergency. Commenters generally agree that these should be the overarching goals of the nation's alert and warning systems. The Alliance for Telecommunications Industry Solutions (ATIS) “fully supports these three goals and notes that the industry has continuously evolved WEA to meet these objectives.” The Competitive Carriers Association (CCA) believes that these “broad but simple goals proposed for the nation's alerting systems . . . seem appropriate . . . [as they] are worthwhile, important to public safety, and consistent with statutory instructions and intent.” North Carolina Emergency Management et al., the Harris County Office of Homeland Security & Emergency Management

(Harris County), APCO International (APCO), and the National Weather Service (NWS) also agree with the three stated objectives, with the NWS noting that, “[w]hile a perfect alerting system is not possible, it should have the main goal of being easy to use and available to anyone.”

The U.S. Geological Survey (USGS) supports the three core goals the Commission proposed for alerting systems, but contends that they “are focused on the capabilities of the system rather than on the public safety outcomes they are intended to achieve.” Sonoma County Department of Emergency Management, Snohomish County Department of Emergency Management, former California Office of Emergency Services Director Art Botterrell, and Washington State Emergency Management Division likewise emphasize that public safety outcomes are of utmost importance. iHeartMedia, Inc. supports the three objectives that we identified, but believes we should consider a fourth: “(4) alerting systems should include resilient and reliable delivery systems proven capable of functioning during emergencies, including when other emergency alerting technologies may be unavailable.” The New York City Emergency Management Department (NYCEM) agrees with us that “the speed of notification is a critical component of any alerting system” but proposes the following alternative to our third objective focused on ensuring the ability for authorities to send authoritative alerts to the public: “Alerting systems should be designed and utilized to ensure that all members of the public receive an alert and are aware of actions that they may take to protect life and property. . . . [A]lerting systems should be available in a wide array of languages, able to be displayed on various devices, and include considerations for members of the public with various accessibility needs.” Although we understand and appreciate the proposals for additional goals of alerting, we conclude that the three goals we proposed already encompass these important public safety-, resiliency-, and accessibility-focused concerns within the objectives that effective alert and warning systems should serve. For example, while we agree with iHeartMedia, Inc. that alerting systems must be resilient and reliable, and capable of functioning when other emergency alerting technologies may be unavailable, that objective is subsumed within our goal of providing authorities with the ability to rapidly notify the public of emergencies

that may put them at risk. NYCEM's view that alerting systems should be available in a wide array of languages and on a variety of devices falls within the core goal of notifying the public of emergencies, as that notification can only occur if recipients can receive and understand the message.

Commenters recognize that the Commission should continue to evaluate ways to improve these systems, and we agree. As Sinclair comments: “Ultimately, the nation's alerting systems are critical to the preservation of public health and safety, and examining ways to enhance or improve these systems can save lives.” We also find that commenters generally recommend that, while alerting systems can be improved, we should refrain from making fundamental changes to EAS and WEA. We agree with commenters that these systems generally meet today's alerting objectives, and determine that incremental improvements advance the core goals of the nation's alerting systems. At this time, we therefore decline to overhaul or phase out the legacy EAS architecture. Legacy EAS continues to effectively support public safety by creating alerting pathway redundancy, making alerting more resilient, and by warning the public and informing them about protective actions to take during emergencies. Eliminating it would create a gap in alert delivery that would threaten the achievement of our three goals. Consistent with the record, we take steps to improve EAS and WEA as they exist today.

Cybersecurity Requirements Targeting Specific EAS Attack Vectors

Central to our effort to modernize the nation's alerting systems is ensuring those systems are secure. Commenters to both the *Alerting Modernization NPRM* and the *Alerting Security NPRM* broadly agree that it is vital to ensure the security of EAS and WEA. Foreign adversaries, criminals, and other bad actors can wreak havoc if they gain access to alerting systems, by sending a false alert that causes public panic or delivers false information about a disaster or crisis, or by preventing a real alert from being transmitted to the public. As one former broadcaster who submitted comments points out, the dissemination of false alerts can also undermine public trust in alerting capabilities, which depends on “ensuring that every message originates from an authorized and verifiable source.” Because of these risks, keeping these systems “secure against cyberattacks from our nation's adversaries” and “[m]aintaining trust in

these systems is vital for both national security and achieving the nation's alerting goals."

Today, we adopt three targeted measures that aim to ensure that EAS Participants secure their equipment to prevent cyberattacks that could result in the transmission of false EAS alerts or disrupt the transmission of legitimate alerts. Specifically, we require EAS Participants to do the following with respect to EAS equipment, studio transmitter link equipment, and any remotely managed equipment that routes, processes, or inserts content into the EAS Participant's programming stream: (1) prior to operation, change any default password, use strong passwords, and change any password if the EAS Participant has reason to believe that the password has been compromised; (2) test and install security patches and security-related software and firmware upgrades issued by equipment manufacturers promptly after those patches or upgrades become available; and (3) use a network firewall or comparable network segmentation practice to limit remote management access to authorized devices and authorized users.

These three requirements represent a subset of the six basic cybersecurity hygiene requirements that the Commission proposed to require EAS Participants to implement as part of their cybersecurity risk management plans in the *Alerting Security NPRM*. In the *Alerting Security NPRM*, the Commission proposed to require EAS Participants to implement these cybersecurity measures in the context of their implementation of broader cybersecurity risk management plans. The Commission sought comment on whether that approach "strikes the appropriate balance between improving EAS security, complementing EAS Participants' existing cybersecurity activities, and reducing burdens on small EAS Participants?" In response, commenters express concern that compliance with precise cybersecurity risk management requirements would be costly, could hinder their ability to adapt to changing cybersecurity needs, and could subject them to strict liability enforcement in the event an EAS Participant is victimized by a cyberattack. The approach we adopt today responds to those concerns by eliminating the broader cybersecurity risk management and threat assessment components of the proposed requirement, as well as the proposed requirements that EAS Participants employ "sufficient security controls to ensure the confidentiality, integrity, and availability of the EAS."

The *Alerting Security NPRM* asked whether, "[i]nstead of requiring the use of a risk management plan, should [the Commission] require EAS Participants to take specific steps to secure their EAS equipment?" In addition, the *Alerting Modernization NPRM* asked if there are "specific authentication, validation, and security measures that EAS and WEA should be designed to incorporate?" In response to the *Alerting Modernization NPRM*, APCO and other commenters agree that the Commission should adopt specific security requirements for EAS Participants. As with other commenters to the *Alerting Security NPRM*, National Public Radio (NPR) is concerned about the costs of cybersecurity risk management plan requirements and asks that EAS Participants be required to, instead, only implement the basic security measures that the Commission proposed without requiring the creation of broader risk management plans. REC Networks agrees that "security of EAS equipment is of paramount importance" but asks that smaller EAS Participants be required to "implement a simpler plan of good network operating practices, which involve network configuration, password management and protection, periodic password changes[,] and other 'common sense' methods to assure that EAS equipment is not compromised." The approach we adopt today is consistent with NPR's view that we should require EAS Participants to implement minimum security controls, rather than comprehensive risk management plans, while also respecting REC Networks' view that some of the specific security measures we proposed to require, such as addressing the replacement of end-of-life equipment and wiping, clearing, or encrypting user information before disposing of old devices, may be more complicated than is appropriate to require of some EAS Participants. Other commenters, such as NCTA, express concern that requiring EAS Participants to implement a specific cybersecurity framework would "freeze cybersecurity practices in time and hamper an EAS Participant's ability to develop and implement cybersecurity measures in response to its specific cybersecurity risk profile, to the detriment of public safety." The requirements we adopt today will not hamper an EAS Participant's ability to respond to evolving cybersecurity threats. Rather, they represent a minimum acceptable baseline that will harden critical communications infrastructure against today's threats, while being flexible enough to adapt to changes in the threat environment.

The cybersecurity requirements we adopt today are narrowly tailored to address vulnerabilities that have been repeatedly exploited through a series of cyberattacks on EAS Participants in recent months. In these attacks, bad actors gained control of radio broadcasters' systems by exploiting improperly secured, remotely accessible equipment in the broadcast signal processing system to transmit unauthorized audio that included EAS alert tones, an offensive song that included racial slurs, and promotional content. In response to the attacks, the Public Safety and Homeland Security Bureau (Bureau) released a Public Notice on November 23, 2025, urging broadcasters to immediately implement basic cybersecurity hygiene best practices to secure their systems and protect EAS, including installing software security patches for broadcast equipment issued by the manufacturer as soon as they become available; upgrading equipment firmware and software to the most recent versions recommended by the manufacturer; changing devices' default passwords and replacing them with robust alternatives; regularly changing passwords to promote continued security; and, where reasonably feasible, installing EAS, studio-transmitter link equipment, and other equipment interconnected to the broadcast signal processing system behind network firewalls. Similar attacks on broadcasters going back more than a decade have included hoax radio broadcasts about a zombie attack and false alerts about a "radiological hazard" sent to cable subscribers through the infiltration of EAS equipment connected to the internet. The Bureau recently convened a cybersecurity workshop for broadcasters that brought together public and private sector representatives to raise awareness of emerging cybersecurity risks, share and promote the adoption of best practices, and highlight opportunities for public-private partnerships on cybersecurity issues facing broadcasters. Despite our repeated efforts urging EAS Participants to take basic steps to secure their networks, including the November 2025 Public Notice, an August 2022 Public Notice recommending similar steps to those we recommended last year, and an April 2020 email to EAS Participants encouraging them to secure their EAS equipment by installing current security patches, successful attacks have continued into 2026.

Because some EAS Participants have not taken adequate steps to remediate these vulnerabilities and address the

significant risk posed by a false alert or non-transmission of a real alert, we find that each of the three requirements we adopt today are necessary to protect the security and integrity of EAS.

Password requirements. Strong password security is essential to protecting EAS equipment, studio-transmitter link equipment, and remotely accessible equipment from unauthorized access that exploits weak or default credentials. Digital Alert Systems, Inc. (DAS) and former broadcaster, Jonah Kibin, caution against using default passwords and recommend changing required credentials upon setup as default passwords, particularly on encoders, “are widely available on the internet and have led to high-profile intrusions of the EAS in the last couple of decades.” We require that default passwords for EAS equipment, studio transmitter link equipment, and any remotely managed equipment that routes, processes, or inserts content into the EAS Participant’s programming stream be changed prior to any use to broadcast to the public. Passwords used for this equipment must employ a minimum of 15 characters, not use dictionary words (because they can be cracked through brute force), and not be reused for other accounts, equipment, applications, and services that the EAS Participant uses.

As an alternative to a strong password, we permit EAS Participants to use alternative authentication measures that are reasonably sufficient to mitigate the risk of unauthorized access. We believe that there are numerous authentication methods available to EAS Participants that would be reasonably sufficient, including methods that have been highlighted by the National Institute of Standards and Technology (NIST) as meeting one of three authentication assurance levels. For example, NIST’s guidance provides that authentication properly implemented at Authentication Assurance Level 1 can include, in addition to passwords, look-up secrets, which are “[a] secret determined by the claimant by looking up a prompted value in a list held by the subscriber”; out-of-band devices, consisting of “[a] secret sent or received through a separate communication channel with the subscriber”; single- or multi-factor one-time password devices, in which a one-time secret is obtained from a device or application held by the subscriber, which may or may not require activation by a second authentication factor; and single- or multi-factor cryptographic authentication, which entails “[p]roof of

possession and control via an authentication protocol of a cryptographic key held by the subscriber,” which may or may not require activation by a second authentication factor. We recognize that, were we to simply require use of specifically structured passwords, our rule could preclude the use of other authentication methods offering equal or better security. To ensure our requirements do not result in reducing the security of currently secure systems, the rule we adopt today continues to allow EAS Participants to secure their equipment through means that are equally or more secure than the password requirements we adopt today.

As DAS observes, “systemic risks” are created when EAS Participants use “[w]eak passwords [and] shared accounts.” These risks are present throughout the industry. As the National Television Association concedes, many EAS Participants “had never changed the default password on their EAS device(s).” A former broadcaster further emphasizes that the use of default passwords to widely owned broadcast equipment—many of which are publicly available—has contributed to multiple high-profile intrusions over the past decade, demonstrating that these risks are neither hypothetical nor isolated. NPR characterizes requirements to change default passwords and secure equipment as reasonable and sound. Prometheus Radio Project supports Low Power FM stations “maintaining a firewall, following password management best practices, and implementing multi-factor authentication.” REC Networks supports the immediate changing of default passwords, and includes this as one of the recommendations in its Practice of Good Network Security for Small Stations. This requirement aligns with authoritative, industry-recognized cybersecurity standards, including the Cybersecurity & Infrastructure Security Agency’s (CISA) Cross-Sector Cybersecurity Performance Goals (CPGs), which are designed for operators of critical infrastructure such as communications networks. We have elsewhere pointed to the CISA CPGs as an instructive suite of cybersecurity best practices for communications service providers. The Submarine Cable Second Report and Order adopts certain national security standards that, if met, will presumptively exempt a submarine cable application from referral to the Executive Branch agencies, including that the applicant must affirm, as part of its required cybersecurity and physical

security risk management plan certification, that the plan meets a set of established cybersecurity best practices such as the standards and controls set forth in the CISA CPGs. Specifically, CISA CPG 3.A, “Changing Default Passwords,” encourages companies to address the risk that “[a]dversaries might acquire and exploit default account credentials to gain initial access, maintain persistence, escalate privileges, or evade defenses” by “[i]mplement[ing] an organization-wide policy that requires changing default manufacturer passwords for all hardware, software, and firmware before connecting them to any internal or external network.” We disagree with NCTA’s suggestion that cybersecurity protections should be limited to EAS equipment alone, as this would be insufficient to protect EAS when unprotected studio transmitter link equipment and remotely managed equipment that routes, processes, or inserts content into the EAS Participant’s programming stream create similar opportunities to transmit false alerts or disrupt the transmission of real alerts. The password characteristics that we require reflect the CISA and NIST guidance on minimum password strength and unique credentials. We expect compliance with the requirement to be straightforward for EAS Participants, which need only log into each relevant piece of equipment, locate the account-management or security settings, and replace the factory-set default password or existing weak password with a strong, unique password—a process that should be repeated whenever the EAS Participant has reason to believe that the password has been compromised.

Firmware and Software Patching. Prompt firmware and software patching are key to reducing the risk that bad actors will exploit known vulnerabilities to infiltrate broadcast and cable systems to insert false EAS tones or alerts. The record includes support for requiring EAS Participants to promptly install security patches and firmware and software updates. DAS also points to the failure to apply software updates as a “systemic risk[]” to EAS. One comment submitted by a radio broadcast engineer recommends that the Commission require EAS equipment to automatically query a centralized database to confirm EAS codec firmware and certificate updates. APCO opines that “[t]he Commission should consider rules requiring EAS and WEA participants to maintain current software and replace outdated equipment in a timely manner,” citing

findings from the Commission's 2023 Nationwide Emergency Alert Test showing that "approximately 23 percent of the EAS equipment units were either using outdated software or operating equipment that was no longer supported with regular software updates." The fact that nearly a quarter of EAS devices may potentially be exposed to known, readily addressed vulnerabilities because they are operating obsolete or out-of-date equipment represents a significant gap in the security of the nation's alerting capacity that poses national security risks. Promptly testing and installing security patches and software and firmware upgrades will also address DAS's concern that "[g]ray-market EAS encoders/decoders (*i.e.*, used equipment sold on auction websites) can ship with outdated firmware and unremoved configurations or credentials, allowing attackers to exploit known vulnerabilities or use retained settings to impersonate sources and inject false alerts." Going forward, EAS Participants will be responsible for ensuring that their EAS devices are properly patched and updated, regardless of the devices' provenance. The requirement to install patches and update software promptly also aligns with CISA's CPGs. Specifically, CISA CPG 2.B encourages companies to "Mitigate Known Vulnerabilities" by "[i]mplement[ing] a vulnerability management program to patch and mitigate misconfigured software in a timely manner" to protect against the risk that "[a]dversaries frequently target unpatched and misconfigured systems, particularly those exposed to the internet," and "often leverage software vulnerabilities, temporary malfunctions, or configuration errors to gain initial access to a network." Here, too, we expect implementation to be simple. Once a security patch, or security-related software or firmware upgrade, becomes available for EAS equipment, studio transmitter link equipment, or any other remotely managed equipment that routes, processes, or inserts content into the EAS Participant's programming, EAS Participants must promptly download and install the patch or upgrade. EAS Participants are permitted to test that patch or upgrade to ensure that it does not introduce performance issues, provided that the testing begins promptly and is completed in a timeframe that is consistent with industry best practices. No commenter specifically opposes prompt patching as a security requirement.

Use of a Firewall or Comparable Network Segmentation. We require EAS Participants to use a network firewall or

comparable network segmentation practices to limit remote management access to authorized devices and authorized users, which will secure EAS and other vulnerable equipment on a private network inaccessible to the public internet. This requirement addresses a widespread EAS vulnerability. In response to the *Alerting Security NPRM*, REC Networks identified 730 EAS Participant servers through which the password screen for Sage Alerting Systems' ENDEC EAS device was directly exposed. Of those servers, 288 operated on port 80, which is the default port for HTTP web services. In contrast with the servers operating on port 80, web services that use the more secure transport layer security (HTTPS) use port 443. It is thus easy and cheap for even low-capability malicious actors to locate EAS Participant equipment. To comply with the requirement we adopt today, EAS Participants must ensure that their EAS equipment is secured behind a firewall or other segmentation mechanism—such as a dedicated Virtual Local Area Network (VLAN), demilitarized zone, or physically isolated management network—with access restricted to only those internal systems and ports necessary for EAS operations. EAS Participants must either deploy a hardware or software firewall with appropriate filters, reconfigure existing routers to block inbound public internet connectivity to EAS devices, or otherwise isolate EAS equipment from general-purpose business networks so that unauthorized external access is not possible. These measures constitute essential, straightforward safeguards that EAS Participants of all sizes can realistically implement. As with the other two requirements we impose, this network segmentation requirement is consistent with established cybersecurity best practices. For example, CISA CPG 3.S calls on companies to "Secure Internet Facing Devices" by "[m]inimiz[ing] internet-facing assets whenever possible" to address the risk that "[a]dversaries might exploit weaknesses in internet-facing hosts or systems to gain initial network access, targeting software bugs, temporary glitches, or misconfigurations," and CISA CPG 3.I recommends that networks should be logically segmented. No commenter specifically opposes network segmentation as a security requirement.

Based on commenters' assertions that EAS Participants already implement cybersecurity risk management plans, we suspect that many EAS Participants already implement the baseline

cybersecurity requirements we adopt today. But EAS is only as secure as its weakest link. Not only does the hack of even a single EAS Participant's systems potentially expose that entity's audience to false information about an emergency, but also the architecture of legacy EAS means that certain types of EAS Participants could pass a false alert along to other EAS Participants. As DAS explains, "Commission rules can help ensure consistent implementation [of security requirements] across thousands of EAS Participants, preventing weakest-link vulnerabilities." As REC Networks notes, small broadcasters are especially likely not to have implemented basic cybersecurity practices, and would benefit from straightforward and easily implemented rules rather than "an extensive and elaborate cybersecurity plan" requirement, as proposed in the *Alerting Security NPRM*. We accordingly find that the requirements we adopt today are particularly important to protect EAS Participants that are small- and medium-sized businesses. We therefore reject comments that suggest smaller EAS Participants should be exempt from cybersecurity requirements. Native Public Media and other commenters state that small stations typically lack the budget, resources, and expertise to manage IT security responsibilities, noting that many EAS Participants are very small, and are often nonprofit or municipal operations with minimal funding. But that concern cuts both ways. Smaller broadcasters with fewer security protections in place are often a more attractive target for bad actors, as the recent attacks on small radio broadcasters demonstrate. Moreover, while having limited resources might have made it burdensome to adopt the far-reaching cybersecurity risk management requirements imposed in the *Alerting Security NPRM*, the minimal requirements we adopt today will be far easier and less resource-intensive to implement. We further disagree with Cox Media Group and NAB that the Commission should focus on education of EAS Participants to secure the nation's public alert and warning capability. While we recognize the value of education, we find that it is not sufficient, on its own, to effectively reduce the dynamic and evolving risks posed by cybersecurity threats to emergency alert systems. We conclude that all EAS Participants can and must implement the cybersecurity safeguards we adopt today.

While we appreciate DAS's view that EAS equipment manufacturers should be expected to implement security

practices in their equipment, including by following secure coding practices, providing digitally signed software and firmware updates, shipping devices with hardened default settings, and supporting role-based access controls, we find that the primary responsibility for securing vulnerable equipment rests with EAS Participants themselves. The vulnerabilities identified in the record stem mainly from insecure password practices, unpatched EAS participant-managed systems, inadequate network segmentation, or exposure of devices to the open internet—not from defects in underlying equipment design and development. This approach to responsibility for EAS security delineates clear roles. Manufacturers develop, validate, and make available security patches. EAS Participants, in turn, are responsible for applying patches to their equipment, and ensuring their systems are updated.

We disagree with NAB that, rather than imposing uniform requirements for EAS Participants to secure their systems, the Commission should engage in targeted outreach to those EAS Participants found to be using outdated software or unsupported equipment. We similarly disagree with security researcher Shawn Merdinger, who suggests that “[w]hat is needed is direct outreach Someone at the FCC who identifies the EAS device . . . , finds out who the asset owner is, and reaches out to the person running, or in charge of running, that EAS device.” We recognize the value of outreach to EAS Participants to identify ways to better secure their systems, and take a variety of actions to promote public-private partnership and voluntary efforts to protect networks and EAS from cybersecurity threats. These include releasing Public Notices warning about recent threat vectors and providing guidance about how EAS Participants can better secure their equipment against such threats; hosting workshops that raise situational awareness of the threat landscape and share best practices for protecting communications networks and incident response; and investigating reports about false EAS alerts that suggest the breach of an EAS device or willful misuse of the EAS tones or Attention Signal. Despite these efforts, cyberattacks on EAS Participant facilities continue to occur with disturbing frequency. It is neither practical, administratively efficient, nor a reasonable use of public funds, for the Commission to respond to these threats by assessing the security status of equipment operated by thousands of EAS Participants across the United

States and working with each such participant individually to implement the cybersecurity practices that we have been urging them to adopt for years. Moreover, there is no guarantee that the Commission will be able to identify every EAS Participant whose systems may be vulnerable because of flawed passwords, patching, or network segmentation practices. The far more efficient approach is to impose a minimally burdensome requirement on each EAS Participant to implement the basic security requirements we adopt today for its own equipment.

We also disagree with commenters like NCTA that recommend the Commission first focus on modernizing EAS technology prior to considering any additional or updated cybersecurity or resiliency requirements. Maintaining strong passwords, routinely installing security upgrades, and segmenting sensitive equipment from the public internet are vital to preventing unauthorized access to EAS encoding and decoding functions and unauthorized transmission of EAS header tones and audio messages, irrespective of where in the EAS Participant’s signal processing system those functions and transmission may be activated. We decline to wait additional months to secure these systems against cybersecurity vulnerabilities that are actively being exploited.

We do not apply the targeted cybersecurity requirements we adopt today to WEA at this time. As discussed above, there is a long history of attackers exploiting vulnerabilities in EAS Participants that have resulted in false EAS alerts reaching the public. While a 2016 report on WEA’s security found risks of blocking valid WEA messages, changing the content of a valid WEA message, injecting false WEA alerts into operator equipment, and sending false alerts from false base stations, there have been no reported instances of those kinds of attacks on WEA being successful. We find this to be evidence, as CTIA and ATIS assert, that additional security requirements are not needed at this time. Consistent with the overarching recommendation of CSRIC V, we find that that best practices, rather than requirements, are currently suitable for addressing cybersecurity threats to WEA. Three alerting authorities and two individuals generally support improvements to WEA’s cybersecurity posture, but focus on end-to-end cryptographic authentication, auditing, and other more burdensome security measures. None of these commenters adequately explain how the security benefits of additional

WEA requirements would outweigh the costs, particularly when the lack of successful attacks on WEA suggests that the benefits of adding security measures for WEA may currently be limited.

Compliance Timeframe

We adopt a compliance timeframe for the rule changes adopted in this Order of 60 days after the rule’s publication in the **Federal Register**, balancing the need to quickly secure vulnerable equipment against known vulnerabilities with the time EAS Participants require to implement the security controls. We find that sixty days provides sufficient time for compliance with these changes. Many EAS Participants and their representative organizations state that EAS Participants have already implemented cybersecurity risk management plans that include these specific security measures, and the Commission and FEMA have repeatedly raised the security of EAS as an urgent priority. EAS Participants that have not already implemented these basic cybersecurity hygiene measures will need only make a handful of straightforward changes to certain equipment to comply with these requirements. Minimal time is required, for instance, to log into the equipment subject to these requirements—which, for many EAS Participants is likely to comprise only a few devices—and change the passwords. Indeed, most Americans routinely manage passwords to a variety of devices and applications as a matter of course, which consumes no more than a few minutes each week. Similarly, it will take little time for most EAS Participants to test and install any currently available patches and updates for equipment subject to the requirement. As DAS explains, installing patches and updating equipment to the latest software version is minimally burdensome, because over-the-air software updates and software patching are both feasible and supported by modern, internet-connected EAS equipment. Here, too, the burden is no greater than that experienced by many Americans who routinely install security-related updates to their device operating systems and applications on a regular basis. While installing a firewall may require some EAS Participants to identify a vendor who can configure their systems appropriately, we do not expect that this will be burdensome or time-consuming for EAS Participants to identify because firewalls are widely recognized as a basic and cost-effective cybersecurity safeguard appropriate even for organizations with limited resources.

Further, there is an urgency to protect against threats from malicious actors by implementing these security measures as soon as practicable. Cyber threats that we warned EAS Participants about several years ago continue today. At the same time, cyber threat activities are becoming more sophisticated. For example, CISA recently issued an advisory that warned of “China-nexus cyber actors . . . using large scale networks of compromised devices (covert networks) to route their cyber activity.” Given the apparent inadequacy of voluntary approaches to implementing basic security safeguards to remediate these threats—and the significant risk posed by a false alert or non-transmission of a real alert—we find that each of the three requirements we adopt today are reasonable and necessary to protect the security and integrity of EAS.

Benefits and Costs

We find that the targeted rules adopted today will promote EAS security without imposing substantial costs on EAS Participants. These measures are necessary to protect EAS from future false alerts that are damaging to public safety. Improved EAS security will also provide benefits to EAS Participants in the form of avoided reputational harm that may arise from cyberattacks and false alerts being transmitted from their stations. While the new rules may require hiring outside contractors in some cases, EAS Participants will have the flexibility to satisfy this requirement in a manner tailored to their particular business needs.

Costs. While commenters, including FEMA, Altice, Gray Television, and Sage, raise concerns about the increased costs and burdens that the proposals in the *Alerting Security NPRM* would place on EAS Participants, the basic cybersecurity hygiene practices we adopt today represent a narrow subset of those proposals, which EAS Participants should be able to implement without significant expenditure. For instance, the American Militia Association states that the Commission’s estimated total cost of \$11,600 per year is “grossly understated [as applied to] legal fees to review new rules and reporting requirements, payments to networking professionals and other costs . . . to ensure compliance.” However, the requirements in this Report and Order are less burdensome than what was proposed in the *Alerting Security NPRM* as they do not include reporting of unauthorized access incidents, nor do they include creating, updating, or annually certifying to having a sufficient

cybersecurity risk management plan that covers a broader range of established best practices.

We estimate that the costs of changing and regularly updating default passwords, installing security patches as available, and implementing firewalls or other network segmentation practices will not exceed \$26 million. We estimate the total cost of implementing the EAS security measures as follows: $25,800 \text{ entities} \times (10 \text{ hours per entity per year}) \times (\$65 \text{ mean hourly wage}) \times (1 + 7\% \text{ inflation adjustment}) \times (1 + 46\% \text{ benefit mark-up}) = \$26,198,094$ total cost per year, rounded to \$26 million. According to the Bureau of Labor Statistics, as of December 2025, civilian wages and salaries averaged \$33.45/hour and benefits averaged \$15.33/hour. Total compensation therefore averaged $\$33.45 + \$15.33 = \$48.78$. Using these figures, benefits constitute a markup of $\$15.33/\$33.45 = 46\%$. We therefore mark up wages by 46% to account for benefits. The figure 25,797 includes 21,658 broadcaster stations and 4,139 headends. With two direct broadcast satellite (DBS) providers and one satellite digital audio radio service (SDARS) provider, the total number of providers is 25,800. Based on Commission staff review of the S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, Operator Subscribers by Geography, there were 4,139 cable headends in the United States. This methodology likely overestimates the number of radio and television broadcasters that participate in the EAS, as some are exempted from the Commission’s rules that govern EAS. For example, if a hub station satisfies the EAS requirements, an analog or digital broadcast satellite station that rebroadcasts 100% of the hub station’s programming would not be required to comply with the proposed rules. This estimate is adjusted to reflect the requirements adopted today in light of the record. In the *Alerting Security NPRM*, we estimated that EAS Participants would require, on average, 10 hours annually to draft a cybersecurity risk management plan, update the plan, and submit their certification to the Commission, at an overall cost of \$21 million. We instead find that 10 hours is a reasonable average burden estimate across all EAS Participants for the three limited requirements that we adopt today. As DAS states, changing default passwords and installing certain security patches can be accomplished in the normal course of business and at little or no additional cost to EAS Participants. Further, NAB points out that many EAS

Participants are already taking some or all of the actions adopted in this Report and Order, recommending that “the FCC should target its efforts at the fairly small number of entities that may lag in updating their equipment or software.” To the extent that these entities already engage in password security and regular software update practices, we expect that the amount of additional time required to comply with the rules we adopt today would be low. Some EAS Participants may incur costs, however, to implement firewalls or other comparable network segmentation practices to limit remote management access, if they do not already do so. Therefore, we find that the cost estimate we adopt today is very conservative, due to the relatively narrow scope of requirements in this Report and Order, but the benefits will outweigh even this overestimated cost.

Benefits. We find, as suggested in the *Alerting Security NPRM*, that while it is impossible to quantify the precise dollar value of improvements to the public’s safety, life, and health, as a general matter, substantial public safety benefits will result from the adoption of robust security requirements for EAS providers, such as the rules adopted today. We agree with the D.C. Homeland Security and Emergency Management Agency that “[o]ne of the most damaging and dangerous impacts we have [of a cybersecurity incident] is that we don’t have the ability to launch Wireless Emergency Alerts or push to EAS.” The rules we adopt today will help to ensure the security and operability of EAS Participants. Additionally, as the Commission previously found, “a foreign adversary’s access to American communications networks could result in hostile actions to disrupt and surveil our communications networks, impacting our nation’s economy generally and online commerce specifically, and result in the breach of confidential data.” Consistent with the Commission’s past analysis, our national gross domestic product (GDP) was over \$30 trillion in 2025. As the requirements we adopt today apply narrowly to EAS Participants and their EAS equipment, studio transmitter link equipment, and any other remotely managed equipment that routes, processes, or inserts content into the EAS Participant’s programming, rather than the more broad proposals we sought comment on in the *Alerting Security NPRM*, if these requirements prevent even a 0.00009% disruption of our economy, that would offset the costs. Likewise, local radio and television broadcasting, a subset of EAS

Participants, supported \$1.19 trillion of our GDP in 2025, so preventing the disruption of even 0.0022% would outweigh the costs. As the Commission also noted in the *Alerting Security NPRM*, the cost of malicious cyber activity on the U.S. economy in 2016 was between \$57 billion and \$109 billion, so reducing this activity (or preventing an expansion of such damage) by even 0.046% (significantly less than the 1% considered in the *Alerting Security NPRM*) would produce benefits that outweigh the costs. We find that our reasoning in the *Alerting Security NPRM* remains applicable to the rules we adopt today, notwithstanding their narrowed scope, because the security measures we adopt today will significantly harden EAS Participants' systems against these types of attack and mitigate the risk of occurrence. Thus, we conclude that the minor costs associated with implementing the targeted security requirements in this Report and Order will be more than offset by its public safety and economic benefits.

Terminating the 2022 Alerting Security NPRM

We believe that the most effective and proportionate path to mitigating threats against EAS Participants and Participating CMS Providers is to address specific, repeatedly exploited cybersecurity vulnerabilities rather than adopting the broader cybersecurity risk management framework proposed in the *Alerting Security NPRM*. We agree with Nexstar Media that the cyber incidents this Report and Order is intended to prevent could have been easily avoided by undertaking basic network security measures such as those we require today. After further consideration, we conclude that adopting wide-ranging cybersecurity risk management requirements that apply to all of an EAS Participant or Participating CMS Provider's systems and services would impose extremely high costs that outweigh the security benefits.

NPR highlights the high costs of the Commission's proposals by pointing out that the *Alerting Security NPRM*'s estimate is "off by a factor of 10 or more—it would take a local General Manager or Operations Manager many hours just to understand the baseline framework involved, not to mention developing and implementing a cybersecurity risk plan." On further consideration, we conclude that costs to EAS Participants and Participating CMS Providers would include not only the creation of a cybersecurity risk management plan, but also the implementation of that plan, which the

Commission failed to take into account in designing its proposal. Based on additional evidence and additional consideration, we agree with the view that "compliance with the FCC's proposals in the Notice could easily run into the thousands of dollars, directly impacting a station's bottom line." These costs would be particularly high for small broadcasters. In light of these costs, we disagree with the Center for Internet Security's view that requiring alerting participants to implement a cybersecurity framework, such as their Critical Security Controls, is appropriate because those requirements would be "narrowly tailored" or "minimally intrusive." On balance, we find that addressing the most immediate threats to EAS Participants by adopting narrowly targeted security requirements to be more cost-effective than adopting the Commission's broad and burdensome proposal.

We decline to adopt a rule at this time that would require Participating CMS Providers to take further action to prevent false alerts from fake base stations. No commenter to the *Alerting Security NPRM* supported the Commission's adoption of rules to address this risk. To the contrary, AT&T and CTIA state that the ongoing international standard process is best positioned to address this issue, and ATIS questions whether such an attack on WEA would have a realistic chance of success. We acknowledge that the 3GPP SA3 (Security) working group published a study in 2023 on 5G security enhancements against false base stations, which identifies key issues and multiple candidate solutions. We encourage the 3GPP security working group to continue this work to move from candidate solutions to implementable best practice recommendations.

We decline at this time to make changes to the rules that allow for continued operations for a period of 60 days despite having defective equipment that precludes their participation in EAS. The Commission did not receive a sufficient record on this issue in response to the *Alerting Security NPRM* and several commenters were opposed to elimination of the 60-day rule arguing that the 60-day timeframe is necessary to complete repairs on EAS equipment. We note that our proposal in the accompanying Further Notice to allow EAS Participants to use software to fulfill their EAS obligations could have implications for the ability to receive timely repair and replacement of defective EAS equipment, and we seek comment on this issue below.

We also decline to adopt the Commission's proposal that EAS Participants and Participating CMS Providers report any substantial incident of unauthorized access of their systems to the Commission. We agree with commenters that adopting additional cybersecurity incident reporting requirements for alerting participants would be premature in light of CISA's pending rulemaking implementing the Cyber Incident Reporting for Critical Infrastructure Act (CIRCIA). Rather than adopting potentially duplicative incident requirements, we will continue to monitor CISA's work.

We decline to remove language from Sections 10.330 and 10.500 of the Commission's rules that provide that WEA functionality, both in Participating CMS Providers' networks and in mobile devices, "are dependent upon the capabilities of the delivery technologies implemented by a Participating CMS Provider" and certain WEA protocols "are defined and controlled by each Participating CMS Provider." The Commission proposed these changes because it was concerned that the rules might "create the mistaken impression that Participating CMS Providers' compliance with the rules . . . , would be conditioned on the Participating CMS Providers' delivery technology." CTIA opposes changing Section 10.330 because "it provides CMSPs the necessary flexibility to develop and deploy network technologies driven by consumer demand" and FEMA opposes changing it because they wanted to preserve Participating CMS Providers' flexibility to use technologies other than cell broadcast to support WEA. No commenter supported the elimination of this language, nor have we observed any non-compliance with the WEA rules attributable to the flexibility this rule provides. For these reasons, we decline to remove the language in question at this time.

The actions we take today are consistent with the approach to cybersecurity that we described in the 2025 CALEA Order on Reconsideration. The Commission continues to pursue targeted, legally robust regulatory and enforcement measures alongside a collaborative approach that emphasizes public-private partnerships that protect and secure communications networks. For instance, the Commission hosted cybersecurity workshops for broadcasters and telecommunications companies in May 2026 that brought together public- and private-sector representatives to raise awareness of emerging cybersecurity risks, share and promote adoption of best practices, and

highlight opportunities for public-private partnership on cybersecurity issues facing communications providers. Unlike the one-size-fits-all proposals in the *Alerting Security NPRM*, our flexible and coordinated approach is proven to make networks more secure. For these reasons, we terminate PS Docket No. 22–329.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Modernization of the Nation's Alerting Systems Notice of Proposed Rulemaking (Alerting Modernization NPRM)*, released in August 2025, and the *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System; Wireless Emergency Alerts; Protecting the Nation's Communications Systems from Cybersecurity Threats (Alerting Security NPRM)*, released October 2022. The Commission sought written public comment on the proposals in the NPRMs, including comment on the IRFA. The comments received are addressed below.

Need for, and Objectives of, the Rules. The Report and Order adopts targeted measures to enhance Emergency Alert System (EAS) security that address the public safety risks arising from breaches of EAS equipment that can result in false alerts or hijacked broadcasts. The Commission requires EAS Participants to do the following with respect to EAS equipment, studio transmitter link equipment, and any remotely managed equipment that routes, processes, or inserts content into the EAS Participant's programming: (1) prior to operation, change any default password, use strong passwords, and change any password if the EAS Participant has reason to believe that the password has been compromised; (2) test and install security patches, security-related software and firmware upgrades issued by equipment manufacturers promptly after those patches or upgrades become available; and (3) use a network firewall or comparable network segmentation practice to limit remote management access to authorized devices and authorized users. These rules support the Commission's goals of strengthening the security of alerting systems to ensure these systems are designed to be secure from attacks by foreign adversaries and other malicious actors. When criminals can gain access to these systems, they can cause alarm by sending out false alerts that cause public panic or deliver false information about

crises and disasters. This unauthorized access can also prevent real alerts from being transmitted. The Commission has observed attacks in recent months where threat actors exploited improperly secured, remotely accessible equipment in broadcasters' signal processing systems to gain control of station transmissions and insert unauthorized audio that included EAS tones, offensive language, and promotional content.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA. In 2022, the Commission released the *Alerting Security NPRM* seeking comment on ways to strengthen the operational readiness of EAS equipment. The *Alerting Security NPRM* proposed requiring EAS Participants to report compromises of their EAS equipment, communications systems, and services to the Commission, and also proposed requiring EAS Participants and Commercial Mobile Service providers that participate in Wireless Emergency Alerts (WEA) (Participating CMS Providers) to annually certify that they have a cybersecurity risk management plan in place, and to employ sufficient security measures to ensure the confidentiality, integrity, and availability of their respective alerting systems. The proposal would have required an annual certification attesting that the EAS Participant has created, updated, and implemented a cybersecurity risk management plan that includes security controls sufficient to ensure the confidentiality, integrity and availability of the EAS through the following best practices: (1) changing default passwords prior to operation; (2) installing security updates in a timely manner; (3) securing equipment behind properly configured firewalls or using other segmentation practices; (4) requiring multifactor authentication where applicable; (5) addressing the replacement of end-of-life equipment; and (6) wiping, clearing, or encrypting user information before disposing of old devices. It also proposed requiring Participating CMS Providers take steps to ensure that only valid alerts are being displayed on consumer devices.

Several commenters raise concerns about the burdens associated with these specific proposals. In the record of this proceeding, Prometheus Radio Project (Prometheus), NPR, and REC Networks comment on the impact of the proposed rules on small entities. Prometheus comments that it supports cybersecurity best practices for all broadcasters, but notes that compliance will be “onerous for small, rural and LPFM broadcasters, most of whom lack in-house technical

expertise and will have to shoulder significant additional financial burden.” Prometheus also states that the Commission “must take a more nuanced approach to ensuring the security of EAS equipment, by providing cybersecurity assistance to EAS Participants directly and by placing compliance burden on EAS equipment manufacturers when technically feasible.” Prometheus agrees, however, with the Commission's “initiative to strengthen security practices and EAS and supports the implementation of cybersecurity practices for all broadcasters, big and small.” NPR agrees that there should be “secure, reliable communications during emergencies without relying on the internet, which may be offline or become unreliable, particularly during power outages” but raises concerns “that some of the proposed rules would create costly obligations for stations without clear public benefits [and] [s]ome of the proposed rules would be especially burdensome for noncommercial public radio stations—stations that already provide consistent and trusted emergency alerting service despite significant staffing and monetary constraints.” REC Networks similarly states “that security of EAS equipment is of paramount importance” but emphasizes the limited resources of “‘small stations’ [] normally operated by small nonprofit organizations, minority groups, ‘mom and pop’ and individual owners with limited budgets and very limited information technology resources.” REC Networks states that they “will oppose the ‘one size fits all’ approach to information security as proposed by the Commission including any requirements that involve the immediate reporting of any security breaches . . . as well as the requirements to develop, update and maintain complex extensive cybersecurity risk management policies as they would be applied to small stations.” Finally, DAS notes in its reply comments that while sometimes equipment manufacturers provide firmware and software updates “sometimes at no cost or sometimes with a charge,” others in the record accurately note that “(e)ven small operators should consider these [firmware and software] updates to be the normal cost of doing business.”

In response to the *Alerting Modernization NPRM*, DAS expresses concerns that “large operators may move ahead quickly, but small-market and rural licensees might find it hard to keep up” and urges a “comprehensive cost-benefit and small-entity impact

assessment before final rule adoption.” The Competitive Carriers Association comments that there needs to be “relief and/or reduction of the cadence of imposition of new regulatory requirements related to public safety” and that small providers are at risk of a disadvantage in sales because “smaller carriers would likely lose customers to larger providers that offer [alerting] but with potentially less coverage and quality of service in rural and remote areas.”

We are persuaded by these views. We agree that the practices proposed in the *Alerting Security NPRM* are overly burdensome, especially for smaller

providers. As such, we adopt a very narrowly tailored subset of these proposals. These requirements have been streamlined with smaller providers in mind and are adaptable for various providers, regardless of size.

Response to Comments by the Chief Counsel for the Small Business Administration Office of Advocacy. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy, and provide a detailed statement of any change made to the

proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.
Description and Estimate of the Number of Small Entities to Which the Rules Will Apply. The rules we adopt in the Report and Order will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Where available, we also provide additional information regarding the number of potentially affected entities in the identified industries below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	Percent small firms
Radio and Television Broadcasting and Wireless Communications Equip Manufacturing.	334220	1,250 employees	155	136	87.74
Communications Equipment Manufacturing	334290	800 employees	310	294	94.84
Audio and Video Equipment Manufacturing	334310	750 employees	506	492	97.23
Radio Broadcasting Stations	516110	\$47 million	2,616	2,136	81.65
Television Broadcasting Stations	516120	\$47 million	413	316	76.51
Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers.	516210	\$47 million	5,217	3,673	70.40
Wired Telecommunications Carriers	517111	1,500 employees	3,403	3,027	88.95
Wireless Telecommunications Carriers (except Satellite)	517112	1,500 employees	1,184	1,081	91.30
Satellite Telecommunications	517410	\$44 million	332	195	58.73

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)		SBA size standard (1,500 employees)		
Affected entity		Total number FCC Form 499A filers	Small firms	Percent small entities
Wired Telecommunications Carriers		4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite)		585	498	85.13

TABLE 3—BROADCAST ENTITY DATA

Broadcast station owners (as of August 8, 2025)		SBA size standard (\$47 million)		
Affected entity		Number commercial licensed	Small firms	Percent small entities
Radio Stations (AM & FM) Groups		2,881	2,863	99.38
Television Stations		171	142	83.04

TABLE 4—CABLE ENTITIES DATA

Cable entities	Size standard	Total firms	Small firms	Percent small firms in industry
Cable System Operators (Telecom Act Stand-ard) Small Cable Operator.	Serves fewer than 498,000 subscribers, either directly or through affiliates.	530	524	98.87

Description of Economic Impact and Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities. The RFA directs agencies to describe the economic impact of adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

The rules we adopt in today's Report and Order affect small entities that are EAS Participants, but also reflect a preference for narrowly tailored, specific security controls that are less burdensome on small entities by adopting only a segment of the most crucial cybersecurity hygiene practices. Additionally, the requirements we adopt today provide sufficient flexibility for providers to adopt these rules, whether they are large or small. These rules focus on enhancing protections and securing systems against threats but are not one-size-fits-all. EAS Participants have the flexibility to satisfy these requirements in a manner tailored to their particular business needs, which will differ depending on business size, the geographic area served, etc. Further, the rules we adopt today follow Altice USA's recommendation that these "rules allow the greatest possible flexibility in cybersecurity policies and practices so that Participants can tailor them to the unique needs of their networks." While these requirements share the common goal of protecting EAS systems from malicious actors, there are multiple avenues to do so for any variant of provider resources.

The rules do not contain any new reporting or recordkeeping requirements. While we cannot conclusively determine whether the rules we adopt in the Report and Order will require small entities to hire professionals to assist with compliance, we find that the requirements in the Report and Order will promote public safety and alerting system security without imposing substantial costs on small and other entities. We estimate that the costs per entity of changing and regular updating default passwords, installing security patches as available, and implementing firewalls or other network segmentation practices will not exceed \$1,000 annually, based on 10 hours of labor per entity per year. We expect this cost to be lower for those entities, including small entities, that already engage in password security and regular software update practices, for example, and small entities will have

the flexibility to implement firewalls or other network segmentation practices to limit remote management access in the ways that best suit their particular business needs.

Discussion of Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to provide "a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."

Through its review of the record in the *Alerting Security NPRM* proceeding, the Commission has sought to minimize significant economic impact on small entities and, in doing so, has considered alternatives to the rules we adopt today. The rules we adopt are a limited set of those proposed in the *Alerting Security NPRM*. We have declined to adopt several expansive cybersecurity requirements, including the requirement that providers annually certify the creation, updating, and implementation of a cybersecurity risk management plan. Instead, the rules we adopt are narrowly tailored to address threats for which small entities are particularly at risk. The requirements we adopt in the Report and Order provide sufficient flexibility to account for diverse operational environments, regardless of provider size, capabilities, and resources. We mandate steps to better secure EAS Participant systems and defend against threats to cybersecurity without strict, specific requirements that box providers into particular price points, or rigid restrictions that force them to choose between safety and spending beyond their means. Compliance with these rules should be attainable for all entities, including small entities that may be financially or resource-constrained. Further, the scope of these rules has been narrowed from any EAS Participant systems and services that could potentially affect the provision of the EAS to more specific types of equipment that are most vulnerable. We have made it our focus to advance cybersecurity protections and minimize threats without forcing costly system redesigns or adopting overly complex compliance plan requirements.

Report to Congress

The Commission will send a copy of the Report and Order, including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for the SBA Office of Advocacy and will publish a copy of the Report and Order, and this Final Regulatory Flexibility Analysis (or summaries thereof) in the **Federal Register**.

Ordering Clauses

Accordingly, *it is ordered*, pursuant to Sections 1, 2, 4(i), 4(n), 301, 303(b), 303(e), 303(g), 303(j), 303(r), 303(v), 307, 309, 316, 335, 403, 624(g), 706, and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(n), 301, 303(b), 303(e), 303(g), 303(j), 303(r), 303(v), 307, 309, 316, 335, 403, 544(g), 606, and 613, as well as by sections 602(a), (b), (c), (f), 603, 604, and 606 of the WARN Act, 47 U.S.C. 1201 (a), (b), (c), (f), 1203, 1204 and 1206, and the National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388, 9201, 47 U.S.C. 1201, 1206, that this Report and Order and Further Notice of Proposed Rulemaking is *adopted*.

It is further ordered that the Commission's rules are hereby amended as set forth in Appendix A and such amendments shall become effective 60 days after publication in the **Federal Register**.

It is further ordered that, should no petitions for reconsideration or petitions for judicial review be timely filed, PS Docket No. 22–329 *shall be terminated*, and the docket will be closed.

It is further ordered that the Commission's Office of the Secretary, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analyses, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

It is further ordered that the Office of Managing Director, Performance Program Management, *shall send* a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 11

Radio, Television

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons set forth above, the Federal Communications Commission amends 47 CFR part 11 as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

■ 1. The authority citation for part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154 (i) and (n), 303(r), 544(g), 606, 1201, and 1206.

■ 2. Amend § 11.35 by adding paragraph (d) to read as follows:

§ 11.35 Equipment operational readiness.

* * * * *

(d) EAS Participants shall employ the following security controls with respect to EAS equipment, studio transmitter link equipment, and any remotely managed equipment that routes, processes, or inserts content into the transmission of the EAS Participant's programming:

(1) Prior to any use to broadcast to the public, EAS Participants shall change any default password, use strong passwords, and change any password if the EAS Participant has reason to believe that the password has been compromised.

(i) A strong password is any password that has a minimum of 15 characters and does not use dictionary words. Instead of using a strong password, EAS Participants may use alternative authentication measures, such as look-up secrets, out-of-band devices, single- or multi-factor one-time password devices, or single- or multi-factor cryptographic authentication, that are reasonably sufficient to mitigate the risk of unauthorized access.

(ii) Passwords employed to comply with this requirement shall not be reused for the EAS Participant's other accounts, equipment, applications, or services.

(2) Install security patches and security-related software and firmware updates issued by equipment manufacturers promptly after those patches or upgrades become available. Security patches and security-related software and firmware updates issued by equipment manufacturers may be tested before they are installed, provided that the testing begins promptly and is completed in a timeframe that is consistent with industry best practices; and

(3) Use a network firewall or comparable network segmentation practice that limits remote management

access to authorized devices and authorized users.

[FR Doc. 2026–15601 Filed 7–30–26; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2026–1522]

RIN 2137–AG26

Pipeline Safety: Standards Update—NFPA 58

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard NFPA 58, Liquefied Petroleum Gas Code (NFPA 58).

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—NFPA 58” (91 FR 21986). The DFR amended regulations at 49 CFR part 192 to incorporate the 2024 edition of NFPA 58, Liquefied Petroleum Gas Code (NFPA 58) by reference. Reference to the 2024 edition of NFPA 58 will replace the existing reference within 49 CFR 192.11 to NFPA, Liquefied Petroleum Gas Code, 2020 edition, effective August 25, 2019.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,

Chief Counsel.

[FR Doc. 2026–15571 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2026–1524]

RIN 2137–AG28

Pipeline Safety: Standards Update—ASTM A372/A372M

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard ASTM A372/A372M, Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels (ASTM A372/A372M).

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—ASTM A372/A372M” (91 FR 22008). The DFR amended regulations at 49 CFR part 192 to incorporate the reapproved 2025 edition of ASTM A372/A372M, Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels (ASTM A372/A372M) by reference. Reference to the reapproved 2025 edition of ASTM A372/A372M will replace existing references within § 192.177 to ASTM A372/A372M–20e1, Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels, approved March 1, 2020.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any

comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15581 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2026–1527]

RIN 2137–AG31

Pipeline Safety: Standards Update— ASTM F2620

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard ASTM F2620, Standard Practice for Heat Fusion Joining of Polyethylene Pipe and Fittings.

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—ASTM F2620” (91 FR 22004). The DFR amended regulations at 49 CFR part 192 to incorporate the 2024 edition of ASTM F2620, Standard Practice for Heat Fusion Joining of Polyethylene Pipe and Fittings (ASTM F2620) by reference. Reference to the 2024 edition will replace existing references within §§ 192.281(c) and 192.285(b) to ASTM F2620–20ae2, Standard Practice for Heat Fusion Joining of Polyethylene Pipe and Fittings, approved December 1, 2020.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any

comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15576 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2026–1526]

RIN 2137–AG30

Pipeline Safety: Standards Update— ASTM D2564

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard ASTM D2564, Standard Specification for Solvent Cements for Poly (Vinyl Chloride) (PVC) Plastic Piping Systems.

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—ASTM D2564” (91 FR 21990). The DFR amended regulations at 49 CFR part 192 to incorporate the 2024 edition of ASTM D2564, Standard Specification for Solvent Cements for Poly (Vinyl Chloride) (PVC) Plastic Piping Systems (ASTM D2564) by reference. Reference to the 2024 edition of ASTM D2564 will replace existing references with § 192.281 to ASTM D2564–20, Standard Specification for Solvent Cements for Poly (Vinyl Chloride) (PVC) Plastic Piping Systems, approved August 1, 2020.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the

DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15568 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2026–1521]

RIN 2137–AG25

Pipeline Safety: Standards Update— NFPA 59

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard NFPA 59, Utility LP-Gas Plant Code (NFPA 59).

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—NFPA 59” (91 FR 22012). The DFR amended 49 CFR part 192 to incorporate the 2024 edition of NFPA 59, Utility LP-Gas Plant Code, by reference. Reference to the 2024 edition of NFPA 59 will replace the existing reference in § 192.11 to NFPA 59, Utility LP-Gas Plant Code, 2018 edition, effective September 6, 2017.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15572 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2026–1531]

RIN 2137–AG35

Pipeline Safety: Standards Update— ASTM F1055

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard ASTM F1055, Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene and Crosslinked Polyethylene (PEX) Pipe and Tubing.

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—ASTM F1055” (91 FR 21997). The DFR amended regulations at 49 CFR part 192 to incorporate the reapproved 2022 edition of ASTM F1055, Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene and Crosslinked Polyethylene (PEX) Pipe and Tubing (ASTM F1055) by reference. Reference to the reapproved 2022 edition of ASTM F1055 will replace existing references within § 192.283(a) and Appendix B to Part 192 to ASTM F1055–16a, Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene and Crosslinked Polyethylene (PEX) Pipe and Tubing, approved November 15, 2016.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339.

In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15580 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2026–1528]

RIN 2137–AG32

Pipeline Safety: Standards Update— ASTM D2513

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard ASTM D2513, Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings.

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—ASTM D2513” (91 FR 22021). The DFR amended regulations at 49 CFR part 192 to incorporate the 2024 edition of ASTM D2513, Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings (ASTM D2513) by reference. Reference to the 2024 edition of ASTM D2513 will replace existing references within Appendix B to Part 192 to ASTM D2513–20, Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings, approved December 1, 2020.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339.

In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15578 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2026–1529]

RIN 2137–AG33

Pipeline Safety: Standards Update— ASTM F2767

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard ASTM F2767, Standard Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution.

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—ASTM F2767” (91 FR 22001). The DFR amended regulations at 49 CFR part 192 to incorporate the 2024 edition of ASTM F2767, Standard Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution (ASTM F2767) by reference. Reference to the 2024 edition of ASTM F2767 will replace existing references within Appendix B to Part 192 to ASTM F2767–18(2023),

“Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution,” November 1, 2023.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15577 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2026–1534]

RIN 2137–AG38

Pipeline Safety: Standards Update—NACE SP0206

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR titled “Pipeline Safety: Standards Update—NACE SP0206,” which published in the *Federal Register* on April 24, 2026. The DFR incorporates by reference into 49 CFR part 192 the updated edition of industry standard NACE SP0206, Internal Corrosion Direct Assessment Methodology for Pipelines Carrying Normally Dry Natural Gas.

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—NACE SP0206” (91 FR 21993). The DFR amended part 192 to incorporate by reference the 2016 edition of NACE SP0206, Internal Corrosion Direct Assessment

Methodology for Pipelines Carrying Normally Dry Natural Gas (DG–ICDA). Reference to the 2016 edition of NACE SP0206 will replace existing references in §§ 192.923 and 192.927 to NACE SP0206–2006, Standard Practice, “Internal Corrosion Direct Assessment Methodology for Pipelines Carrying Normally Dry Natural Gas (DG–ICDA),” December 1, 2006.

In commenting on the DFR, the Pipeline Safety Trust (PST) noted that the 2016 edition of NACE SP0206 was not available at the website identified by PHMSA in the Notice, and that the PHMSA standards library email was not explicitly listed in this DFR as in other similar rules.¹ While expressing its support for adopting the 2016 edition of NACE SP0206, PST stated that it “believe[d] that [its] comment constitute[d] an adverse comment,” and that the DFR should be withdrawn.

PHMSA does not agree that PST’s comment satisfies the adversity standard in § 190.339(c). Section 190.339(c) states, in relevant part, that “an adverse comment is one which explains why the rule would be inappropriate, including a challenge to the rule’s underlying premise or approach, or would be ineffective or unacceptable without a change.” Section 190.339(c) further states that “[c]omments that are frivolous or insubstantial will not be considered adverse under this procedure.”

PST has not shown that anyone suffered real harm from the incorrect website link published in the DFR Notice.² The DFR provided multiple options for interested parties to obtain access to the 2016 edition of NACE SP0206 consistent with 49 U.S.C. 60102(p). For example, the DFR directed interested parties to the PHMSA Standards Incorporated by Reference web page that details the means for obtaining industry standards proposed for incorporation, including by emailing PHMSA at phmsaphpstandards@dot.gov. PST submitted such an email and received the correct public website link to access the standard free of charge during the comment period. Other members of the public could have used the same approach to obtain access to

the 2016 edition of NACE SP0206.³ Section 192.7, a regulation referenced in the DFR, also provides PHMSA’s contact information for requesting certain industry standards, and PHMSA’s standard update library is a generally accessible public email account. The DFR informed interested parties that the materials can be obtained by directly contacting the publisher at the contact information listed in § 192.7.

The DFR outlined numerous ways for interested parties to access the 2016 edition of NACE SP0206, and PST used one of those methods to access the standard during the public comment period. PST has not shown that the incorrect website listed in the DFR Notice caused it (or anyone else) to suffer real harm or that adopting the 2016 edition of NACE SP0206 would be inappropriate. In fact, PST has expressed its support for that action.⁴ PHMSA therefore finds that PST’s comment on the DFR is not an adverse comment. *See* § 190.339.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15574 Filed 7–30–26; 8:45 a.m.]

BILLING CODE 4910–60–P

¹ PST, Comment, Docket ID PHMSA–2026–1534–0002 (June 23, 2026). PST’s comment appears to contain a typographical error in stating that it supports “updating the edition of NACE SP0502 incorporated by reference.” PHMSA reads this in good faith and understands that PST intended to express support of updating the edition of NACE SP0206 as the document otherwise refers to that standard and not NACE SP0502.

² NACE SP0206 copyrighted by the Association for Materials Protection and Performance (AMPP), and the correct page for viewing the IBR standard is <https://ibr.ansi.org/Standards/ampp.aspx>.

³ *See* PST, Comments, Docket ID PHMSA–2026–1534–0002, at 2. Though PST asserts that the DFR did not provide the standards library email address in the same manner PHMSA provided it in other similar rulemaking actions, the email address is explicitly listed on the information page provided in the DFR, <https://www.phmsa.dot.gov/standards-rulemaking/pipeline/standards-incorporated-reference>. PHMSA responds within 5 business days to requests for accessing standards incorporated by reference or proposed for incorporation.

⁴ PST, Comment, Docket ID PHMSA–2026–1534–0002, at 2 (June 23, 2026).

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials
Safety Administration****49 CFR Part 192****[Docket No. PHMSA–2026–1530]****RIN 2137–AG34****Pipeline Safety: Standards Update—
ASTM F1973**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR part 192 to incorporate by reference the updated industry standard ASTM F1973, Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide (PA11) and Polyamide 12 (PA12) Fuel Gas Distribution Systems.

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—ASTM F1973” (91 FR 22018). The DFR amended regulations at 49 CFR part 192 to incorporate the 2025 edition of ASTM F1973, “Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide (PA11) and Polyamide 12 (PA12) Fuel Gas Distribution Systems” (ASTM F1973) by reference. Reference to the 2025 edition of ASTM F1973 will replace existing references within § 192.204(b) and Appendix B to Part 192 to ASTM F1973–21, Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide 11 (PA11) and Polyamide 12 (PA12) Fuel Gas Distribution Systems, November 1, 2021.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of

the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15570 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P**DEPARTMENT OF TRANSPORTATION****Pipeline and Hazardous Materials
Safety Administration****49 CFR Parts 192 and 195****[Docket No. PHMSA–2026–1523]****RIN 2137–AG27****Pipeline Safety: Standards Update—
ASTM A53/A53M**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR parts 192 and 195 to incorporate by reference the updated industry standard ASTM A53/A53M, Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless (ASTM A53/A53M).

DATES: PHMSA confirms the effective date of January 1, 2027, for the DFR that appeared in the **Federal Register** on April 24, 2026 (91 FR 22032).

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—ASTM A53/A53M” (91 FR 22032). The DFR amended regulations at 49 CFR parts 192 and 195 to incorporate the 2024 edition of ASTM A53/A53M, Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless (ASTM A53/A53M) by reference. Reference to the 2024 edition will replace existing references within § 192.113, Appendix B to Part 192, and § 195.106(e) to ASTM A53/A53M–22, Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless, approved July 1, 2022.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339.

In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15584 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P**DEPARTMENT OF TRANSPORTATION****Pipeline and Hazardous Materials
Safety Administration****49 CFR Parts 192 and 195****[Docket No. PHMSA–2026–1525]****RIN 2137–AG29****Pipeline Safety: Standards Update—
ASTM A333/A333M**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR parts 192 and 195 to incorporate by reference the updated industry standard ASTM A333/A333M, Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service and Other Applications with Required Notch Toughness (ASTM A333/A333M).

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—ASTM A333/A333M” (91 FR 22029). The DFR amended regulations at 49 CFR parts 192 and 195 to incorporate the 2024 edition of ASTM A333/A333M, Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service and Other Applications with Required Notch Toughness (ASTM A333/A333M) by reference. Reference to the 2024 edition of ASTM A333/A333M will replace

existing references within § 192.113, Appendix B to Part 192, and § 195.106(e) to ASTM A333/A333M–18, Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service and Other Applications with Required Notch Toughness, approved November 1, 2018.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15583 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192 and 195

[Docket No. PHMSA–2026–1533]

RIN 2137–AG37

Pipeline Safety: Standards Update— NACE SP0502

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for the DFR titled “Pipeline Safety: Standards Update—NACE SP0502,” which published in the **Federal Register** on April 24, 2026. The DFR incorporates by reference into 49 CFR parts 192 and 195 the updated edition of industry standard NACE SP0502, Pipeline External Corrosion Direct Assessment Methodology.

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—NACE SP0502” (91 FR 22025). The DFR amended parts 192 and 195 to incorporate by reference the 2025

edition of NACE SP0502, Pipeline External Corrosion Direct Assessment Methodology (NACE SP0502). Reference to the 2025 edition of NACE SP0502 will replace existing references in §§ 192.319(f); 192.461(h); 192.620(d); 192.923(b); 192.925(b); 192.931(d); 192.935(b); 192.939(a); and § 195.588(b) to ANSI/NACE SP0502–2010, “Pipeline External Corrosion Direct Assessment Methodology,” revised June 24, 2010.

In commenting on the DFR, the Pipeline Safety Trust (PST) noted that the 2025 edition of NACE SP0502 was not available at the website identified by PHMSA in the Notice, and that the PHMSA standards library email was not explicitly listed in this DFR as in other similar rules.¹ While expressing its support for adopting the 2025 edition of NACE SP0502, PST stated that it “believe[d] that [its] comment constitute[d] an adverse comment,” and that the DFR should be withdrawn.

PHMSA does not agree that PST’s comment satisfies the adversity standard in § 190.339(c). Section 190.339(c) states, in relevant part, that “an adverse comment is one which explains why the rule would be inappropriate, including a challenge to the rule’s underlying premise or approach, or would be ineffective or unacceptable without a change.” Section 190.339(c) further states that “[c]omments that are frivolous or insubstantial will not be considered adverse under this procedure.”

PST has not shown that anyone suffered real harm from the incorrect website link published in the DFR Notice.² The DFR provided multiple options for interested parties to obtain access to the 2025 edition of NACE SP0502 consistent with 49 U.S.C. 60102(p). For example, the DFR directed interested parties to the PHMSA Standards Incorporated by Reference web page that details the means for obtaining industry standards proposed for incorporation, including by emailing PHMSA at phmsaphpstandards@dot.gov. PST submitted such an email and received the correct public website link to access the standard free of charge during the comment period. Other members of the public could have used the same approach to obtain access to the 2025 edition of NACE SP0502.³

¹ PST, Comment, Docket ID PHMSA–2026–1533–0002 (June 23, 2026).

² NACE SP0206 copyrighted by the Association for Materials Protection and Performance (AMPP), and the correct page for viewing the IBR standard is <https://ibr.ansi.org/Standards/ampp.aspx>.

³ See PST, Comments, Docket ID PHMSA–2026–1533–0002, at 1–2. Though PST asserts that the DFR did not provide the standards library email address in the same manner PHMSA provided it in other

Section 192.7, a regulation referenced in the DFR, also provides PHMSA’s contact information for requesting certain industry standards, and PHMSA’s standard update library is a generally accessible public email account. The DFR informed interested parties that the materials can be obtained by directly contacting the publisher at the contact information listed in § 192.7.

The DFR outlined numerous ways for interested parties to access the 2025 edition of NACE SP0502, and PST used one of those methods to access the standard during the public comment period. PST has not shown that the incorrect website listed in the DFR Notice caused it (or anyone else) to suffer real harm or that adopting the 2025 edition of NACE SP0502 would be inappropriate. In fact, PST has expressed its support for that action.⁴ PHMSA therefore finds that PST’s comment on the DFR is not an adverse comment. See § 190.339.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15573 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 194

[Docket No. PHMSA–2026–1519]

RIN 2137–AG23

Pipeline Safety: Electronic Retention of Part 194 Response Plans

ACTION: Direct final rule (DFR); confirmation of effective date.

similar rulemaking actions, the email address is explicitly listed on the information page provided in the DFR, <https://www.phmsa.dot.gov/standards-rulemaking/pipeline/standards-incorporated-reference>. PHMSA responds within 5 business days to requests for accessing standards incorporated by reference or proposed for incorporation.

⁴ PST, Comment, Docket ID PHMSA–2026–1534–0002, at 2 (June 23, 2026).

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

SUMMARY: PHMSA is confirming the effective date for a DFR titled “Pipeline Safety: Electronic Retention of Part 194 Response Plans,” which published in the **Federal Register** on April 24, 2026. The DFR amended oil spill response plan requirements to clarify that operators may maintain the plans electronically.

DATES: The effective date of the DFR is August 3, 2026.

FOR FURTHER INFORMATION CONTACT: Brooks Tate, General Engineer, by phone at 202–281–5413 or by email at brooks.tate@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR (91 FR 22036) amending part 194 requirements for oil spill response plans to clarify that operators may maintain them electronically. Section 194.111 requires that a copy of the response plan be maintained at the operator’s headquarters and at other locations where response activities may be conducted.

The DFR amended § 194.111(a) to clarify that operators may maintain the response plan on an electronic device readily accessible at those locations. The Pipeline Safety Trust (PST) commented emphasizing the importance of having the response plan accessible and agreeing that electronic availability could improve access. PST also questioned whether the DFR could result in a lack of access if internet connectivity is limited.¹

PHMSA believes that PST’s concern regarding accessibility was addressed through the language of the DFR itself, which requires “electronic storage” not contingent on internet connectivity. This may require downloading a copy or taking other measures to ensure the response plan is stored and available on the portable device regardless of internet connection. While PST is concerned that electronic devices are susceptible to “fire, explosion, rupture, or power outage,” PHMSA notes that the paper record alternative would be equally, if not more, at risk of destruction under similar circumstances.

PST’s concern that electronic devices are vulnerable to a cybersecurity incident that could impact internet access has also been addressed. In

addition to requiring “electronic storage,” the DFR requires the device be “secured,” which further obligates the operator to ensure the portable device is protected from such external threats. In this way, secured electronic devices can be more durable than paper records.

PST commented that the DFR required notice and comment as a change that could impact safety. PHMSA disagrees that the DFR represents a substantive change that could have such an effect. Section 194.111(a) does not specify the manner or format in which the response plan should be maintained. As stated in the DFR, PHMSA is merely “expressly permitting” maintenance in a form the agency understands already to be allowed, while imposing additional guardrails.²

PHMSA does not agree that PST’s comment satisfies the adversity standard in § 190.339(c). Section 190.339(c) states, in relevant part, that “an adverse comment is one which explains why the rule would be inappropriate, including a challenge to the rule’s underlying premise or approach, or would be ineffective or unacceptable without a change.” Section 190.339(c) further states that “[c]omments that are frivolous or insubstantial will not be considered adverse under this procedure.” The DFR addressed PST’s concerns, and PST has not otherwise shown how the DFR is inappropriate, ineffective, or unacceptable.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that, if no adverse comments were received, the DFR would become effective on August 3, 2026. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15569 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 195

[Docket No. PHMSA–2026–1535]

RIN 2137–AG39

Pipeline Safety: Standards Update—ASME B31.4

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Withdrawal of direct final rule (DFR).

SUMMARY: PHMSA is withdrawing the DFR titled “Pipeline Safety: Standards Update—ASME B31.4,” which published on April 24, 2026.

DATES: Effective July 31, 2026, PHMSA withdraws the DFR published at 91 FR 22039 on April 24, 2026.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: PHMSA is withdrawing the DFR titled “Pipeline Safety: Standards Update—ASME B31.4,” which published on April 24, 2026 (91 FR 22039). A comment on the DFR provided technical justification to recommend that PHMSA await clarification by the standard developing organization to the expansion stress provisions in the 2022 edition of the standard.¹ Because PHMSA received adverse comment, PHMSA is withdrawing the DFR in accordance with 49 CFR 190.339.

List of Subjects in 49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety

■ Accordingly, as of July 31, 2026, PHMSA withdraws the DFR amending 49 CFR Part 195, which published at 91 FR 22039 on April 24, 2026.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15579 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

¹ PST, Comments, Docket ID PHMSA–2026–1519–0002 (June 23, 2026) (“Pipeline Safety Trust agrees that having spill response plans electronically available is a net benefit to improving operator access to these plans”).

² See PST, Comments, Docket ID PHMSA–2026–1519–0002, at 2 (asserting that the DFR was a “change in content, not form”).

¹ American Petroleum Institute & Liquid Energy Pipeline Association, Comments, Docket ID PHMSA–2026–1535–0003 (June 23, 2026). Pipeline Safety Trust also commented opposing the DFR. Comments, Docket ID PHMSA–2026–1535–0002 (June 23, 2026).

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 195

[Docket No. PHMSA–2026–1532]

RIN 2137–AG36

Pipeline Safety: Standards Update—MSS SP–75

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Direct final rule (DFR); confirmation of effective date.

SUMMARY: PHMSA is confirming the effective date for a DFR published in the **Federal Register** on April 24, 2026. The DFR amended PHMSA's regulations at 49 CFR part 195 to incorporate by reference the updated industry standard MSS SP–75, High-Strength, Wrought, Butt-Welding Fittings.

DATES: The effective date of the DFR is January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Brianna Wilson, Transportation Specialist, by phone at 771–215–0969 or by email at brianna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: On April 24, 2026, PHMSA published a DFR titled “Pipeline Safety: Standards Update—MSS SP–75” (91 FR 22043). The DFR amended regulations at 49 CFR part 195 to incorporate the 2025 edition of MSS SP–75 High Strength, Wrought, Butt-Welding Fittings (MSS SP–75) by reference. Reference to the 2025 edition of MSS SP–75 will replace existing references within § 195.118(a) to MSS SP–75–2019 Standard Practice, High Strength, Wrought, Butt-Welding Fittings, published December 2019.

PHMSA issued the DFR under the procedures set forth at 49 CFR 190.339. In accordance with those procedures, PHMSA stated in the DFR that if no adverse comments were received, the DFR would become effective on January 1, 2027. PHMSA did not receive any comments that warranted withdrawal of the DFR; therefore, this rule will become effective as scheduled.

Issued in Washington, DC under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15575 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 195

[Docket No. PHMSA–2026–1520]

RIN 2137–AG24

Pipeline Safety: Clarifying Hazardous Liquid Pipeline Integrity Management Guidance

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Withdrawal of direct final rule (DFR).

SUMMARY: PHMSA is withdrawing the DFR titled “Pipeline Safety: Clarifying Hazardous Liquid Pipeline Integrity Management Guidance,” which published on April 24, 2026.

DATES: Effective July 31, 2026, PHMSA withdraws the DFR published in the **Federal Register** at 91 FR 22047 on April 24, 2026.

FOR FURTHER INFORMATION CONTACT: Sayler Palabrica, Transportation Specialist, by phone at 202–744–0825 or by email at sayler.palabrica@dot.gov.

SUPPLEMENTARY INFORMATION: PHMSA is withdrawing the DFR titled “Pipeline Safety: Clarifying Hazardous Liquid Pipeline Integrity Management Guidance,” which published on April 24, 2026 (91 FR 22047). Because PHMSA received adverse comment, PHMSA is withdrawing the DFR.¹ In accordance with 49 CFR 190.339, PHMSA may incorporate the adverse comment into a subsequent DFR or may publish a notice of proposed rulemaking.

List of Subjects in 49 CFR Part 195

Pipeline safety.

■ Accordingly, as of July 31, 2026, PHMSA withdraws the DFR amending 49 CFR Part 195, which published at 91 FR 22047 on April 24, 2026.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Keith J. Coyle,
Chief Counsel.

[FR Doc. 2026–15582 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–60–P

¹ Pipeline Safety Trust, Comments, Docket ID PHMSA–2021–1520–0002 (June 23, 2026).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 555

[Docket No. NHTSA–2026–1585]

RIN 2127–AM57

Temporary Exemption From Motor Vehicle Safety and Bumper Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule amends NHTSA's general exemption regulations to remove language limiting the application of temporary exemptions from the Federal Motor Vehicle Safety Standards (FMVSS) and the bumper standard to motor vehicles manufactured on and after the effective date of an exemption, and to align the regulations with the Administrator's statutory discretion to determine the vehicle population covered by a temporary exemption. It also removes the requirement that applications for exemption be submitted in three copies and specifies an electronic means for submission. Though these amendments are effective immediately, to benefit from comments interested parties and the public may have, NHTSA requests that any comments be submitted to the docket for this rule. Following the close of the comment period, NHTSA will publish a final rule responding to any comments received and making any appropriate changes to the interim final rule.

DATES: This interim final rule is effective July 31, 2026. Comments concerning this document are due no later than August 31, 2026.

ADDRESSES: You may submit comments electronically to the docket identified in the heading of this document by visiting the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Alternatively, you can file comments using the following methods:

- **Mail or Hand Delivery:** Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Suite W58–213, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9826 or (202) 366–9317 before coming.

- *Fax:* (202) 493–2251.

Instructions: All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets via internet.

Confidential Business Information: If you claim that any of the information in your comment (including any additional documents or attachments) constitutes confidential business information within the meaning of 5 U.S.C. 552(b)(4) or is protected from disclosure pursuant to 18 U.S.C. 1905, please see the detailed instructions given under the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy Act: Please see the Privacy Act heading under the Regulatory Analyses section of this document.

FOR FURTHER INFORMATION CONTACT: Mr. Eli Wachtel, Office of the Chief Counsel email: eli.wachtel@dot.gov, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Background

This interim final rule (IFR) amends 49 CFR part 555, “Temporary Exemption from Motor Vehicle Safety and Bumper Standards,” to align the regulation with the Administrator’s statutory discretion to determine the vehicle population covered by a temporary exemption, including vehicles manufactured prior to the effective date of a grant of temporary exemption.¹

Except as provided in 49 U.S.C. 30112(b), 30113, and 30114, a person

may not manufacture for sale, sell, offer for sale, import, or introduce or deliver for introduction into interstate commerce any motor vehicle that does not comply with the applicable FMVSS and is not covered by a certification to that effect issued under Section 30115.² Section 30112(b) lists limited categories of persons or motor vehicles to which the requirements of section 30112(a) do not apply.³

Section 30113 authorizes the Secretary of Transportation to exempt, on a temporary basis, under specified circumstances, and on terms the Secretary deems appropriate, motor vehicles from an FMVSS or bumper standard.⁴ The Secretary has delegated the authority for implementing this section to NHTSA.⁵ The exercise of NHTSA’s authority to grant, in whole or in part, a temporary exemption to a vehicle manufacturer is conditioned upon the agency’s making specified findings. The agency must comprehensively evaluate the request for exemption and find that the temporary exemption is consistent with the public interest and with the objectives of the National Traffic and Motor Vehicle Safety Act (“Safety Act”), as amended.⁶ In addition, the agency must make at least one of the following four findings:⁷

- Compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.
- The exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard.
- The exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle.
- Compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

To provide procedures for implementing the provisions in section 30113 concerning temporary exemptions, NHTSA established 49 CFR part 555, “Temporary Exemption from Motor Vehicle Safety and Bumper Standards,” which became effective January 29, 1973 (38 FR 2694). Section

555.7, “Processing of applications,” describes the steps that NHTSA takes after it receives an exemption petition and the effective date of the temporary exemption if the petition is granted. Under section 555.7(f), unless a later date is specified in the notice of the grant, a temporary exemption is effective upon publication of the notice in the **Federal Register** and exempts vehicles manufactured on and after the effective date.

In 2015, Congress passed the Fixing America’s Surface Transportation (“FAST”) Act.⁸ The FAST Act added 49 U.S.C. 30112(b)(10), which provided a new exception to the prohibition in section 30112(a)(1) against manufacturing for sale, selling, offering for sale, introducing or delivering for introduction into interstate commerce, or importation into the United States of a vehicle not certified to comply with the FMVSS. Section 30112(b)(10) states that section 30112(a)(1) does not apply to vehicles introduced into interstate commerce solely for the purpose of testing or evaluation by particular manufacturers (“FAST Act vehicles”), so long as the manufacturer agrees not to sell or offer for sale the motor vehicle at the conclusion of the testing or evaluation.⁹

In this IFR, NHTSA amends 49 CFR 555.7(f) to remove the statement that a temporary exemption applies only to vehicles manufactured on and after the effective date of a temporary exemption. NHTSA adds a new paragraph (g), stating that a temporary exemption exempts vehicles manufactured on and after the effective date unless otherwise determined by the Administrator. This IFR also removes language in 49 CFR 555.5 requiring that three copies of a request for exemption be provided to the Administrator.

II. Discussion of the Interim Final Rule

A. Purpose of the Interim Final Rule

Section 2 of Executive Order 14219 instructs agencies to identify and rescind or modify, as appropriate, regulations that do not comport with the best reading of the underlying statutory authority. The purpose of this IFR is to align the regulatory text regarding the

⁸ Public Law No. 114–94.

⁹ 49 U.S.C. 30112(b)(10) specifies that the non-applicability provision only extends to a manufacturer that, prior to the enactment of the FAST Act (December 4, 2015), has (a) manufactured and distributed motor vehicles into the U.S. that are certified to comply with all applicable FMVSS; (b) submitted to the Secretary appropriate manufacturer identification information under 49 CFR part 566, “Manufacturer Identification;” and (c) if applicable, identified an agent for service of process in accordance with 49 CFR part 551, “Procedural Rules.”

² 49 U.S.C. 30112.

³ *Id.*

⁴ 49 U.S.C. 30113.

⁵ 49 CFR 1.94.

⁶ 49 U.S.C. 30113(b)(3)(A).

⁷ 49 U.S.C. 30113(b)(3)(B).

¹ This IFR renders moot a petition filed by Cruise, LLC. A copy of this petition is available in the docket for this rulemaking.

effective date of exemptions with the Safety Act's provision establishing that authority. Section 30113 does not restrict the granting of an exemption to only motor vehicles that have already been manufactured; nor does the statute state that an exemption only has future effect. In a final rule that was issued on October 25, 1974 without prior notice and comment, paragraph (f) was added to section 555.7 together with certain additional amendments to part 555. The agency found that because the amendments pertained to agency practice and were interpretative in nature, no notice of proposed rulemaking was required under 5 U.S.C. 553(b). In that rulemaking, NHTSA stated that the purpose of paragraph (f) was to clarify NHTSA's policy that temporary exemptions should not "serve to excuse manufacture of nonconforming vehicles" in violation of section 108(a)(1) of the Safety Act (now codified as 49 U.S.C. 30112(a)(1)).¹⁰ That section provides in relevant part that "a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any [nonconforming] motor vehicle or motor vehicle equipment."

By limiting the Administrator to granting temporary exemptions only to vehicles manufactured on and after the effective date of a temporary exemption, section 555.7 does not comport with the best reading of section 30113, which does not so limit the Administrator's discretion. It remains NHTSA's general policy that part 555 should not serve to excuse prior violations of section 30112(a), including prior manufacture for sale of nonconforming vehicles. Revising paragraph (f) does not change that policy. Rather, it codifies the Administrator's statutory discretion to exempt previously manufactured vehicles in circumstances that are consistent with the agency's enabling legislation as amended by the FAST Act. For instance, vehicles produced or operating in interstate commerce that are subject to exceptions created under the FAST Act or relevant exemptions may appropriately be eligible for exemptions under part 555—which, of course, requires the appropriate safety determination and a finding that granting an exemption is consistent with the public interest and the Safety Act. This issue is particularly relevant in light of dramatic changes in vehicle technology and in light of passage of the FAST Act—and as reflected in recent changes in the nature of exemption requests received by NHTSA. Going

forward, NHTSA intends to review each request for exemption of vehicles already manufactured prior to a grant of exemption on a case-by-case basis.¹¹

B. Considerations Specific to FAST Act Vehicles

Although the amendment in this IFR is not specific to FAST Act vehicles, NHTSA anticipates that manufacturers of vehicles that utilize the exception for testing or evaluation added by the FAST Act may seek exemptions for such vehicles under the amended section 555.7.¹² This may prevent substantial waste by codifying for these vehicles a pathway to uses other than testing or evaluation. Granting such exemptions would not be contrary to NHTSA's policy that part 555 exemptions generally should not excuse the manufacture of nonconforming vehicles because these vehicles were not required to meet the FMVSS in the first instance. Because both section 30112(b)(10) and section 30113 provide exceptions to the prohibitions of section 30112(a), should such vehicles be granted an exemption under section 30113 to be used for purposes other than "testing or evaluation," the vehicles would no longer be subject to section 30112(b)(10).

In establishing the non-application provision in section 30112(b)(10), Congress facilitated the expeditious testing of new vehicle technologies on public roads. Unlike the process for obtaining temporary exemptions, no approval from NHTSA is required for qualifying manufacturers (those producing FMVSS-compliant vehicles prior to the enactment of the FAST Act) to operate their test vehicles on public roads. NHTSA believes that Congress's incorporation of the language "agrees not to sell or offer for sale" in section 30112(b)(10) was not meant to bar vehicles operated under 30112(b)(10) from entry into the market entirely or that such a manufacturer is precluded from seeking to avail itself of other available legal pathways. Accordingly, if a manufacturer is granted an exemption under section 30113 that includes a vehicle originally introduced into interstate commerce under 30112(b)(10), the grant of the 30113 exemption for that vehicle would render moot the restrictions of section 30112(b)(10). This would allow the vehicle to be used for

purposes other than testing or evaluation, including being offered for sale if the terms of the exemption so permit.¹³

C. Certification and Production Volume

Under 49 CFR part 555 and part 567, "Certification," manufacturers must certify vehicles subject to a temporary exemption as conforming to all applicable FMVSS and bumper standards in effect on the date of manufacture of the vehicle, and must affix securely a label containing specified language, including the date of manufacture as well as a list of standards for which they have been exempt.¹⁴ This IFR does not amend these requirements. Therefore, the same certification and labeling requirements will apply to exempted vehicles manufactured prior to the date of an exemption as those manufactured after, subject to any terms and conditions of an exemption grant. This is true regardless of whether the applicable FMVSSs change during the time between a vehicle being manufactured and when an exemption is granted. However, the Administrator may consider such factors when determining whether a grant is consistent with the public interest and the Safety Act and when determining what grant terms may be appropriate. In addition, consistent with 49 U.S.C. 30113(d), for the purpose of accounting the maximum annual sales volume under a grant, vehicles manufactured prior to the effective date of a grant will be accredited to the 12-month period in which they are sold (*i.e.*, regardless of the timing of their manufacture).

D. Reduction in Application Paperwork Burden

This IFR also removes the requirement in 49 CFR 555.5(b) requiring that applications be submitted in three copies. In lieu of physical duplicate submissions, applicants are now required to submit electronically via email. This administrative modernization eliminates unnecessary

¹³ NHTSA's Chief Counsel issued a Letter of Interpretation to Timothy Goodman on May 19, 2022 addressing similar concerns (Goodman Interpretation Letter), which can be reviewed at <https://www.nhtsa.gov/interpretations/30112-30113-goodman>. This and the incoming request from Mr. Goodman are also available in the docket for this rulemaking. The Goodman Interpretation Letter contained a discussion about whether any exempted previously manufactured vehicles must be "identical" to other vehicles in the exemption population. NHTSA is not including any such requirement in the regulation.

¹⁴ 49 CFR 555.9, 49 CFR 567.4(g)(5). Section 30115, "Certification of compliance," of the Safety Act requires manufacturers to certify the compliance of their vehicles to applicable FMVSSs.

¹¹ This is also consistent with NHTSA's historical practice. Notwithstanding the language in 555.7(f), NHTSA has exempted previously manufactured vehicles under several unusual circumstances where consistent with the statute. *See*, 57 FR 27506 (June 19, 1992); 60 FR 12281 (March 6, 1995); and 78 FR 39062 (June 28, 2013).

¹² *See* 49 U.S.C. 30112(b)(10).

¹⁰ 39 FR 37988 (October 25, 1974).

paper burdens and costs for petitioners while enabling faster distribution and concurrent internal review of exemption requests within the agency.

E. Prior Notice and Comment Not Required

The Administrative Procedure Act (APA), codified at 5 U.S.C. 553, provides that notice and public comment procedures are not applicable to “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice” (5 U.S.C. 553(b)(A)). The APA defines “rule” as “the whole or part of an agency statement of general or particular applicability and future effect designed to implement, *interpret*, or prescribe law or policy” (5 U.S.C. 551(4)) (emphasis added). Interpretive rules “advise the public of the agency’s construction of the statutes and rules which it administers.” *See, e.g., Perez v. Mortgage Bankers Ass’n*, 575 U.S. 92, 97 (2015) (citing *Shalala v. Guernsey Memorial Hospital*, 514 U.S. 87, 99 (1995)).

As explained above, this IFR is a rule of agency organization, procedure, or practice, an interpretative rule, or general statement of policy and therefore notice-and-comment procedures need not be done under 5 U.S.C. 553. This IFR clarifies NHTSA’s policy that the determination of whether a particular exemption complies with the requirements of the Safety Act is done on a case-by-case basis within the context of analyzing a specific request for exemption. This IFR interprets the current text of sections 30113 and 30112 to not place a direct restriction on exemptions applicable to vehicles that were previously manufactured and to establish cognizable populations of such vehicles that may be eligible for exemptions. In addition, under the principles stated in *Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92 (2015), the agency is not required to use notice and comment procedures to issue a new interpretive rule amending an existing interpretive rule. Just as the 1974 rule did not undergo notice and comment procedures, no such procedures are needed for this IFR.

In determining whether a rule is “legislative” (and thus generally subject to the APA’s notice and comment requirements) rather than “interpretative,” among the factors courts consider are whether, in the absence of a rule, an agency has an adequate basis for enforcement action or other agency action to confer benefits; whether the rule leaves the agency with any discretion; and whether the rule repudiates or is irreconcilable with a

prior legislative rule. Each of these factors is addressed briefly below.

This IFR has no impact on the agency’s basis for enforcement actions. It does not confer benefits because NHTSA, in prior instances consistent with statute, has exempted certain vehicles notwithstanding § 555.7(f). It also does not commit the Administrator to any substantive outcome in response to any exemption request. The IFR is not irreconcilable with a prior legislative rule, as the previous rule it amends was itself an interpretive rule or a rule of agency procedure.

This IFR is also a rule of agency organization, procedure, or practice. Part 555 contains procedures governing how NHTSA processes applications for exemption, such as which documents are published in the **Federal Register**, the timing of effect, and whether a public hearing is needed. The amendments to § 555.5 direct the electronic means by which applications for exemption are to be submitted. The amendments to § 555.7 codify the scope of the Administrator’s discretion regarding the determination of an exempted vehicle population. In addition, the changes do not impact substantive rights because NHTSA has exempted relevant vehicles where appropriate under statute notwithstanding the language in § 555.7.

Finally, although such a determination is not necessary due to this IFR being an interpretative rule, general statement of policy, or rule of agency organization, procedure, or practice, there is good cause to issue this IFR without prior notice and comment under 5 U.S.C. 553 (b)(B) because notice and public comment are unnecessary. This is an action that only states agency interpretation and general policy and aligns the regulatory text with that interpretation. Nonetheless, the agency is seeking comment as detailed below.

F. Request for Comment

As explained above, the APA authorizes NHTSA to issue this IFR without prior notice or opportunity for public comment. As an IFR, this regulation is in effect and binding upon its effective date. No further regulatory action by NHTSA is necessary to make this rule effective. However, to benefit from comments that interested parties and the public may have, NHTSA is requesting that any comments be submitted to the docket for this notice. NHTSA is providing an opportunity for comment on this IFR for 30 days after this action’s publication date. Comments received in response to this notice will be considered by the agency.

Following the close of the comment period, the agency will publish a final rule responding to the comments and making any necessary changes to the provisions of this IFR.

III. Regulatory Analyses and Notices

Executive Order (E.O.) 12866, E.O. 14192, and E.O. 14219

NHTSA has considered the impact of this rulemaking action under Executive Order (E.O.) 12866, E.O. 14192, and E.O. 14219. This rule is nonsignificant under E.O. 12866 and was not reviewed by the Office of Management and Budget. NHTSA has not quantified any potential benefits or costs. NHTSA does not anticipate any new regulatory costs, as the rule does not amend any of the substantive requirements for petitions submitted under part 555. Removal of the three-copy requirement will provide a minor reduction in paperwork burden. E.O. 14219 is discussed above.

Executive Order 13132 (Federalism)

NHTSA has examined today’s rule pursuant to E.O. 13132 (64 FR 43255, August 10, 1999) and concludes that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency has concluded that this rule does not have federalism implications because the rule does 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.” This IFR makes minor amendments to an existing procedural regulation in 49 CFR part 555 and is not a safety standard and imposes no new requirements or responsibilities.

Executive Order 12988 (Civil Justice Reform)

When promulgating a regulation, E.O. 12988 specifically requires that the agency must make every reasonable effort to ensure that the regulation, as appropriate: (1) specifies in clear language the preemptive effect; (2) specifies in clear language the effect on existing Federal law or regulation, including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly

defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

Pursuant to this E.O., NHTSA notes that, as discussed above with regard to E.O. 13132, there is no preemptive effect associated with this IFR. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Executive Order 13609 (Promoting International Regulatory Cooperation)

E.O. 13609 promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. NHTSA has analyzed this IFR under the policies and agency responsibilities of E.O. 13609 and has determined that it has no effect on international regulatory cooperation.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601, *et seq.*), where a proposed rule must be published for comment by 5 U.S.C. 553 or any other law, agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). No regulatory flexibility analysis is required, however, if the head of an agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because NHTSA was not required by law to publish a proposed rule, the analytical requirements of the RFA do not apply.

National Environmental Policy Act

The Department has analyzed the environmental impacts of this IFR pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*). NHTSA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4). Categorical exclusions are categories of actions that the agency has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See DOT Order 5610.1D § 9. In

analyzing the applicability of a categorical exclusion (CE), the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. Id. § 9(b). Each DOT Operating Administration (OA) may apply CEs established in another OA's procedures. Id. § 9(f). To do so, the OA "must evaluate the action for extraordinary circumstances identified in the OA procedures in which the CE is established to determine if a normally excluded action may have a significant impact and coordinate with the originating OA to ensure that the CE is being applied correctly." Id. This rulemaking, which removes the statement that a temporary exemption applies only to vehicles manufactured on and after the effective date of a temporary exemption, codifies the Administrator's discretion to determine the vehicle population covered by a temporary exemption, and removes the requirement that an application be submitted in three copies, is categorically excluded pursuant to 23 CFR 771.118(c)(4), "Planning and administrative activities not involving or leading directly to construction, such as: Training, technical assistance and research; promulgation of rules, regulations, directives, or program guidance; approval of project concepts; engineering; and operating assistance to transit authorities to continue existing service or increase service to meet routine demand." NHTSA has coordinated with the Federal Transit Administration to ensure that this CE is being applied correctly. NHTSA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. There are no changes to information collections associated with this IFR.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by

the agencies and departments." There are no voluntary consensus standards relevant to this IFR.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (\$206 million adjusted for inflation with base year of 1995). This IFR would not result in expenditures by State, local, or tribal governments, in the aggregate, or by the private sector in excess of \$206 million annually. As a result, the requirements of Section 202 of the Act do not apply.

Regulation Identifier Number (RIN)

DOT assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Privacy Act

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, to www.regulations.gov, as described in the system of records notice, DOT/ALL–14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Anyone is able to 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>.

Congressional Review Act

Pursuant to the Congressional Review Act (CRA) (5 U.S.C. 801, *et seq.*), the Office of Information and Regulatory Affairs designated this IFR as not a "major rule," as defined by 5 U.S.C. 804(2). NHTSA will submit this IFR to Congress and the Government Accountability Office as required by the CRA.

IV. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are filed correctly in the Docket, please include the docket number indicated in this document in your comments.

Pursuant to 49 CFR 553.21, your comments must not be more than 15 pages long. NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

If you are submitting comments electronically as a PDF (Adobe) file, NHTSA asks that the documents be submitted using the Optical Character Recognition (OCR) process, thus allowing NHTSA to search and copy certain portions of your submissions.

Please note that pursuant to the Data Quality Act, for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <https://www.transportation.gov/regulations/dot-information-dissemination-quality-guidelines>.

How can I be sure that my comments were received?

If you wish the Docket to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, the Docket will return the postcard by mail.

How do I submit confidential business information?

You should submit a redacted "public version" of your comment (including redacted versions of any additional documents or attachments) to the docket using any of the methods identified under **ADDRESSES**. This "public version" of your comment should contain only the portions for which no claim of confidential treatment is made and from which those portions for which confidential treatment is claimed has been redacted. See below for further instructions on how to do this.

You also need to submit a request for confidential treatment directly to the

Office of Chief Counsel. Requests for confidential treatment are governed by 49 CFR part 512. Your request must set forth the information specified in part 512. This includes the materials for which confidentiality is being requested (as explained in more detail below); supporting information, pursuant to § 512.8; and a certificate, pursuant to § 512.4(b) and part 512, appendix A.

You are required to submit to the Office of Chief Counsel one unredacted "confidential version" of the information for which you are seeking confidential treatment. Pursuant to § 512.6, the words "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONFIDENTIAL BUSINESS INFORMATION CONTAINED WITHIN BRACKETS" (as applicable) must appear at the top of each page containing information claimed to be confidential. In the latter situation, where not all information on the page is claimed to be confidential, identify each item of information for which confidentiality is requested within brackets: "[]."

You are also required to submit to the Office of Chief Counsel one redacted "public version" of the information for which you are seeking confidential treatment. Pursuant to § 512.5(a)(2), the redacted "public version" should include redactions of any information for which you are seeking confidential treatment (i.e., the only information that should be unredacted is information for which you are not seeking confidential treatment).

NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under part 512. Please do not send a hardcopy of a request for confidential treatment to NHTSA's headquarters. The request should be sent to Dan Rabinovitz in the Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov. You may either submit your request via email or request a secure file transfer link. Manufacturers or any companies that already have a Confidential Business Information (CBI) Portal account or an Enterprise Account with NHTSA should use the CBI Portal for their submission. If you submit a CBI request, please also email a courtesy copy of the request to Eli Wachtel at eli.wachtel@dot.gov.

Will the agency consider late comments?

We will consider all comments received before the close of business on

the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that the docket receives after that date. If the docket receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by the docket at the address given above under **ADDRESSES**. The hours of the docket are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to <https://www.regulations.gov>. Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material. You can arrange with the docket to be notified when others file comments in the docket. See www.regulations.gov for more information.

List of Subjects in 49 CFR Part 555

Labeling, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA amends 49 CFR part 555 as set forth below.

PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY AND BUMPER STANDARDS

■ 1. The authority citation for part 555 continues to read as follows:

Authority: 49 U.S.C. 30113, Pub. L. 105–207; delegation of authority at 49 CFR 1.95.

■ 2. In § 555.5, revise paragraph (b)(2) as follows:

§ 555.5 Application for exemption.

* * * * *

(b) * * *

(2) Be submitted to: Administrator, National Highway Traffic Safety Administration, Washington, DC electronically at GeneralExemptions@dot.gov;

* * * * *

■ 3. In § 555.7, revise paragraph (f) and add paragraph (g) as follows:

§ 555.7 Processing of applications.

* * * * *

(f) Unless a later effective date is specified in the notice of the grant, a temporary exemption is effective upon

publication of the notice in the **Federal Register**.

(g) Unless otherwise determined by the Administrator, a temporary exemption only exempts vehicles manufactured on or after the effective date.

Issued on July 28, 2026 under authority delegated in 49 CFR 1.95.

Jonathan Morrison,
Administrator.

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Proposed Rules

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-7232; Project Identifier AD-2026-00784-E]

RIN 2120-AA64

Airworthiness Directives; CFM International, S.A. Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2018-26-01, which applies to all CFM International, S.A. (CFM) Model CFM56-7B engines. AD 2018-26-01 requires initial and repetitive ultrasonic inspections or eddy current inspections of certain fan blades for crack indications and, depending on the results of the inspections, replacement with parts eligible for installation. Since the FAA issued AD 2018-26-01, CFM issued updated service material providing improvements to the ultrasonic inspection procedures and expanding the inspection area. This proposed AD would require initial and repetitive ultrasonic inspections or eddy current inspections of certain fan blades for crack indications and, depending on the results of the inspections, replacement with parts eligible for installation. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 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](https://www.regulations.gov). Follow the instructions for submitting comments.
- *Fax:* (202) 493-2251.

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

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

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-7232; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For CFM material identified in this proposed AD, contact CFM, GE Aviation Fleet Support, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45215; phone: (877) 432-3272; email: aviation.fleetsupport@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.

FOR FURTHER INFORMATION CONTACT:

Alexei Marqueen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238-7178; email: alexei.t.marqueen@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include "Docket No. FAA-2026-7232; Project Identifier AD-2026-00784-E" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may revise this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments

received, without change, to [regulations.gov](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Alexei Marqueen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2018-26-01, Amendment 39-19531 (83 FR 66090, December 26, 2018) (AD 2018-26-01), for all CFM Model CFM56-7B engines. AD 2018-26-01 was prompted by an April 2018 event involving an engine failure due to a fractured fan blade that led to the engine inlet cowl disintegrating and debris penetrating the fuselage, resulting in one fatality. AD 2018-26-01 superseded AD 2018-18-01, Amendment 39-19380 (83 FR 49272, October 1, 2018), and reduced the initial fan blade inspection interval based on an ongoing root cause investigation of the event. AD 2018-26-01 requires initial and repetitive ultrasonic inspections or eddy current inspections of certain fan blades for crack indications and, depending on the results of the inspections, replacement with parts eligible for installation. The FAA issued AD 2018-26-01 to prevent failure of the fan blade.

Actions Since AD 2018–26–01 Was Issued

Since the FAA issued AD 2018–26–01, CFM issued updated service material providing improvements to the ultrasonic inspection procedures and expanding the ultrasonic inspection gated area to increase crack indication detectability. The FAA is issuing this AD to prevent failure of the fan blade. The unsafe condition, if not addressed, could result in failure of the fan blade, the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent.

On July 10, 2026, a Ryanair flight (operating as Malta Air flight FR1879), departing from Thessaloniki, Greece to Memmingen, Germany, experienced a CFM56–7B engine failure on a Boeing Model 737–800 airplane. Although this incident involved the CFM56–7B and the cause of the engine failure is still under investigation, the FAA has received no factual information that indicates that the incident is related to the unsafe condition addressed by this

proposed AD. It is noted here for completeness only.

The FAA is providing a 30-day comment period for this NPRM instead of the standard 45-day comment period. This shortened timeframe is necessary to align the effective implementation of this safety action with EASA and in consideration of the recent in-service engine event. A 30-day comment period provides sufficient opportunity for public input while ensuring harmonization with EASA.

FAA’s Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed CFM International CFM56–7B Service Bulletin 72–1033, Revision 5, dated July 28, 2026, which specifies procedures for performing an ultrasonic inspection of the affected fan blades.

The FAA also reviewed Subtask 72–21–01–220–091, of Task 72–21–01–200–001, from the CFM56–7B Engine Shop Manual, Revision 67, dated July 15, 2026, which specifies procedures for performing an eddy current inspection of the affected fan blades.

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

Proposed AD Requirements in This NPRM

This proposed AD would require initial and repetitive ultrasonic inspections or eddy current inspections of certain fan blades for crack indications and, depending on the results of the inspections, replacement with parts eligible for installation.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 4,553 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect engine fan blade	2 work-hours × \$85 per hour = \$170	\$170	\$340	\$1,548,020

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

engines that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace fan blade (pair)	1 work-hour × \$85 per hour = \$85	\$208,300	\$208,385

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds

necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
- a. Removing Airworthiness Directive 2018–26–01, Amendment 39–19531 (83 FR 66090, December 26, 2018); and
 - b. Adding the following new airworthiness directive:

CFM International, S.A.: Docket No. FAA–2026–7232; Project Identifier AD–2026–00784–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 31, 2026.

(b) Affected ADs

This AD replaces AD 2018–26–01, Amendment 39–19531 (83 FR 66090, December 26, 2018).

(c) Applicability

This AD applies to all CFM International, S.A. (CFM) Model CFM56–7B20, CFM56–7B22, CFM56–7B24, CFM56–7B26, CFM56–7B27, CFM56–7B22/B1, CFM56–7B24/B1, CFM56–7B26/B1, CFM56–7B26/B2, CFM56–7B27/B1, CFM56–7B27/B3, CFM56–7B20/3, CFM56–7B22/3, CFM56–7B24/3, CFM56–7B26/3, CFM56–7B27/3, CFM56–7B22/3B1, CFM56–7B24/3B1, CFM56–7B26/3B1, CFM56–7B26/3B2, CFM56–7B26/3F, CFM56–7B26/3B2F, CFM56–7B27/3B1, CFM56–7B27/3B3, CFM56–7B27/3F, CFM56–7B27/3B1F, CFM56–7B20E, CFM56–7B22E, CFM56–7B24E, CFM56–7B26E, CFM56–7B27E, CFM56–7B22E/B1, CFM56–7B24E/B1, CFM56–7B26E/B1, CFM56–7B26E/B2, CFM56–7B26E/F, CFM56–7B26E/B2F, CFM56–7B27E/B1, CFM56–7B27E/B3, CFM56–7B27E/F, CFM56–7B27E/B1F, CFM56–7B20/2, CFM56–7B22/2, CFM56–7B24/2, CFM56–7B26/2, CFM56–7B27/2, CFM56–7B27A, CFM56–7B27AE, CFM56–7B27A/3 engines.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an April 2018 event involving an engine failure due to a fractured fan blade that led to the engine inlet cowl disintegrating and debris penetrating the fuselage, resulting in one fatality, and the development of improved inspection methods. The FAA is issuing this AD to prevent failure of the fan blade. The unsafe condition, if not addressed, could

result in failure of the fan blade, the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent.

(f) Compliance

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

(g) Definitions

For the purpose of this AD, a “part eligible for installation” is:

- (1) A fan blade that has fewer than 17,000 cycles since new (CSN); or
- (2) A fan blade that has passed the inspection in accordance with paragraph (h)(1) of this AD within the last 1,600 flight cycles (FCs) before installation.

(h) Required Actions

(1) Within the following compliance times, perform either an ultrasonic inspection or an eddy current inspection of the concave and convex sides of the fan blade dovetail in accordance with the Accomplishment Instructions, paragraphs 3.A.(3)(a) through (j), of CFM International CFM56–7B Service Bulletin (SB) 72–1033, Revision 5, dated July 28, 2026 (CFM56–7B SB 72–1033, Revision 5) for ultrasonic inspections, or in accordance with the instructions in subtask 72–21–01–220–091, of task 72–21–01–200–001, from CFM CFM56–7B Engine Shop Manual, Revision 67, dated July 15, 2026, for eddy current inspections.

(i) For initial inspection, prior to accumulating 17,000 CSN or within 1,600 FCs since the last inspection of the fan blade dovetail before the effective date of this AD, whichever occurs later.

(ii) Thereafter, repeat the inspection at intervals not to exceed 1,600 FCs since the last inspection of the fan blade dovetail.

(2) If any unserviceable indication is found during the inspection required by paragraph (h)(1) of this AD, before further flight, replace the fan blade with a part eligible for installation.

(i) Installation Prohibition

(1) After the effective date of this AD, do not install a fan blade on any engine, unless it is a part eligible for installation as defined in paragraph (g) of this AD.

(2) Removing and reinstalling a fan blade for the purpose of relubrication is not subject to the requirements of this paragraph.

(j) No Reporting or Returning of Parts Requirement

Where CFM56–7B SB 72–1033, Revision 5, requires reporting inspection results, this AD does not require that action. Where CFM CFM56–7B Engine Shop Manual, Revision 67, dated July 15, 2026, specifies to send parts to the manufacturer, this AD does not require that action.

(k) Credit for Previous Actions

You may take credit for the actions that are required by paragraph (h) of this AD if you performed those actions before the effective date of this AD using CFM SB CFM56–7B S/B 72–1019, dated March 24, 2017; CFM SB CFM56–7B S/B 72–1019, Revision 1, dated

June 13, 2017; CFM SB CFM56–7B S/B 72–1024, dated July 26, 2017; CFM SB CFM56–7B S/B 72–1033, dated April 20, 2018; CFM SB CFM56–7B S/B 72–1033, Revision 01, dated May 09, 2018; CFM SB CFM56–7B S/B 72–1033, Revision 2, dated July 27, 2018; CFM SB CFM56–7B S/B 72–1033, Revision 03, dated November 6, 2018; CFM SB CFM56–7B S/B 72–1033, Revision 04, dated September 12, 2019; or the instructions in Subtask 72–21–01–220–091, of Task 72–21–01–200–001, from the CFM56–7B Engine Shop Manual, Revision 67, dated July 15, 2026, or earlier revision.

(l) Alternative Methods of Compliance (AMOCs)

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

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

(3) For material that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraph (h)(1) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(m) Additional Information

For more information about this AD, contact Alexei Marqueen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7178; email: alexei.t.marqueen@faa.gov.

(n) 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) CFM International (CFM) Service Bulletin CFM56–7B S/B 72–1033, Revision 5, dated July 28, 2026.

(ii) Subtask 72–21–01–220–091, of Task 72–21–01–200–001, from the CFM CFM56–7B Engine Shop Manual, Revision 67, dated July 15, 2026.

(3) For CFM material identified in this AD, contact CFM International, S.A., GE Aviation Fleet Support, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45215; phone: (877) 432-3272; email: aviation.fleetssupport@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 28, 2026.

Victor Wicklund,

Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026-15532 Filed 7-29-26; 4:15 pm]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 171

[Docket No. **FAA-2026-8291**; **Airspace Docket No. 25-ACE-4**]

RIN 2120-AA66

Amendment of Jet Route J-24 and Very High Frequency Omnidirectional Range Federal Airways V-244, V-508 and Revocation of Very High Frequency Omnidirectional Range Federal Airway V-255 in the Vicinity of Hays, Kansas.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Jet Route J-24 and Very High Frequency Omnidirectional Range Federal (VOR) Airways V-244 and V-508 and revoke VOR Federal Airway V-255 in the vicinity of Hays, Kansas. The FAA is proposing this action due to the planned decommissioning of the VOR portion of the Hays, KS, VOR/Tactical Air Navigation (VORTAC) navigational aid (NAVAID). The VOR portion of this NAVAID is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program. The TACAN portion of this NAVAID will be retained.

DATES: Comments must be received on or before September 14, 2026.

ADDRESSES: Send comments identified by FAA Docket No. **FAA-2026-8291** and Airspace Docket No. **25-ACE-4** 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.

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

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 800 Independence Avenue SW, Washington DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the airway structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

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

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

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

Availability of Rulemaking Documents

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

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

Incorporation by Reference

Jet Routes are published in paragraph 2004 and VOR Federal Airways are published in paragraph 6010 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These updates would be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the ADDRESSES section of this document.

Background

The FAA is planning to decommission the VOR portion of the Hays, KS, VORTAC in support of the FAA's VOR MON program as listed in the Final policy statement notice, "Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network)," published in the **Federal Register** on July 26, 2016 (81 FR 48694), Docket No. FAA-2011-1082.

Although the VOR portion of the Hays VORTAC is planned for decommissioning, the co-located TACAN portion of the NAVAID is being retained in support of current and future NextGen PBN procedures. The Air Traffic Service (ATS) routes affected by the planned decommissioning of the Hays VORTAC are Jet Route J-24 and VOR Federal Airways V-244, V-255, and V-508. The airspace fixes currently on each of the airways will be retained as conventional intersections or waypoints.

With the planned decommissioning of the Hays, KS, VOR, the remaining ground-based NAVAIDs in the area will not support the continuity of the above-mentioned air traffic service (ATS) routes. As such, proposed modifications to V-244 and V-508 would result in the ATS routes being shortened, a wider gap in J-24 route segments, and a revocation of V-255. To overcome the gaps created in the airways and enroute structures, pilots may circumnavigate the affected area via the use of adjacent VOR Federal Airways including V-4 and V-132 in the low altitude stratum, J-80, J-102, J-154 and J-197 in the high altitude stratum, or request air traffic control radar vectors through the area. Additionally, Instrument Flight Rules (IFR) pilots equipped with Area

Navigation (RNAV) PBN capabilities could also navigate point to point using the existing fixes that will remain in place to support continued operations through the affected area, via Area Navigation Routes Q-90, T-312 and T-431. Visual flight rules (VFR) pilots who elect to navigate via the airways through the affected area could also take advantage of the adjacent VOR Federal airways or ATC services listed previously.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend Jet Route J-24 and VOR Federal Airways V-244 and V-508 and revoke VOR Federal Airway V-255 in the vicinity of Hays, Kansas.

J-24: J-24 currently extends between the Myton, UT, VOR/DME and the Hays, KS, VORTAC, between the Salina, KS, VORTAC, and the Montebello, VA, VOR/DME. The FAA is proposing to revoke a portion that extends between the Hayden, CO, VOR/DME and the Hays VORTAC. As amended, J-24 would extend between the Myton VOR/DME and the Hayden VOR/DME, and between the Salina VORTAC and the Montebello VOR/DME.

V-244: V-244 currently extends between Oakland, CA, VOR/DME and the Salina, KS, VORTAC, excluding the airspace within Restricted Areas R-2531A and R-2531B when active. The FAA is proposing to revoke a portion that extends between Lamar, CO, VOR/DME and the Salina VORTAC. As amended, V-244 would extend between the Oakland VOR/DME and the Lamar VOR/DME, excluding the airspace within Restricted Areas R-2531A and R-2531B.

V-255: V-255 currently extends between Garden City, KS, VORTAC and the Hays, KS, VORTAC. The FAA is proposing to revoke this route in its entirety.

V-508: V-508 currently extends between the Hill City, KS, VORTAC and the intersection of the Topeka, KS, VORTAC 112° and the Kansas City, MO, VORTAC 228° radials. The FAA is proposing to revoke a portion that extends between the Hill City VORTAC and the Salina, KS, VORTAC. As amended, V-508 would extend between the Salina VORTAC and the intersection of the Topeka, KS, VORTAC 112° and the Kansas City, MO, VORTAC 228° radials.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to

keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Order 2100.6B, "Rulemaking and Guidance Procedure" (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting for operators choosing to navigate around the controlled airspace. Since these proposed amendments are routine and the expected impact to operators is de minimis, the FAA certifies that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2004 Jet Routes.

* * * * *

J-24 [Amended]

From Myton, UT, to Hayden, CO. From Salina, KS; Kansas City, MO; St. Louis, MO; Brickyard, IN; Falmouth, KY; Charleston, WV; to Montebello, VA.

* * * * *

Paragraph 6010 VOR Federal Airways.

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V-244 [Amended]

From Oakland, CA; INT Oakland 077° and Linden, CA, 246° radials; Linden; 30 miles, 153 MSL, INT Linden 094° and Hangtown, CA, 157° radials; 58 miles, 153 MSL, INT Coaldale, CA, 267° and Friant, CA, 022° radials; 23 miles, 153 MSL, INT Coaldale 267° and Bishop, CA, 337° radials; 43 miles, 125 MSL, Coaldale, NV; Tonopah, NV; 40 miles, 115 MSL, Wilson Creek, NV; 28 miles, 115 MSL, Milford, UT; Hanksville, UT; 63 miles, 13 miles, 140 MSL, 36 miles, 115 MSL, Montrose, CO; Blue Mesa, CO; 33 miles, 122 MSL, 27 miles, 155 MSL, Pueblo, CO; 18 miles, 48 miles, 60 MSL to Lamar, CO. The airspace within R-2531A and R-2531B is excluded.

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V-255 [Removed]

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V-508 [Amended]

From Salina, KS; INT Salina 082° and Manhattan, KS, 207° radials; Manhattan; INT Manhattan 078° and Topeka, KS, 293° radials; Topeka; to INT Topeka 112° and Kansas City, MO, 228° radials.

* * * * *

Issued in Washington, DC, on July 29, 2026.

Alex W. Nelson,

Manager, Rules and Regulations Group.

[FR Doc. 2026-15602 Filed 7-30-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****14 CFR Part 399**

[Docket No. DOT-OST-2025-0831]

RIN 2105-AF37

Enhancing Flexibility of Air Fare Price Advertising

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Department of Transportation (Department or DOT) is extending the comment end date for interested persons to submit comments to its proposed rule on Enhancing Flexibility of Air Fare Price Advertising from July 31, 2026, to August 21, 2026.

DATES: The comment period for the proposed rule, which was published in the **Federal Register** on July 1, 2026, at 91 FR 39932, is extended to August 21, 2026.

ADDRESSES: You may file comments identified by the docket number DOT-OST-2025-0831 by any of the following methods:

- **Federal eRulemaking Portal:** go to <https://www.regulations.gov> and follow the online instructions for submitting comments.

- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, 5th Floor, W58-213, Washington, DC 20590-0001.

- **Hand Delivery or Courier:** West Building 5th Floor, Room W58-213, 1200 New Jersey Avenue SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays. Commenters using this method of delivery should contact Docket Services at 202-366-9826 or 202-366-9317 before delivery to ensure staff is available to receive the delivery.

Instructions: You must include the agency name and docket number DOT-OST-2025-0831 or the Regulatory Identifier Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in 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>.

Docket: For access to the docket to read background documents and comments received, go to <https://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Robert Gorman, Kyle Joseph, or Blane A. Workie, Office of Aviation Consumer Protection, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, 202-366-9342; robert.gorman@dot.gov, kyle.joseph@dot.gov, or blane.workie@dot.gov (email).

SUPPLEMENTARY INFORMATION: On July 1, 2026, the Department published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) that proposed to amend its rule on air fare advertising to allow the total fare, including taxes and fees, to be displayed with the same prominence as any individual components. The Department also proposed eliminating a prescriptive advertising regulation stating that components of a fare may not be presented in the same or larger size as the total price. In addition, the Department proposed rescinding nine

air fare price advertising guidance documents as being outdated, unnecessary, or de facto regulations that were issued without adhering to the notice-and-comment procedures of the Administrative Procedure Act. The Department also solicited comment on whether to repeal its “full fare rule,” which requires the advertised price of passenger air transportation to be the entire price to be paid by the consumer (including taxes) for such air transportation. While the Department did not propose specific rule text for such a repeal, the Department noted that a provision of the Internal Revenue Code already establishes standards for the display of taxes in advertisements for air transportation. The NPRM provided for a comment period of 30 days after publication of the NPRM in the **Federal Register**, i.e., July 31, 2026.

On July 20, 2026, Airlines for America (A4A) filed a request to extend the public comment period on the NPRM for an additional 21 days. A4A contends that the NPRM raises many complex issues related to price advertising, including issues of Constitutional law and the interplay between the authorities of the Department and other agencies. A4A stated that the requested extension aligns with the Department's regulations which indicate that a comment period of 60 or more days be reserved for significant rulemakings as defined in Executive Order 12866. A4A also noted that it has not had the opportunity to review the Department's Regulatory Impact Analysis (RIA) because it had not been posted to the docket.

On July 22, 2026, Southwest Airlines (Southwest) also filed a request to extend the comment period by 21 days. Southwest emphasized that the Department requested comment on two very substantial potential changes to price advertising—recission of nine impactful guidance documents and repeal of full fare advertising rule. Southwest indicated that it believes that the repeal of the full fare rule 14 years after it has gone into effect would be extremely disruptive and preliminarily opposes the recission of the nine guidance documents, but notes that additional time is necessary for the carrier to study the impact of each guidance document.

On July 28, 2026, the Travel Technology Association (Travel Tech) filed a request to extend the comment period by 30 days. Travel Tech argues that the NPRM requires careful review because it seeks comment on a range of potentially significant changes to the current regulatory framework, including repeal of the full fare rule and rescission

of nine guidance documents. Travel Tech notes that further time is necessary because the Department has raised the novel issue of the impact of the Internal Revenue Code on air fare advertising. Like A4A, Travel Tech also states that additional time is necessary to review the Department's RIA.

As of the date of this notice, the Department has received no comments opposing an extension of the comment period.

The Department has carefully considered the requests to extend the comment period on the price advertising NPRM filed by A4A, Southwest, and Travel Tech. After considering the arguments presented, the Department has decided to extend the comment period of the proposed rule for 21 days from July 31, 2026, to August 21, 2026. In doing so, the Department acknowledges that the NPRM raises important issues which require in-depth analysis and consideration by stakeholders. The Department also recognizes its oversight in not posting its RIA to the docket at the same time as the NPRM itself. The Department posted the RIA on July 24, 2026. The Department believes that granting a 21-day extension of the original 30-day comment period is sufficient to allow stakeholders to study the RIA and to conduct a thorough and careful consideration of all potential impacts of the proposed rule, and to prepare comments.¹ Late-filed comments will be considered to the extent practicable.

Signed in Washington, DC, under authority delegated at 49 CFR 1.27(n).

Gregory Zerzan,
General Counsel.

[FR Doc. 2026-15529 Filed 7-30-26; 8:45 am]

BILLING CODE 4910-9X-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 10, 11

[PS Docket Nos. 15–91, 15–94, 25–224; FCC–26–38; FR ID 359294]

Wireless Emergency Alerts; The Emergency Alert System; Modernization of the Nation's Alerting Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission ("FCC" or "Commission") adopted a Further Notice of Proposed Rulemaking that seeks comment on proposed rules intended to make the Emergency Alert System (EAS) and Wireless Emergency Alerts (WEA) more resilient, flexible, and useful.

DATES: Comments are due on or before August 31, 2026, and reply comments are due on or before September 29, 2026.

ADDRESSES: You may submit comments, identified by PS Docket Nos. 15–91, 15–94, and 25–224, by the following method:

- *Electronic Filers:* Comments may be filed electronically using the Commission's website by accessing the Electronic Comment Filing System (ECFS): <https://apps.fcc.gov/ecfs/>. Follow the instructions for submitting comments.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the Commission's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

- *People With Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice).

FOR FURTHER INFORMATION CONTACT: For further information concerning the information contained in this document, please contact David Kirschner, Attorney Advisor, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, at 202–418–0695, or by email to David.Kirschner@fcc.gov, or George Donato, Associate Division Chief, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau at 202–418–0729, or by email to George.Donato@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (NPRM) in PS Docket Nos. 15–91, 15–94, and 25–224, FCC 26–38, adopted on June 25, 2026, and released on June 29, 2026. A summary of the accompanying Report and Order adopted in PS Docket Nos. 22–329 and 25–224, FCC 26–38, adopted on June 25, 2026 and released on June 29, 2026 is published elsewhere in this issue of the **Federal Register**. The full text of this document is available at <https://docs.fcc.gov/public/attachments/FCC-26-38A1.pdf>.

Ex Parte Rules—Permit-But-Disclose. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph

¹ This notice is consistent with 49 CFR 5.13(i), relating to rulemakings, such as this NPRM, that have been deemed nonsignificant by the Office of Information and Regulatory Affairs ("generally, absent special considerations to be described in the NPRM, the comment period for nonsignificant DOT rules should be at least 30 days, and typically the comment period for significant DOT rules should be 60 days")

numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Providing Accountability Through Transparency Act. The Providing Accountability Through Transparency Act, Public Law 118–9, requires each agency, in providing notice of a rulemaking, to post online a brief plain language summary of the proposed rule. The required summary of the *NPRM* is available at <https://www.fcc.gov/proposed-rulemakings>.

Paperwork Reduction Act Analysis. The *NPRM* may contain proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in the *NPRM*, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

Securing EAS Through Message Authentication

While the security measures that we require radio and television stations, cable television systems, satellite radio and video services, and other entities required to participate in the EAS (collectively, “EAS Participants”) to implement in the accompanying Report and Order are necessary to prevent bad actors from exploiting poor security hygiene by EAS Participants, they are not sufficient to prevent our nation's adversaries from originating false alerts.

To better secure EAS against cyberattacks, we propose to require EAS Participants to reject Common Alerting Protocol (CAP) EAS messages that do not include a valid digital signature. Digital signatures work by encrypting a hash or “fingerprint” of data with a “private [encryption] key” known only by the signer. The corresponding “public key”—typically made publicly or semi-publicly available—can decrypt a message encrypted using the “private key.” Thus, the “public key” ensures that a message encrypted using the corresponding “private key” is authentic (since only the entity that possesses the “private key” could have produced that encrypted message). Effective key management ensures that this process functions properly by controlling the issuance, distribution, and revocation of both public and private keys so that both originator and receiver have the correct valid keys. Public keys are issued as “digital certificates,” typically by certificate authorities that issue and manage certificates for public, private, and government entities. For CAP alerts sent through the Integrated Public Alert and Warning System (IPAWS), IPAWS maintains the public keys for all alert originators including itself. Because IPAWS digitally signs all alerts it issues, EAS devices acquire IPAWS's digital certificate (with the IPAWS public key) to authenticate alerts issued by IPAWS. While digital signatures are currently required by IPAWS, EAS Participants are only required to reject EAS messages that include an invalid digital signature. Our rules still allow EAS Participants to transmit EAS messages with no digital signature at all.

Digital Alert Systems, Inc. (DAS) believes that “the FCC's rules should be amended to require authentication and digital signatures for every CAP message received by an EAS CAP device, not just those received from FEMA IPAWS,” and advocates for “harden[ing] authentication/authorization throughout the system, to prevent spoofing and maintain confidence in alerts.” Washington State Emergency Management Division asserts that “[s]ystems should incorporate end-to-end authentication to prevent spoofing, tampering, or false alerts[,] [includ[ing] digital signatures, secure handoffs between IPAWS and carriers, and safeguards to ensure the alert received by the public matches exactly what the originator sent.” These comments reinforce the Communications Security, Reliability, and Interoperability Council (CSRIC) VI's finding that “[t]he importance of high confidence in sender

authenticity is especially apparent in a public safety context,” and its recommendation that EAS Participants should not be permitted to transmit CAP messages that lack a digital signature. We agree with these commenters and believe that our proposal represents a major step forward in securing CAP EAS alerts. We seek comment on this view. Do alerts that lack digital signatures pose a high risk to EAS, and what kinds of harm could they cause? Are there any other public safety benefits that would arise from all EAS CAP alerts being authenticated? We believe that compliance with this requirement would be technically straightforward for EAS Participants because their EAS equipment already must authenticate signed CAP EAS messages. We seek comment on this view.

We seek comment on how this requirement would affect alerting authorities that originate CAP EAS messages. When the Commission required EAS Participants to reject alerts with invalid digital signatures in 2018, it declined to mandate digital signatures for all transmitted CAP EAS alerts because many state and local alerting authorities were not yet using IPAWS or CAP-based digital signatures. Currently, however, we understand that there are more than 2,000 federal, state, local, tribal and territorial alerting authorities that use IPAWS, which requires digital signatures for alerts distributed through its system. Does this mean that most state and local alerting authorities would be unaffected by this requirement since they are already signing alerts for distribution through IPAWS? We seek comment on the extent to which state and local CAP systems other than IPAWS support digital signatures and whether this proposal would undermine the ability of those systems to send alerts. To the extent that these systems do not support alert authentication, we seek comment on the steps that would be required to enable that functionality and how long those steps would take to complete.

While there are numerous benefits to alert authentication, there may also be risks. According to CSRIC VI, these risks include delaying alert message delivery and increasing the chance that a valid alert will be rejected as invalid. Have those risks materialized since the Commission required the rejection of CAP EAS alerts with invalid digital signatures in 2018? Have there been any notable cases in which valid alerts have been erroneously delayed or rejected? If we were to require the rejection of CAP EAS alerts that lack digital signatures, would that level of risk stay the same or materially increase? For example,

during the 2023 nationwide EAS test, only 23 EAS Participants reported problems related to the CAP EAS alert's digital signature, which is a very low percentage of the 20,682 EAS Participants that took part in the test. Is there any reason to expect that there would be significantly more failures during future tests if we were to adopt our proposal? Are the risks to non-IPAWS EAS CAP messages any different than for IPAWS messages? Should we take any steps to mitigate risks, including the possibility of key management and authentication failures?

We also seek comment on the feasibility, effectiveness, and costs of requiring EAS Participants to authenticate (*i.e.*, digitally sign) legacy EAS alerts, which are sent via the EAS Protocol. As explained by CSRIC VI, a digital signature requires two things: (1) a "hash" of the message to be signed, and (2) access to the public key used to decrypt that encrypted hash. Hashing refers to a process of scrambling data according to any one of many algorithms designed for that purpose. Hashed data cannot be altered, which ensures the authenticity of the hashed data. When CSRIC VI examined this issue in 2018, it determined that legacy EAS may be vulnerable to attack, but also determined that it faces technical challenges in implementing digital signatures. Unlike CAP alerts, legacy EAS is severely limited in how much data it can convey because the data that comprises the alert is converted into audio for transmission over broadcast. Adding the data necessary for a digital signature would delay alert message transmission and, in turn, delay the public's receipt of emergency alerts. According to CSRIC VI, adding a digital signature with a key length of 2048 bits would add 8.6 seconds, if sent twice with the header code strings, to the time required to validate and process the alert's header code strings. This delay could be significant because unlike CAP alerts received from IPAWS, legacy alerts may be relayed from one EAS Participant to another, and all entities sending the alert would need to create a hash of the alert using their digital signature before repackaging it for rebroadcast. In the legacy EAS "daisy chain" in which EAS Participants monitor one another as sources of alerts, the time it takes to authenticate an alert would likely be multiplied for each EAS Participant in the chain. We seek comment on the extent to which the public's receipt of EAS messages could be delayed as a result of an authentication requirement for legacy

EAS. According to CSRIC VI, "[t]o fully implement a digital certificate/hash validation schema, every potential issuer of an EAS message would need to obtain (and be accredited) for an alert origination digital certificate[, which] could include many EAS Participants themselves." CSRIC VI adds that "[p]resuming the FEMA IPAWS digital certificate was used for this purpose, both FEMA and the broadcast industry would be presented with a requirement to obtain, and maintain, these additional digital credentials."

CSRIC VI also raised issues with reliance on the internet for checking the required public and private encryption key certificates, encryption key management related to managing signing keys for all participants, and interoperability with existing consumer equipment. For the digital certificate/hash validation schema to function properly, the EAS device would require the digital certificate for every EAS Participant and alert originator from which it might receive an alert. Digital certificates typically are valid for one year and therefore are constantly being renewed. Acquiring such certificates requires internet access and would require regular checking for renewed certificates. Accordingly, loss of internet access could prevent acquisition of current digital certificates necessary for alert validation involving an alert originator or EAS Participant relaying an alert whose certificate has been updated since the last version stored in the EAS device. We seek comment on how to address these challenges, including the non-conformity of legacy equipment that is no longer supported by software updates. Would the National Weather Service (NWS), which originates the vast majority of EAS alerts, be able to digitally sign the alerts it issues over the air via National Oceanic and Atmospheric Administration (NOAA) Weather Radio (NWR)? Would inclusion of a digitally signed hash in a legacy alert impact the operability of the embedded base of consumer and enterprise emergency radios that trigger off of the EAS protocol header codes? Would the audio portion of an EAS message remain susceptible to attacker manipulation and replay attacks even if the alert header itself were to be authenticated? Is the threat that our nation's adversaries may exploit the weaknesses of legacy alerts likely and severe enough to outweigh the difficulty, limitations, and effect on availability associated with solutions?

If we were to require EAS Participants to only transmit digitally signed legacy EAS alerts, we seek comment on how to

best implement that requirement. Where should the digital signature be placed in relation to the header codes? Could it replace part of the attention signal? What elements of the header code string should be covered by the signature? Could we add the four-digit year to the elements covered by the signature without adding them to the header codes as transmitted? Assuming the data rate of the current AFSK (Audio Frequency-Shift Keying) encoding of the header codes is too slow to include the signature without unacceptable delay of the audio alert, how should the signature be encoded and how many seconds would it take? What specific protocols and standards would need to be developed or modified to add digital signatures to legacy EAS and how long would it take to develop them? How would these changes impact existing systems like consumer, first responder, and enterprise emergency and weather radios, and Alert FM receivers? Are there solutions that would minimize these impacts? Should the Commission take any actions to promote effective management of the key infrastructure needed to digitally sign legacy EAS messages? Sage states that, if the Commission were to require authentication for legacy EAS, every EAS Participant and alerting authority would require its own digital signature to maintain the same capabilities as the current system. Is that accurate, or are there more efficient approaches through which key distribution and updates can be managed? One approach to streamline and simplify key management could be to limit the ability to sign legacy EAS alerts to only certain entities within each state. Could this approach work, and if so, to which entities should it be limited? What is the likelihood that access to signing certificates could be compromised during widespread disaster conditions, widespread IP disruption (*e.g.*, route hijacking, ransomware, or router table poisoning), or during routine use? Is that risk distinct from similar risks to signing certifications for CAP EAS alerts, and if so, how? What, if any, role should the Commission have in mitigating these risks? In the event that we allow EAS Participants to use EAS software, would that create a unique opportunity to introduce legacy EAS authentication at a time when costs could be lowest? To what degree should we consider the potential impact of future quantum computers on any authentication requirement we impose, and should we account for that risk through post-quantum cryptography? If

so, how should that be reflected in our rules?

We seek comment on whether there are any alternative ways to address the vulnerability of legacy EAS alerts while preserving the resiliency of EAS and its assurance of availability under widespread outages of normal communications paths. Are there any other common sense, technically feasible steps that we should take to secure EAS?

Bolstering the Reliability of Emergency Alerts

In the 2025 Notice of Proposed Rulemaking (*Alerting Modernization NPRM*) that commenced a ground-up review of the nation's alerting systems, the Commission sought comment on the goals of emergency alerting, which commenters agree should include providing authorities with a reliable way to rapidly notify the public of emergencies that may put them at risk. Commenters emphasized that reliability is fundamental to achieving the core goals of the nation's alerting systems. As Xperi Inc. observes, “[d]uring emergencies, the public needs timely, accurate, and actionable information” to help protect lives and property. Similarly, Washington State Emergency Management Division explains that, in their view, “[a]lerts must be accurate, consistent, and non-duplicative to avoid fatigue and maintain public trust.” The issues we seek comment on, and the rules we propose today aim to improve the reliability of the nation's alerting systems to ensure that they meet our core goals and provide enhanced protections to the public.

Preventing Duplicate Alerts Through a Universal Identifier. When we sought comment on alert originators' expectations for delivery of alerts, several commenters explained that both alert originators and the public expect that alerts will be presented to the subscriber once and that the subscriber will not receive duplicates. As the Washington State Emergency Management Division writes, “[a]lerts must be . . . non-duplicative to avoid fatigue and maintain public trust.” We agree, and tentatively find that the goals of the nation's alerting systems are undermined when the public receives duplicate alerts and that EAS and WEA should be designed to better detect and suppress duplicate alerts.

To reduce confusion and alert fatigue, we propose to require Participating Commercial Mobile Service (CMS) Providers to identify whether an alert is a duplicate through the use of a common message identifier, or “universal alert message ID,” that will

be assigned to each WEA message they receive and transmit. Even though § 10.500(g) of the Commission's rules already requires WEA-capable mobile devices to detect and suppress duplicate WEA messages, the Commission still frequently receives complaints that members of the public receive duplicate alerts. In investigating this issue, we have learned that Participating CMS Providers use carrier-specific identification numbers to determine whether an alert already has been received by a mobile device. This means that a mobile device that receives and displays an alert on one provider's network and then later receives the same alert while roaming on a different provider's network will display a duplicate alert. We have also learned that one Participating CMS Provider uses different WEA identification numbers on each generation of wireless network technology it has deployed. When this provider transmits a WEA message, its subscribers are at risk of receiving duplicate alerts when they move between generations of wireless network technology within their own home network. We identified this as a potential source of some of the duplicate alerts during the 2025 Los Angeles County wildfires, which caused confusion and complaints during the height of a life-threatening emergency. We believe that using a universal alert message ID would eliminate many duplicate alerts that are currently received by subscribers. If a WEA message contained the same unique identifier, irrespective of the Participating CMS Provider network from which it was transmitted, mobile devices would be better equipped to identify and suppress duplicates. Would the use of a unique identifier prevent duplicate WEA alerts caused by changes from one generation of equipment to another, or if the mobile device received the alert from a cell repeater? We believe that the introduction of a universal alert message ID will lead to an increase in the public's trust in WEA messages and help prevent consumers from opting out of WEA. We seek comment on this analysis. Are there other situations in which a universal alert message ID could help prevent duplicate alerts? For example, do hybrid satellite-terrestrial networks pose new alert duplication risks that arise from the transmission of alerts from different sources?

We seek comment on what the source of a universal alert message ID should be. We believe that universal alert message IDs can be derived from unique identification numbers that IPAWS

already assigns to each CAP message it receives. We understand, however, that this unique ID is very long and would add significant data overhead to WEA message transmittals if it were to be included in WEA metadata. We seek comment on whether IPAWS' unique identification number can be shortened in a manner that does not add significant data overhead to WEA message transmittals and yet enables mobile devices to determine if an alert is a duplicate. Are there other uniquely identifying CAP fields that should be used instead or in addition to IPAWS' unique identification number? We believe that it would be feasible to use an appropriate hashing function to generate a fixed-size identifier suitable for use from one or more CAP fields. We seek comment on hashing functions that could do so with minimal collisions (duplicate values for two different inputs) and on the acceptable size of the hash value. In the alternative, we seek comment on other methods that could be used to generate a universal alert message ID that remains truly unique over the twenty-four hour retention period of WEA messages.

We seek comment on whether IPAWS should be responsible for creating this universal alert message ID and passing it on to Participating CMS Providers. Are there any technical or practical challenges that weigh against the identifier being created by IPAWS? Alternatively, would it be feasible and more efficient for Participating CMS Providers to receive the existing identifier from IPAWS and use the same technique to shorten it as part of their processing of alerts? Should the universal alert message ID originate in alerting authorities' alert origination software, and if so, how can the identifier be designed to ensure that alerts originating from different sources are not duplicating the identifier? Should the design of the universal alert message ID be determined by the Federal Emergency Management Agency (FEMA) or through a collaborative standards development process? We seek comment on any alternatives to a universal message ID that Participating CMS Providers could implement to prevent the presentation of duplicate alerts and how those alternatives could be implemented.

We also seek comment on whether the use of a FEMA-IPAWS generated identification number would help enable other lifesaving developments in the alerting ecosystem. For example, would a universal alert message ID help the NWS implement “Threats-in-Motion” alerting that could allow NWS to continually update the target area and

message content without generating duplicate alerts or causing alert fatigue? The Alliance for Telecommunications Industry Solutions (ATIS) notes that there are some scenarios that are challenging for WEA, notably “complex, multi-stage emergencies that require dynamic updates at brief intervals due to ongoing changes in the threat itself of the location impacted. . . . [where] updates presented to consumers in a short period of time that are similar in nature may be perceived as duplicates.” We seek comment on whether a universal alert message ID could aid in solving this issue. Are there other ways in which a universal alert message ID can expand WEA’s potential?

We seek comment on whether the universal alert message ID could also be implemented in EAS, and if so, whether it would be useful. For example, could a universal alert message ID help prevent duplicate EAS messages? Today, EAS equipment performs a byte-by-byte comparison between EAS messages to detect duplicates. If any relevant information in the EAS message header is different than the previously received and stored messages, it will not be deemed a duplicate. This can cause duplicate alerts in several scenarios, including when the location codes in legacy EAS alerts and EAS CAP messages do not match. Would using a universal alert message ID to identify duplicate alerts, rather than a byte-by-byte comparison of the relevant information in EAS message headers, help alert originators like NWS prevent the transmission of duplicate alerts? What, if any, other changes would be necessary for EAS to realize the benefits of a universal alert message ID? Would legacy EAS need to be updated to rely solely upon the universal alert message ID for duplicate suppression? What, if any, other benefits would a universal alert message ID have for EAS? We seek comment on whether a universal alert message ID could help realize DAS’s “One message, many paths,” vision, wherein alert originators can compose a single alert that is distributed to WEA, EAS, and NOAA Weather Radio. What would be the most efficient way to implement a universal alert message ID in EAS? What specific characteristics would the universal alert message ID need to have to minimize implementation costs?

Ensuring the Consistent Transmission of WEA Messages. To ensure that alerting authorities can rapidly notify the public of emergencies, emergency alerting must be resilient and must not unnecessarily delay the public’s receipt of alerts. To better support this goal, we seek comment on whether to require

Participating CMS Providers to rebroadcast WEA messages at least once every sixty seconds throughout an alert’s active period. The Commission has long been concerned that Participating CMS Providers’ inconsistent WEA transmission practices threaten the timely delivery of WEA messages and WEA’s resiliency. Among major Participating CMS Providers, one broadcasts each WEA message every minute throughout the duration of the alert’s active period, some only broadcast each WEA message a single time, while still others broadcast each WEA message a limited number of times after a delay of several minutes. We believe that requiring consistent transmission of WEA messages, as recommended by several commenters, will make WEA more resilient to ephemeral service disruptions that may result in mobile devices not receiving the initial transmission of an alert, as well as ensure that people entering an alert’s target area after the initial transmission have a chance to receive it. We seek comment on this belief and the tentative conclusions that support it. Will the routine rebroadcast of WEA messages improve the rate at which people within an alert’s target area receive messages that are intended for them? Will it improve the rate at which people entering the target area after the alert’s initial transmission receive WEA messages? Will it improve WEA’s resilience to ephemeral service disruptions that may coincide with an alert’s transmittal?

Is at least once every sixty seconds the right periodicity for the rebroadcast of WEA messages, balancing the need for timely, reliable alert delivery against the potential network load? The fact that at least one Participating CMS Provider already rebroadcasts each WEA message every sixty seconds supports our belief that compliance with this requirement would be both technically feasible and reasonable. Previous comments in PS Docket Nos. 15–91 and 15–94 support a sixty second interval. ATIS favored rebroadcasting alerts at regular, one-minute intervals, as did Verizon, although Verizon expressed a preference to apply this policy only for “the first 15 minutes of an alert’s active period” to “provide alert originators and consumers alike a more consistent experience across different service providers while enabling wireless networks to efficiently manage multiple inbound alerts from” IPAWS. How do Participating CMS Providers that rebroadcast WEA messages every sixty seconds manage bandwidth resources

on the control channel on which they transmit WEA messages, particularly when they receive multiple inbound alerts in quick succession? Are there any circumstances in which Participating CMS Providers should be allowed to retransmit WEAs at a periodicity other than at least once per minute throughout an alert’s active period?

To further mitigate the risk of duplicate alerts, we seek comment on whether Participating CMS Providers should cease retransmission of WEA messages with a 24-hour active period five minutes before the end of that period. We are aware of incidents in which the transmission of WEA messages near the end of a 24-hour active period has resulted in mobile devices displaying duplicate alerts. In these circumstances, differences between how the CMS network and mobile devices determine the age of an alert can cause devices to purge their memory of 24-hour-old alerts too early and therefore “forget” that they have already displayed an incoming alert to the user. Is stopping retransmission of a WEA message before the end of its active period the best or only way to mitigate this risk of duplicate messages? Is it appropriate for us to permit Participating CMS Providers to implement a buffer period at the end of their retransmission of WEA messages with a 24-hour active period, and if so, is five minutes the right length for that buffer? We seek comment on any public safety or technical concerns that this approach may implicate.

Improving the Accuracy of Alert Geotargeting

As part of our reexamination of EAS and WEA, we sought comment on which transmission capabilities were needed for an alert and warning system to meet its objectives. Commenters widely recognize that accurate geotargeting is “critical” to accomplishing alerting systems’ goals, and they overwhelmingly support improving those capabilities. King County comments that “[w]e strongly agree that geographic targeting is a necessity for a modern alerting system.” Sonoma County Department of Emergency Management comments: “Geographic targeting is also critical. Alerts should be as precise as possible to reach only those at risk.” Art Botterell writes that “[m]embers of the public rarely object to a warning that is relevant to them, at their location and in their circumstances. . . . The best mitigation is to improve the targetability of warning alerts to minimize alert

delivery to people for whom the alerts are not relevant.”

Commenters also suggest that problems with geographic accuracy unfortunately may be undermining alerting objectives, with the Harris County, Texas Office of Homeland Security & Emergency Management (Harris County) observing that the public is being “inundated with messages that are not relevant to them.” While the California Governor’s Office of Emergency Services states that “[t]his [problem] is particularly evident in cities, where there can be overshoot of messages in densely populated areas,” Alaska resident Shawn Williams observes that geotargeting overshoot can be equally pernicious in rural areas. When people are inundated with alerts and warnings that they do not perceive as relevant to them, it can “dilute urgency,” “trust can erode,” and “alert fatigue” can occur. Consequently, people may ignore EAS and WEA messages that are intended for them or disable WEA warnings altogether. APCO International states that “alert originators are less likely to use alerting systems” because of the negative consequences of poor geotargeting. The New York City Emergency Management Department’s comment stands for the corollary premise that “the more precise . . . [emergency alerting] can be, the more it will be used by alert originators.” Similarly, the Sonoma DEM states that the geotargeting of “[a]llerts should be as precise as possible to reach only those at risk, while allowing modest overshoot to capture travelers entering hazardous areas.” In light of these concerns, in the sections below, we propose and seek comment on measures to improve the accuracy of geotargeting for both WEA and EAS.

Strengthening WEA Geotargeting by Eliminating Outdated Exceptions.

Commenters offer several suggestions on ways to improve WEA geotargeting. We propose to implement these suggestions by eliminating the existing exceptions to the Commission’s WEA geotargeting requirements that allow more than 0.1 of a mile of overshoot in some circumstances. While Participating CMS Providers are required to deliver WEA messages to “100 percent of the target area with no more than 0.1 of a mile overshoot,” our rules allow for exceptions for “network infrastructure [that] is technically incapable of matching the specified target area.” The Commission has provided a non-exhaustive list of circumstances in which a Participating CMS Provider’s network may be considered to be “technically incapable” of matching the target area, including legacy networks

and legacy mobile devices and mobile devices with location services disabled. The other listed “exception” is for “when the target area is outside of the Participating CMS Provider’s network coverage area.” Unlike the exceptions for legacy infrastructure and devices, and locations services being disabled, which allow for overshoot that goes beyond 0.1 of a mile, the exception for “when the target area is outside of the Participating CMS Provider’s network coverage area” addresses a separate aspect of the geo-targeting requirement, that WEA messages be delivered to “100% of the target area.” Although included as an exception, it would not be reasonable to expect a Participating CMS Provider to deliver WEAs outside its service area. In our proposed rules, we maintain the idea that Participating CMS Providers are not expected to deliver WEAs outside of their coverage areas by limiting the delivery and display requirement to “100 percent of opted-in WEA-capable mobile devices that are connected to its network and located in the Alert Message’s target area.” Even though technically incapable networks are nonetheless required to deliver WEA messages to their best approximation of the target area, the Commission and its federal partners frequently receive complaints that WEA messages are being received outside of the target area. As discussed above, this causes alert fatigue and diminishes the usefulness of EAS and WEA. We believe that eliminating these exceptions will reduce overshoot and make WEA more accurate, which, in turn, will make WEA a more predictable tool that will provide greater confidence to alert originators that alerts will be seen by, and only by, the intended audience. We seek comment on these views.

Exemptions for Legacy Networks and Devices.

We propose to eliminate the geotargeting exception for legacy networks and devices. When the Commission adopted the current geotargeting requirements in 2018, it expected that these exceptions would be time-limited as legacy networks shut down and older devices were churned out of the market. We understand that many Participating CMS Providers either have already retired or are actively retiring their 2G and 3G networks. Which, if any, currently deployed networks cannot support geotargeting as currently described in our rules? To what extent do Participating CMS Providers and their subscribers continue to rely on these networks for the delivery of WEA messages? If any Participating CMS

Providers continue to rely upon networks that still cannot be upgraded to support today’s WEA geotargeting requirements, we seek comment on those providers’ timelines for sunseting those networks. To what extent have mobile devices that do not support today’s geotargeting requirements already churned out of the market?

Exemption for Disabled Location Services.

We propose to eliminate the geotargeting accuracy exception for devices with location services disabled. As currently implemented, disabling location services on a WEA-capable mobile device will prevent the device from conducting a geofence and will therefore cause it to present every WEA it receives to the subscriber, even if the device is located far outside of the target area. Participating CMS Providers use device-based geofencing to comply with the geographic targeting requirements of § 10.450(a), which limits overshoot to 0.1 miles on technically capable infrastructure and devices. Device-based geofencing compares the mobile device’s location with the coordinates included in the WEA message. If the device is within the target area, the device will present the alert. If not, the device will suppress presentation of the alert. If, however, location services are disabled, the device cannot determine its location and cannot perform a geofence. If a geofencing-capable device receives an alert, and it cannot perform a geofence, it will present the alert. When the Public Safety and Homeland Security Bureau (Bureau) partnered with 37 emergency management agencies across the country to conduct localized WEA tests in 2022, it found that more than two thirds of geofencing-capable devices failed to correctly suppress the alert. The Bureau also found that at least some of these failures likely occurred because devices had location services disabled. Wireless providers confirmed to Bureau staff that the main cause of overshoot in devices that were capable of performing a geofence was the devices’ location services being disabled. Are disabled location services a primary cause of targeting failures on devices that are otherwise technically capable of geofencing, as this evidence suggests? If not, what else could account for these failures? Alternatively, is it possible that device-based geofencing, as widely implemented by original equipment manufacturers and Participating CMS Providers, is not capable of consistently meeting the Commission’s accuracy requirement?

To reduce the number of geotargeting failures, the King County Office of Emergency Management recommends

“that location services should be forced on when a device receives a WEA—the same as for 911 calls—to determine whether an alert is applicable to the device holder.” We believe that this approach would greatly improve the accuracy of WEA overall and would better align with the expectations of consumers, who likely expect WEA to be accurate regardless of their device’s location settings. We seek comment on this view. Would requiring mobile devices to force location services on when a WEA is received reduce WEA overshoot? When users purchase a geofencing capable device and disable location services, do they expect to receive accurate, geographically relevant alerts? Similarly, do purchasers of WEA-capable mobile devices who disable location services have an expectation of privacy that precludes the use of that information for purposes of public safety? Are subscribers aware that turning off location services may result in them receiving WEAs that were not intended for them? Could receiving such geographically irrelevant alerts cause subscribers to opt out of receiving WEA messages? How would mobile devices need to be technically modified to support the ability to turn on location services when a WEA is received?

Previously, several commenters raised privacy concerns related to eliminating this exception. ATIS states that “[u]nlike 9–1–1, WEA is not a user-initiated request for assistance at the time of the event. . . . consumer trust and privacy, are considerations on always requiring location services to be enabled that may result in consumers’ choosing to opt-out of WEA.” The Electronic Frontier Foundation echoes this concern, stating that “[a]n individual’s ability to opt-out of geolocation services and thus be able to move about daily life without being systematically tracked is also a matter of safety.” According to King County Office of Emergency Management (King County), however, “[i]f those location services data are not shared off the device, there would be no privacy concerns.” We believe King County is correct that mobile device location data is never shared outside of the device for the purpose of WEA geofencing. Can these concerns be addressed by placing limitations on how location information that is collected for WEA can be used? For example, we propose that when the receipt of a WEA message turns on a device’s locations services, the acquired location information would be prohibited from being used for any purpose other than WEA. We also propose to prohibit Participating CMS

Providers from transmitting this location information over their networks. We propose that any location information collected to perform a geofence be deleted immediately after the geofence was performed. If WEA were to be able to turn on and access location services even for those people who have disabled location services on their devices, should we require location services to be disabled immediately after the location information was made available for WEA? When users disable the location services on their mobile device, should they receive a disclosure that doing so will reduce the geotargeting accuracy of WEA messages? Would these measures be sufficient to balance the public safety value of ensuring that location information is always available to WEA while protecting consumers’ privacy? Are these measures technically feasible? Are there any additional or alternative measures we should consider to protect the privacy of subscribers and balance those privacy concerns against the benefits of getting accurate WEA messages? For example, should consumers be provided with the option to turn on location services solely for WEA? Should consumers receive a disclosure upon switching location services off on their devices letting them know that it may result in them receiving WEA messages that are not relevant to them?

We seek comment on any other technical feasibility concerns attendant to receipt of a WEA prompting mobile devices to obtain a fresh location fix. CTIA states that “such an approach may not be technically feasible given differences in the way [9–1–1 and WEA] operate.” What specific technical differences between how WEA and 911 operate pose a challenge? Could these challenges be overcome through appropriate standards and mobile device software updates? Apple airs an additional concern about the implication of location services always being on for mobile device battery life, stating that “GPS usage—particularly in areas with weak signals—can be very power intensive” so “if an emergency involves power outages, a consumer might reasonably choose to conserve device battery life over the ability to receive more targeted alerts.” We seek comment on whether our proposal to require location services to be disabled immediately after the location information was made available for WEA would address this concern. We seek comment on any refinements to our proposal that might be appropriate to preserve mobile device or network

resources while improving WEA geotargeting’s performance.

Exemption for Geocodes. We propose to require WEA messages that geotarget alerts by using Federal Information Processing System, Codes for States and Counties (FIPS) codes, which are also referred to as “geocodes,” to achieve the same level of accuracy as alerts sent using a polygon or circle. Today, if an alerting authority targets an alert using a FIPS code instead of a polygon or circle, the Commission’s rules do not require the alert to comply with the 0.1 mile limit on geographic overshoot. As a result, according to CTIA, “the alert will not contain the geographic coordinates necessary to activate [device-based geofencing]. . . .” The result will be that any mobile device that receives such a WEA message will present the alert to the subscriber, even if the device is far outside the target area. Requiring WEA messages that use FIPS codes to be as accurately targeted as alerts that use circles or polygons would greatly reduce instances of geographic overshoot, making WEA a more useful tool for alert originators and better ensuring that subscribers only receive alerts that are relevant to them. We seek comment on these views.

We believe that it is technically feasible for WEA messages that use FIPS codes to be as accurate as messages that use circles or polygons. When the Commission adopted the enhanced geotargeting requirement, it was persuaded that mobile devices could not yet perform a geofence using a county code because there was no authoritative mapping of U.S. counties to polygon coordinates and because of technical concerns related to the transmission of polygon coordinates that track geocodes and the conversion of geocodes to polygons at the mobile device. Since then, the U.S. Census Bureau has published a mapping of county codes to polygon coordinates. This freely available database may enable IPAWS or participating wireless providers to translate a geocode into a polygon before it reaches a mobile device so that the mobile device can use it for the purpose of geofencing using available polygon smoothing techniques. Would increasing the limit on the number of vertices that can be used to describe a polygon, as requested by the NWS and Colorado 911 Authorities and Public Safety Agencies, facilitate converting geocodes into coordinates, as well as make it easier for alert originators to use polygons? What challenges or drawbacks to increasing the number of vertices exist and how could they be addressed? Alternatively, polygons relevant to the user’s location could be

automatically retrieved, stored locally on mobile devices, and used when a WEA message is received that includes a FIPS code that matches a stored polygon. Would these approaches be successful at improving the accuracy of WEA messages that use FIPS codes? Could available polygon smoothing, simplification, encoding, or compression techniques address any concerns about fitting polygons derived from geocodes in WEA transmissions? How much mobile device storage would be required to maintain a mapping of county geocodes to corresponding polygons? Could industry take steps to minimize this burden, such as by retrieving polygons for geocodes specified in a WEA message upon receipt of the message or as a background task when a mobile device moves into a new region? Are there any additional methods that could be implemented to improve the accuracy of WEA messages that use FIPS codes? What are the benefits and trade-offs of these approaches. Should we require Participating CMS Providers to implement a specific method for improving the accuracy of WEA messages that use FIPS codes, or should we remain agnostic to how accuracy is improved so long as these messages are no longer received more than 0.1 miles outside of the target area?

We seek comment on any other causes of geographic overshoot that arise from the design or technical implementation of WEA. What steps can we take to eliminate or mitigate these other causes of geographic overshoot? Are there any additional or alternative steps that we can take to reduce or eliminate instances of geographic overshoot?

Incentivizing EAS Geofencing. We propose to improve the accuracy of EAS geotargeting by permitting, but not requiring, EAS Participants to take advantage of detailed location information that is often available in CAP EAS messages. Because EAS Participants are currently restricted to targeting alerts by using county codes, it can be difficult for them to identify alerts that are targeted to very small geographic areas. Even if they could identify these situations, EAS Participants transmit EAS alerts to facilities' entire service areas, which are often large. As DAS comments, "[b]y design, once an EAS alert is issued, everyone watching that channel receives it." As REC Networks states, "since EAS was originally intended for national messages, more localized messages are just an afterthought." Alerting authorities and EAS equipment manufacturers take the view that EAS is being underutilized because of these

limited geotargeting capabilities. For example, during the January 2025 Los Angeles County wildfires alerting authorities did not use EAS to transmit evacuation orders to avoid delivering the alert to people for whom it was not intended, which could have caused unnecessary panic and potentially moved people into—rather than out of—harm's way. King County Office of Emergency Management "would like to see similar [WEA-like geotargeting] capabilities developed for EAS. Currently sending an EAS in our area would alert six counties, theoretically reaching over 8,000 square miles and 4.5 million people. This is far too broad for any practical purpose." DAS states that improvements to EAS geotargeting "could reduce alert fatigue and make alerts more relevant." Because many CAP EAS messages include WEA-supported circles or polygons in addition to county codes (legacy EAS messages do not contain geo-targeting information more accurate than the county codes), we believe that the most immediate approach to improving EAS geotargeting would be to allow EAS Participants to use those circles and polygons as an alternative to county codes.

We believe this approach will allow EAS Participants to more precisely identify the geographic area to which a given CAP EAS alert is relevant and be better informed as to whether it makes sense to transmit the alert to their audiences. This helps EAS Participants strike a balance between transmitting EAS messages to affected communities while minimizing the deleterious effects of alert fatigue. We seek comment on this view. Do EAS Participants have an interest in using circles and polygons when making decisions about which state or local alerts to transmit? How would EAS Participants integrate circular and polygonal targets into their decision-making about whether to transmit an alert? Will permitting targeting via polygons encourage innovation and lead to the deployment of new capabilities that can potentially make alerts more accurate? If so, what kinds of capabilities might be developed? Can circles and polygons assist EAS Participants in delivering alerts to only a portion of their audience instead of all of it, and if so, are there types of EAS Participants that are better positioned to accomplish this than others? Do EAS equipment manufacturers believe that there is sufficient interest in these capabilities to financially justify bringing those capabilities to market? Do the proposed changes to our rules provide sufficient

flexibility to EAS Participants that may want to consider using the coordinates in a CAP message to determine whether to broadcast an EAS alert? If not, what alterations are necessary to facilitate and encourage EAS Participants to take advantage of the coordinate information in CAP-based EAS alerts? As an alternative approach, should the Commission require, instead of merely allow, EAS Participants to use circles and polygons when targeting alerts?

Several commenters tout the broadcast television standard ATSC 3.0 as a means of improving emergency alert geotargeting. When the Commission authorized ATSC 3.0 as the next generation broadcast television standard in 2017, it observed that the standard would offer enhanced geotargeting of emergency alerts and required ATSC 3.0 broadcasters to comply with the EAS rules. The Advanced Warning and Response Network (AWARN) Alliance, ATSC: The Broadcast Standards Association, Sinclair, Inc., the National Association of Broadcasters (NAB), and the Oregon Department of Emergency Management advocate for increased use of ATSC 3.0 as a way to transmit geotargeted emergency alerts. Would our proposal improve the ability of EAS Participants relying on ATSC 3.0 to more accurately target alerts to audience members in specific geographic areas? If so, how would these EAS Participants conduct this targeting?

Improving Target Area Descriptions in EAS Alerts—Partial County Alerting. We propose to delegate authority to the Public Safety and Homeland Security Bureau to consider and adopt new EAS location codes that will make EAS messages more understandable to local communities. NWS has expressed concerns that existing location names can be potentially confusing or misleading to the public. For example, in Monroe County, Florida the "southwest" subcounty code might be used for alerts relevant to Key West. People in Key West, however, would be confused by an EAS message that described the target area as "Southwest Monroe County" because they may not associate that description with Key West. To provide greater flexibility to alerting authorities, additional location names could be encoded and transmitted in legacy EAS messages using currently unused combinations of EAS location codes. For example, the American National Standards Institute (ANSI) standard for FIPS codes and the Commission's EAS rules establish that the code for Monroe County, Florida is "12087." The code "12088," on the other hand, is currently unused and

could potentially be assigned to “Key West” for EAS purposes.

We expect that this approach will increase the authoritativeness and effectiveness of EAS messages by providing alerting authorities with a more flexible list of locations for targeting alerts. More commonly used location names would be less likely to confuse alert recipients about whether an alert is intended for them and would likely provide greater certainty about whether a received alert is intended for the recipient. We seek comment on our proposal and these views. In what other scenarios might it be beneficial for alerting authorities to be able to use more flexible location codes? Are these scenarios common enough to justify creating a streamlined process for adopting new location codes? What risks arise from creating location codes for EAS in this fashion? Should we consider an alternative technical implementation, such as expanding the county subdivision character of six-digit geocodes to allow the use of letters, which could then be assigned to specific locations? Are there more effective ways to reduce consumer confusion about the locations to which EAS messages are targeted that we should consider?

We believe that delegating authority to the Bureau to seek comment on and adopt new EAS location codes will promote efficiency. Under this process, alerting authorities or State Emergency Communications Committees would request that the Bureau create a new EAS code for a particular location. We propose that request would be required to include a map with a circle or polygon to identify the geographic area to which the new code would apply, provide reasons why the new code should be created, and explain why the existing location codes are inadequate for members of the public that would receive alerts in that location. The Bureau would request comment on these requests by way of a Public Notice and act upon each request based on the merits presented. We seek comment on this approach.

Enhancing Alert Effectiveness

In the *Alerting Modernization NPRM*, we sought comment on the kinds of information the nation’s alerting system should convey to the public to ensure people take appropriate protective actions, and asked whether there are changes that should be made to how alerts are presented to make them easier for people to understand. We believe that emergency alerts will be most effective when they provide people with information that they can quickly and easily understand. Harris County is

“strongly in favor of allowing for the inclusion of visual media in WEA messages [as recommended by CSRIC IV because they] enhance understanding and help bridge accessibility gaps.” Several other commenters generally support enhanced emergency messaging that includes visual media and recognize its public safety value, which provides additional information, expands accessibility, and improves understanding of how to stay safe, but note that speed and security must come first. The Snohomish County Department of Emergency Management cautions that creating and transmitting multimedia content could delay alert delivery.

We agree with commenters that using modern technology to enhance alert message content beyond traditional text and audio will benefit public safety but also agree that these enhancements should not come at the expense of other important aspects of emergency alerting. Accordingly, we take a modest first step toward enhanced media emergency alerting by seeking comment on whether to require EAS and WEA messages to include a simple, easily recognizable symbol representing the underlying emergency event. We also seek comment on the U.S. Geological Survey’s (USGS) recommendation that the receipt of a WEA earthquake alert should trigger an announcement of the alert message text using text-to-speech. USGS is the Federal agency responsible for monitoring and notification of earthquakes, volcanic activity, and landslides in the United States and is tasked with providing public warnings of imminent strong earthquake shaking. USGS provides earthquake emergency notices through its earthquake early warning (EEW) system called ShakeAlert® in the states of Washington, Oregon, and California with plans to expand to system to Alaska. In addition to being sent through their proprietary system, ShakeAlert earthquake alerts are also sent via WEA.

Promoting the Use of Symbols for Alerts. We seek comment on whether to require EAS and WEA messages to display standardized symbology that identifies the threat type. We expect that the use of symbols could potentially improve comprehension for people with disabilities and people with limited English reading proficiency, hasten public reactions to alerts, and reduce milling. For example, Notify NYC & Cornell Tech have previously found that the use of incident-specific symbols doubled participant comprehension and literacy. We seek comment on these views. The Language & Accessibility for

Alerts & Warnings Workgroup, the Oregon Department of Emergency Management, North Carolina Emergency Management et al., and NWS support the inclusion of standardized symbology in EAS and WEA messages. DAS acknowledges that while EAS and WEA function effectively, additional features could enhance the systems and “the Commission should rather look at steps towards including more modest multimedia resources with alerting . . . [which] could consist of further introducing standardized symbology/iconography to accompany EAS and WEA alerts, as well as basic images and graphics that may be carried on an optional basis by appropriate services.” DAS further states that “EAS modernization should include supplemental lightweight visuals, such as static graphics, such as the [Visually Integrated Display Symbology (VIDS)] iconography, which add clarity. Static VIDS graphics and symbology offer the greatest increase in relevance for the least additional expense” and that its “experience demonstrates that these enhancements are technically feasible; DASDEC devices already aggregate media and support symbology.” FEMA has previously argued that the use of graphical symbols could improve alert message interpretation by individuals with limited English proficiency.

DAS and the State Broadcasters Associations recommend a voluntary approach to applying symbols to emergency alerts. DAS believes multimedia enhancements, including standardized symbology, should remain optional in order to preserve the timeliness and reliability of emergency alerts. We seek comment on whether the inclusion of symbols in EAS or WEA messages would necessarily delay or potentially prevent the public’s receipt of those messages and, if so, to what extent. Are there implementation approaches to supporting symbols in EAS and WEA messages, such as having them preloaded on end-user devices rather than transmitted along with message text as NWS and Verizon have suggested, that are technically feasible and that could mitigate latency and reliability concerns? The State Broadcasters Associations state that “comments [filed in this proceeding] demonstrate that the broadcast industry is continuing to evolve its emergency communications capabilities . . . perhaps in ways alert originators do not yet know or anticipate. These innovations have the potential to add pictorial or video content to broadcast EAS alerts and emergency messages . . .” They recommend the broadcast

industry be allowed to evolve public alerting capabilities through continued industry innovation, rather than rulemaking. We seek comment on any innovations EAS Participants or Participating CMS Providers have implemented that may contribute to the potential to include emergency alert symbols in EAS and WEA messages. On what timeframe do EAS Participants and Participating CMS Providers believe that the display of symbols or multimedia content alongside alert messages will become widespread?

If we were to require EAS and WEA to integrate a standardized symbol set, we seek comment on which symbol set we should rely upon. For example, should EAS and WEA symbols be based on the National Alliance for Public Safety GIS (NAPSG) Foundation symbol library, which is publicly available at no cost and is supported by FEMA? What other symbol sets should we consider? What are the benefits and drawbacks of each? The Rehabilitation Engineering Research Center for Wireless Inclusive Technologies previously found that, among sixteen “people who were Deaf and primarily used ASL for communication,” the presence of NAPSG symbology did not improve the participants’ understanding of either the event or the recommended protective action. Is this representative of what we should expect for the effect on the public generally? We invite commenters to submit into the record any other studies conducted about the use of symbols or iconography in emergency alerts.

We also ask commenters to address presentation guidelines for symbols in EAS and WEA, respectively. Is there value in creating a common look and feel among EAS and WEA messages such that the same or similar presentation guidelines should apply to both systems? Or are EAS and WEA so technologically distinct that a similar look and feel for symbols presented via these systems would be impracticable to achieve? We seek comment on how emergency alert symbols should be presented along with EAS and WEA messages. Where should emergency alert symbols be located relative to the display and the alert message text? What size should the symbols be relative to the display? Should symbols have some transparency, particularly for EAS, where the programming content behind them could otherwise be unnecessarily obscured? For how long should an emergency alert symbol persist on an emergency alert display? How should symbols be displayed when there are different types of emergencies pending for the same geographic area

simultaneously? Should symbols appear with alert message text and disappear at the end of the visual crawl or when the user dismisses the message? Or should a symbol persist on the display for the entirety of an alert’s active period in a discrete but visible location, such as in the corner of the television screen or on a mobile device’s lock screen or home screen? We seek comment on whether the persistent presentation of an emergency alert symbol could bring the existence of an emergency condition to the awareness of people that could otherwise miss it, such as television viewers that tune in during an EAS message’s active period but after the EAS visual crawl has already completed and the broadcast has returned to regularly scheduled programming.

We seek comment on technical considerations relevant to the presentation of emergency alert symbols. Could this functionality be enabled on WEA-capable mobile devices through a software update? What EAS Participant systems would be involved in the process of displaying an EAS-related symbol on a television screen, and how would those systems display it? What steps would need to be taken for these systems to support this capability? Would any changes to standards be needed to enable symbols to persist on-screen for the duration of the alert’s active period?

Amplifying WEA Earthquake Alerts. The faster the public understands an alert, the faster they can react. This is particularly important during events that occur without prior notice or predication. Accordingly, we seek comment on USGS’s recommendation that the receipt of a WEA earthquake alert should trigger a verbal announcement using text-to-speech. While WEA’s attention signal and vibration cadence are intended to quickly grab subscribers’ attention, no information about the nature of the underlying emergency event is communicated during that time unless a subscriber accesses their device to read the text of the message. Having additional seconds to react can make a significant difference in public safety outcomes during the most time-sensitive, no-notice emergencies, such as earthquakes. USGS believes a text-to-speech verbal announcement of imminent earthquake shaking would provide the fast, actionable information consumers need to take protective action during an earthquake. In support for this view, USGS identifies precedent for spoken emergency alerts from the National Fire Alarm and Signaling Code, which requires in-building private mass notification system

emergency alerts (e.g., fire alerts) to include an intelligible audio message along with a visible notification recommendation. USGS argues that social science supports the finding that people respond to speech-based auditory icons and text-to-speech faster than they respond to attention sounds that are not based on speech, which USGS says is key for effective earthquake warnings. We seek comment on USGS’s recommendation. If spoken emergency alerts hasten protective actions relative to a generic attention signal in response to in-building fire alerts, does it stand to reason that spoken emergency alerts would similarly hasten protective actions in response to WEA messages? Should we consider requiring additional types of WEA messages to be automatically spoken by default, such as the most common and most imminent WEA messages, for which we have created standard templates?

Can text-to-speech produce speech that is accurate, audible, and comprehensible to most listeners? Earthquake alerts may be a good candidate for text-to-speech functionality because they always contain the same, authoritative text: “Earthquake! Expect shaking. Drop, Cover, Hold On. Protect yourself now.—USGS ShakeAlert.” We seek comment on this belief. USGS states that, in addition to hastening protective actions for all alert recipients, text-to-speech provides critical information to people with access and functional needs (e.g., visual impairments). How should WEA text-to-speech interact with mobile devices connected to screen readers or other accessibility tools? Are there other discrete consumer groups that would benefit from the availability of text-to-speech for WEA messages, such as people with limited literacy skills? We also invite commenters to address whether Participating CMS Providers could support this functionality in English, Spanish, and other languages. If so, should we require WEA earthquake alerts to include text-to-speech announcements in Spanish and other languages? Would text-to-speech make WEA messages more effective or less effective for subscribers in crowded environments wherein several devices may receive an alert at the same time? Would text-to-speech for earthquake alerts lead consumers to opt out of WEA?

We seek comment on the technical implementation issues around text-to-speech for WEA. To what extent do WEA-capable mobile devices already support text-to-speech? Can consumers already enable text-to-speech for WEA

on certain makes and models of devices, and if so, how? What, if any, technical changes would be required to enable mobile devices, whether or not they are already capable of text-to-speech, to automatically use text-to-speech to read WEA messages, including earthquake alerts? If we were to require Participating CMS Providers to support text-to-speech for earthquake alerts, should the presentation of that speech begin immediately after a mobile device's presentation of the WEA audio attention signal, or should it replace the audio attention signal? Should users receive that speech by default or should we require that they would need to affirmatively opt in to receive WEAs via text-to-speech, either through their mobile device settings or through an option presented along with the text of the message itself?

In addition, we seek comment on USGS's recommendation that we require a unique audio attention signal to accompany earthquake alerts, rather than the standard common audio attention signal associated with all WEA messages. We seek comment on how consumers would react to a unique audio attention signal for earthquake alerts. Is the danger posed by earthquakes unique enough to warrant a specialized attention signal? Would consumers respond to an alert with a unique attention signal more quickly, or would it cause consumer confusion? Social science suggests that people's understanding of emergency alerts is generally low, and significant public education would be required to teach people to recognize a distinct attention signal for earthquake early warnings. We seek comment on these findings. We also seek comment on whether the addition of a new attention signal may increase consumer frustration with the alerting system as a whole by generating an additional form of an audio signal that they already find to be intrusive. If we were to require the use of a unique audio attention signal, what should that signal be?

Removing Unnecessary Alerting Requirements

In the *Alerting Modernization NPRM*, we sought comment on ways the Commission should modernize the nation's alerting systems to improve their usefulness and better leverage modern technology while minimizing burdens on stakeholders. Many commenters argue that removing unnecessary alerting requirements is an essential step in ensuring that alerting remains efficient, reliable, and aligned with the core objectives of alerting. With respect to WEA, for instance, The

Competitive Carriers Association (CCA) encourages the Commission to "take actions to reduce the cumulative regulatory burdens of the program on smaller and rural providers" in particular, because "simplify[ing] the WEA program . . . [will] promote maximum participation in the program." CCA asks that this proceeding build upon the Commission's Delete, Delete, Delete proceeding. Similarly, with respect to EAS, NTCA—The Rural Broadband Association (NCTA) argues that "it is time to comprehensively reexamine alerting, including the regulatory obligations for cable operators and other EAS Participants, to better reflect modern technology and consumer preferences." ACA Connects likewise urges the Commission to "reduce, rather than expand, the burdens of participation in EAS for smaller cable operators," to reduce the risk that unfunded mandates will drive small cable operators out of the cable video business. In light of these concerns, we advance the following proposals to reduce burdens on EAS and WEA participants while ensuring that these systems continue to advance with modern technologies and consumer expectations. We also respond to the March 31, 2025, Petition for Rulemaking filed by the National Association of Broadcasters (NAB) requesting that the Commission clarify or modify its rules to allow EAS Participants to support EAS through software-based technology instead of dedicated physical equipment.

Approving the Use of EAS Software. We grant NAB's Petition for Rulemaking to initiate a rulemaking proceeding on its proposal to permit use of software for EAS alert processing as an alternative to the requirement to use dedicated hardware. The petition has made the showing required for such petitions, and we find that it discloses sufficient reasons in support of the action requested to justify the institution of a rulemaking proceeding. At the outset, we observe that among the core purposes that Congress established for the Commission are "promoting safety of life and property through the use of wire and radio communications," promoting "rapid [and] efficient" wireline and wireless services, and "encourag[ing] the provision of new technologies and services to the public." Today, EAS still depends heavily on stand-alone hardware located outside the core processing systems that broadcast, cable, and satellite services now use daily. We believe that as the industry shifts toward IP-centric

architectures, it is important that the Commission consider whether there is an opportunity to modernize EAS processing to better support public safety and to improve operational efficiency for EAS Participants.

We agree with the majority of commenters that granting NAB's petition will provide an opportunity to align the EAS rules with modern technologies and potentially reduce unnecessary burdens on EAS Participants. For example, Sage states that the EAS rules requirements are based on outdated assumptions "no longer correct for many, and possibly most, devices in modern usage." Furthermore, Sage notes that "[s]oftware-only EAS would not preclude the use of a traditional standalone hardware device, but would allow for closer integration of EAS into radio and TV broadcast chains where EAS is made to work within the system, rather than trying to force the existing system to accommodate EAS." NCTA indicates that "NAB's proposal to permit EAS Participants to elect software-based EAS solutions may present the Commission with another opportunity to ensure that emergency alerting keeps pace with modern technology," and "may be of use to cable EAS Participants as well."

We also agree with commenters like CMG Media Corporation (CMG) that argue that the Commission should explore the technical and operational benefits that may arise from the use of EAS software, "includ[ing] streamlined operations, improved remote maintenance and control, and increased security of EAS equipment." Commenters emphasize that the existing hardware-based EAS poses significant repair delays and reliability challenges, while a software-based approach could streamline maintenance and improve overall system performance. The Society of Broadcast Engineers (SBE) notes that when dedicated EAS equipment malfunctions "stations often have to locate, schedule, and deploy a contract engineer to physically diagnose and repair the malfunction. Additionally, the equipment must sometimes be physically shipped all the way back to the manufacturer for repair (or to be manually updated)." NCTA states "that the shipping time, distance between locations and the availability (or unavailability) of parts for older equipment can all contribute to delays in repairing EAS equipment," and NCTA further states "there are occasionally defects that are more difficult to address or instances in which equipment takes longer to replace due to inventory limitations, for which

the Commission's current rule provides necessary time." The Joint Commenters contend that software-based EAS could "improve the [EAS] system's effectiveness: for instance, by enabling systems to be repaired and updated much more efficiently through a software update or remote fix rather than factory repair of a physical device; by eliminating single points of failure through multiple instances of EAS software in diverse locations; and by facilitating the routing and targeting." We believe that these are all appropriate reasons to explore whether the EAS rules can be improved by allowing EAS Participants to rely on EAS software.

Opposing commenters fail to convince us that the issue is not ripe for consideration or that rulemaking sought by NAB would conflict with the public interest, particularly given Congress's historic policy of considering the use of new technologies. DAS argues that the NAB Petition "offers no discussion of how such software-based systems would be verified, authorized, or audited for compliance with existing Commission rules," adding that there is no "FCC process for certifying software-only EAS solutions." DAS further comments that the NAB Petition does not address cybersecurity, and that "[t]here is currently no robust FCC cybersecurity standard tailored to EAS software platforms." We observe that the need to develop equipment certification or approval requirements appears to be anticipated in the NAB Petition, and by its supporters. As Sage puts it, "[c]ybersecurity is an issue that needs to be taken into account; however, the issues are known, and are not fundamentally different than any other IT component of a broadcast facility." In any event, we agree that certification and security are important aspects to be resolved with respect to the NAB Petition's proposal, but we also agree with NAB that these issues "are properly considered within a rulemaking proceeding," and we address these issues below.

We also reject DAS's argument that NAB's proposal "may confer greater relative benefits on radio broadcasters—particularly those with simpler technical operations—than on television or cable operators, which already rely heavily on integrated, IP-capable workflows," which DAS concludes "undermines the foundational principle that any revision to Part 11 must serve the public interest equitably across all EAS Participants." Even assuming that DAS's assumptions about the benefits of NAB's proposals are accurate, the possibility that some EAS Participants might be able to implement a software-

based EAS approach more easily than others would not be adequate grounds for declining to consider the issue.

DAS also argues that "[a] central tenet of the Commission's rulemaking authority under the Communications Act of 1934, as amended, is the requirement that any new regulation—or deregulation—must advance the public interest, convenience, and necessity," adding that, "[i]n the context of emergency communications, the standard is even more stringent: Proposals must demonstrably enhance the reliability, reach, or effectiveness of life-saving public safety information." DAS contends in this regard that "the Petition is silent as to how its request to allow software-based EAS solutions would achieve any tangible improvement in how alerts are received or understood by the public." We observe that, as stated above, the NAB Petition has made the showing required for Petitions for Rulemaking, and discloses sufficient reasons to justify the institution of a rulemaking proceeding. Moreover, as the NAB Petition described it, software-performed EAS might enable "an immediate fail-over of functionality" to backup EAS software operating on systems in other locations. The NAB Petition adds, "[t]his feature is critical as many broadcasters have been forced to evacuate facilities due to environmental disasters and relocate to auxiliary facilities, abandoning their hardware-based EAS equipment when the public needs emergency messaging the most." These functions strike us as potentially enhancing the reliability, availability and, potentially in times of outages, the reach of the EAS.

Implementing EAS Software. Consistent with NAB's petition, we propose to permit, but not require, EAS Participants to use software-based EAS encoder/decoder technology instead of a dedicated EAS hardware device to process EAS alerts. As outlined above, the record developed in response to the NAB Petition demonstrates broad support for the concept of using software to perform EAS functions in place of dedicated EAS equipment. We tentatively agree with the Society of Broadcast Engineers that "permitting broadcasters to implement flexible software-based EAS equipment if they so choose allows EAS equipment to evolve, helps provide a potential lifeline to stations whose dedicated EAS hardware is no longer being manufactured, and spurs meaningful beneficial developments in the EAS ecosystem both at the station level and overall." We anticipate that allowing use of software-based EAS would enable expeditious repairs, security updates,

and compliance upgrades to an EAS Participant's provision of EAS alerting, as well as more easily enabling backup EAS coverage when the primary software-based EAS source becomes unavailable, as commenters have asserted. These beneficial aspects of EAS software should increase EAS availability, and potentially EAS security, which furthers our goal of providing alert originators with the ability to rapidly notify the public of emergencies. Enabling automatic fail-over to a backup EAS source would further our goal of providing communications during and after emergencies, when power and/or internet outages can impede or prevent regular EAS operations and other forms of communication to the public. NAB argues that "[t]his feature is critical as many broadcasters have been forced to evacuate facilities due to environmental disasters and relocate to auxiliary facilities, abandoning their hardware-based EAS equipment when the public needs emergency messaging the most." We seek comment on these expectations.

More broadly, we anticipate that EAS software would be adaptable and could help support or drive the adoption of advanced alerting capabilities. To that end, we seek comment on whether there are aspects of EAS software or its integration within an EAS Participant's service delivery system that would better allow EAS Participants to voluntarily analyze, process, and present audio/visual messages, photos, maps, or other information provided or linked in a CAP EAS alert? Would software EAS be adept at performing geotargeting calculations, text-to-speech, speech-to-text, or other alerting functions? Would EAS software be capable of generating or passing through CAP alerts over secondary channels or subcarriers for consumption by end user devices capable of processing them? Are there any specific functions that EAS software could provide that are not available to EAS hardware devices and would be particularly beneficial to alert originators?

Flexibility is an important part of our proposal. We propose to allow EAS Participants to install EAS software in a single device (e.g., a server or computer) that manages EAS functions within the EAS Participant's signal processing system. Alternatively, we propose to allow EAS software to be installed across multiple components within that system, thus enabling integration of different EAS functions across multiple system components. SBE, for example, contends that "[t]he Commission's rules should provide broadcasters with the

flexibility necessary for them to implement the best EAS solution for their station's specific operational circumstances." In addition to the benefits described above, we believe that enabling flexibility in EAS software deployment may make compliance with EAS obligations easier to manage, and reduce costs for those EAS Participants that elect to use EAS software. We also anticipate that our approach may spur innovation in EAS alert capabilities by RF transmission system (and possibly cable system) equipment providers who integrate encoder/decoder software into their self-contained transmitter/signal processing systems. We seek comment on this proposal and our related analysis. Are there additional benefits that EAS software could provide that would further the goals we set out for the EAS and WEA alerting systems in the *Alerting Modernization NPRM*?

While providing flexibility is important, this goal needs to be balanced against the necessity of ensuring the reliability of the EAS. In the *Alerting Modernization NPRM*, we asked, among other things, whether alerting systems should also incorporate resilience to common causes of disruption to communications. In general, alert originators responding to these questions observed that ensuring delivery of alerts is critically important. As the Washington State Emergency Management Division put it, "[p]ublic warning must be reliable even during worst-case conditions." Many of these commenters stressed the need for redundancy in the delivery of alerts. The New York State Division of Homeland Security and Emergency Services, for example, stated "[a]lerting systems should have a high degree of resilience, incorporating redundant systems and pathways to ensure that alerts are actually received by the public."

To that end, we propose to require that EAS software—however it is integrated into or across the EAS Participant's signal processing system—be located at the EAS Participant's local facility used to provide service. For a broadcaster this would mean that EAS software would be required to be installed at the studio or transmitter site associated with its licensed service area. (By "studio," we mean the local physical facility wherein programming is generated and/or compiled and processed for transmission.) For a cable communications service provider, this would mean that EAS software would have to be installed at the headend facility. We observe that this proposal would prohibit EAS from being generated within cloud-based systems

or cloud-based third-party EAS services. Our proposal is grounded in concerns about the resilience of IP-based connections in the alerting context. With IP-based systems, functions previously performed on local equipment can be carried out anywhere in the world relying on internet or wide area networks to connect them. EAS software potentially has the same capability, relying on IP networks to bring in monitored audio sources and to output EAS alerts for insertion into programming at other locations. However, this reliance on IP networks could cause EAS Participants to be cut off from their EAS capabilities during emergencies that involve power outages or infrastructure damage, which are types of emergencies for which EAS has historically demonstrated to be useful. As MITRE states in a 2025 white paper, critical infrastructure sectors' emergency communications planning "should assume all standard commercial IP traffic and communications are unavailable in a wide area," which would be inconsistent with installing EAS software at distant facilities. We further observe that our approach is consistent with the NAB Petition, wherein NAB states that it "is not seeking an off-premises, fully cloud-based approach." DAS and NCTA also express concern that remote hosting and EAS software processing may diminish the Commission's capacity for oversight and enforcement.

We seek comment on limitations. Would our approach sufficiently mitigate risks associated with IP network failures? Are there other locations at which we should permit the use of EAS software that allow EAS to retain its signature resilience? Should we allow EAS software to be installed anywhere so long as the EAS Participant also locates and operates EAS software at the transmitter as a fail-over location? If we allow these kinds of network designs that require EAS software to be located at the transmitter as the fail-over location, should we also require that monitored sources be received at the same location so they also avoid being blocked by inoperable IP connections? Would some or all of these measures sufficiently ensure that EAS Participants using EAS software would be able to receive and transmit legacy and/or CAP alerts during most emergency situations when alert originators and the public need them the most? Are there additional or alternative requirements for the use of EAS software that we should adopt to ensure resiliency and fulfillment of the alerting goals

discussed above? How should any of these requirements be effectively reflected in the language of our rules?

We also observe that some commenters raise market-based justifications for allowing use of EAS software. The NAB Petition, for example, argues that "the recent decision of Sage Alerting Systems, one of the two remaining EAS device vendors, to cease production of its [encoder/decoder] device due in large part to supply-chain problems acquiring legacy parts for original EAS hardware-only designs" illuminates the need to consider its EAS software proposal. The NAB Petition further contends that "[u]nder NAB's proposed approach, such manufacturing issues will not be a significant concern because the software will be able to operate on multiple existing hardware appliances or software processes already in use within broadcasting." CMG argues that "[a]s time goes on the [supply chain] problem will worsen, and the Commission must consider what happens if the last vendor can no longer manufacture the required device or if a repair backlog results in communities missing crucial EAS messages." CMG adds "[t]he Commission should not force broadcasters to rely on one vendor to provide EAS service or upgrade their devices when there are viable alternatives that can relieve pressure, modernize EAS overall, and potentially save lives."

DAS, however, argues that the NAB Petition's "inferred focus on [Sage's] specific legacy technology should not be taken to suggest a broader industry challenge, whether that be in terms of supply chain, product availability, or capabilities to serve modern advanced air chain requirements." To that end, DAS argues that "[m]odern EAS encoder/decoder systems . . . have already adapted to the requirements of contemporary broadcast facilities . . . [and] do not face the same integration challenges that may affect older or end-of-life devices." DAS argues "[i]f, as the Petition suggests, certain EAS Participants are encountering operational friction due to outdated EAS infrastructure or legacy EAS workflows, that should be addressed through narrowly tailored policy mechanisms—such as limited waivers, technical guidance, or updates to certification criteria—rather than a sweeping rule change." DAS also asserts "[i]n the absence of continuing demand for hardware-based EAS systems, manufacturers may redirect their resources away from research and development (R&D) for physical equipment[,] thus potentially "stifling

innovation in areas such as hardware security, system resilience, and compatibility with new standards (e.g., ATSC 3.0)."

We seek comment on these views. Is there reason to believe that EAS software solutions would not be affected by supply chain shortages that would affect manufacturers of stand-alone encoder/decoder devices generally? What impacts would EAS software solutions have on the market for EAS encoder/decoder solutions? We observe that the equipment certification requirements we seek comment on (below) are intended to ensure regulatory parity between EAS software and stand-alone EAS encoder/decoder devices. With that in mind, should we take into account the competitive impacts, if any, that EAS software might have on the production or continued development of stand-alone EAS encoder/decoder devices?

DAS also argues that "[EAS software] developers must now account for potential IP landmines that could stall or complicate product viability." DAS indicates it has been "made aware of several published patents and provisional patents that appear to cover key aspects of the software-based EAS model." To that end, DAS asserts that "[u]ndisclosed intellectual property may introduce significant concerns related to policy and competition in the marketplace." We seek comment on whether the use of EAS software would implicate any intellectual property considerations, and the extent to which those differ from any such considerations that may apply to stand-alone EAS encoder/decoder devices. Are any elements of EAS software functionality patented? If so, who holds those patents and will these patents discourage or prevent vendors from entering the EAS software market and creating competition?

EAS Software Certification. At the outset, we tentatively agree with commenters that EAS software must be subject to a rigorous certification or other approval process before it can be allowed to be marketed and used. As DAS observes, "[w]ithout such a framework, software solutions could vary significantly in quality, security, and functionality, with no clear method for regulators or users to determine compliance," adding that such result would "dilute the integrity of the EAS ecosystem and impose an untenable oversight burden on the Commission." We seek comment on what certification or other approval framework should apply to EAS software.

The EAS rules currently require dedicated EAS equipment to be certified

in accordance with the Commission's equipment certification procedures in part 2 of the Commission's rules. While § 11.34(a) and (b), 47 CFR 11.34(a), (b), covering encoders and decoders, respectively, require demonstration of compliance with the requirements in part 11 and the requirements in the part 15 rules for digital devices, we do not propose to extend the part 15 compliance requirement to EAS software, which we anticipate will be installed in various off-the-shelf and custom equipment of other manufacturers that already will have competed any applicable FCC equipment authorization processes. Equipment certification involves device testing to ensure that the device meets the performance requirements that apply to it. Certification approval is required before that device model can be marketed. The responsible party (typically the manufacturer) for the device handles the various administrative requirements, arranges for device testing by an accredited FCC-recognized test laboratory, and submits the certification application to a telecommunication certification body (TCB), which reviews the test report and other application materials, and issues the certification on behalf of the FCC. This framework is well-established, but historically is geared towards testing and authorization of licensed and unlicensed intentional radiators (e.g., broadcast transmitters, mobile handsets and garage door openers) and unintentional radiating equipment (e.g., personal computers and other digital devices that emit emissions as a byproduct of their digital clock circuitry) with easily measurable in-band, out-of-band and harmonic radio frequency (RF) emissions levels. Certifying or otherwise approving EAS software represents a different challenge, that may require an alternative approach.

Commenters addressing this issue generally support subjecting EAS software to certification, and generally frame their discussions around our existing equipment authorization rules and procedures. SBE, for example, comments that certification is necessary "to ensure that flexible software-based EAS solutions enjoy at least the same level of security and reliability as current dedicated hardware solutions." DAS raises concerns that EAS software certification is necessary, but that "there is no [], widely accepted FCC process for certifying software-only EAS solutions." We tentatively conclude that requiring EAS software to be certified under a conformity assessment scheme that is architecturally similar or

identical to that under which EAS equipment is certified today is necessary to preserve the reliability of EAS, *i.e.*, EAS software would be submitted to an approved entity for testing and then to a certification body for approval. We seek comment on this view. Noting that test labs are generally focused on measuring equipment emissions, power, bandwidth, etc., are such test labs equipped with personnel and equipment to conduct detailed software testing for EAS? Are there accreditation standards that test labs would need to comply with and be approved for? If EAS software is required to be certified, how should the certification requirement be implemented? Can the existing certification framework in part 2 be applied to ensure that EAS software works correctly? Would modifications to the existing part 2 framework be necessary to support this testing? If so, what changes are needed and how would those changes fit into the current test lab and TCB approval process? Are there alternative approaches to testing and certification that achieve similar or better outcomes? For example, would some combination of the existing part 2 device certification framework and a third-party conformity assessment regime geared towards software be a suitable approach, and if so, how would those be integrated? Should the certification framework be completely independent of part 2, and if so, how should it be structured? In such a case, what types of entities have capability for such testing and approvals? Would such an entity be expected to issue certification or similar approval on the Commission's behalf, similar to the role TCBs currently have in the equipment certification process?

We seek comment on what functions should be tested and what procedures should be followed when certifying or otherwise approving EAS software. Currently, dedicated EAS equipment is tested to ensure compliance with the encoder and decoder requirements in §§ 11.32 (and § 11.31 as cross-referenced therein) and 11.33 using oscilloscopes and other radio frequency (RF) analyzing instruments, as well as compliance with some non-electrical requirements. For example, testing includes causing the encoder to generate a header code string and using an oscilloscope to confirm that the string conformed to the Audio Frequency Shift Keying modulation specifications at § 11.31(a)(1); inputting an alert to confirm storage of the audio message per § 11.33(a)(3)(i); and inputting an EAN alert while the encoder is playing

out a non-EAN alert and confirming that the EAN overrides the non-EAN alert in progress. Are the existing methods for testing compliance with these requirements sufficient to ensure compliance for both EAS hardware and software (as installed in hardware)? Sage observes that “TCBs do not check for most elements of EAS processing,” adding “we need (and have always needed) a set of tests similar to the 2011 FEMA Conformity Assessment.” Regardless of what certification regime EAS software or hardware might be certified or otherwise approved under, are there specific aspects of alert processing or other part 11 functionalities that are not currently tested as part of the FCC’s EAS equipment certification process, but should be, and if so, what testing procedures should apply? Given the potential for widespread variety in EAS software configurations, should the Commission or independent standards bodies develop a more comprehensive test procedure for EAS equipment and EAS software? Should the IPAWS Conformity Assessment’s pass/fail testing approach be applied to EAS software, and if so, should it be applied as-is or as modified in some way? Could that approach be updated and standardized to cover not just CAP-to-legacy conversion, but any other alert processing functionalities that are not currently tested but should be? What additional functionalities should be included? Who should develop such a standard? Would a reconstituted ECIG or other industry group be best-positioned to develop such standard? Are there certain testing requirements or procedures that should be different for EAS equipment and EAS software to reflect their differing characteristics, or should EAS equipment and EAS software always be subject to the same requirements and procedures? Are TCBs equipped to perform testing on EAS software following the pass/fail approach used for testing compliance with the ECIG Implementation Guide? If not, what entities are best suited to perform such testing, and what accreditation scheme, if any, should apply? Are there existing third-party testing programs that could accommodate such testing?

We observe that several requirements in the Commission’s EAS encoder and decoder rule sections set forth physical and electrical specifications that apply to the hardware aspects of the equipment, as well as the emissions profile of the radiofrequency signals they generate. Sage notes, for example, that “[p]art 11 requires an alphanumeric

display, a speaker, visual indication of alert status, ‘data ports’, two or more audio inputs, and one or more audio outputs,” adding that “requirements for temperature and humidity, supply voltage variations, and operation in 10 V/m AM and 0.5 V/m FM [also] must be met.” Sage further observes, “[a]s a practical matter, this requires a separate box for certification.” At the time these and other encoder and decoder requirements were developed in the early 1990s, it was assumed that these functions would be performed in a stand-alone device built for this purpose. Does this assumption still make sense today, given the current state of technology? Do these requirements still make sense as applied to either EAS software or standalone equipment built for EAS purposes? We seek comment on whether any or all of the physical and electrical specifications that apply to the hardware aspects of dedicated EAS equipment should be applied to EAS software, as installed whichever representative configuration applies (*e.g.*, the off-the-shelf server in which the EAS software is installed). We observe that application of some of these requirements to EAS software can be achieved through minor revisions to some of these provisions, as contained in Appendix B of this Further Notice. We seek comment on the sufficiency of these proposed revisions.

With respect to how the EAS software must be configured for testing, we propose that EAS software must be tested as installed in hardware that is representative of that which it is intended and marketed to be used. As a result, the certification that EAS software would receive would apply only to that EAS software as installed and operated in a representative server or computer configuration. Pursuant to this approach, standalone EAS software that is intended to be installed and operated in an off-the-shelf server or computer would be tested as installed by the software manufacturer in any representative server or computer. EAS software that is intended to be installed and operated in a manufacturer’s custom-designed product—for example, a signal processing system component that performs one or more signal processing functions and may include a central processing unit (CPU) utilizing custom or generic operating system software, but which is not itself a stand-alone server or computer—would have to be tested as installed in such custom-designed component, since there is no representative device for such a custom-designed product. In this case, the

manufacturer of the custom-designed product typically would be responsible for certification, and the EAS software certification testing would be performed at the same time as the custom-designed product’s conformity assessment testing. More specifically, the EAS software certification would be a component of and subsumed under the custom-designed product’s certification. EAS software that is installed and integrated across multiple system components would have to be tested as so installed and integrated (typically on an *in situ* basis). Because this also is a custom configuration, the manufacturer of the system components typically would be responsible for certification. We observe that the representative testing model proposed above is currently applied to most device testing under our equipment authorization rules because it is neither practical nor necessary to test each and every device produced in a product model line manufactured for sale to the public. We seek comment on whether this would be an effective testing framework for EAS software. Are there any unique applications or considerations involving EAS software that might not be accounted for under this framework? Are there any alternatives methods to this representative testing approach we should consider? Commenters that offer alternatives should comment on benefits and burdens for EAS software vendors, EAS Participants, and Commissions staff.

We also seek comment on whether and which modifications to certified EAS software should require recertification. If we were to apply the part 2 certification framework to EAS software, § 2.1043 of the Commission’s rules delineates the types of modifications (or permissive changes) that manufacturers can make to previously certified equipment without requiring equipment recertification. The permissive change rules primarily apply to changes involving electrical and RF circuitry, but include provisions covering changes to software installed in software-defined radios (SDR), which are treated as Class III permissive changes. These provisions trigger where the software modification “changes the frequency range, modulation type or maximum output power (either radiated or conducted) outside the parameters previously approved, or that change the circumstances under which the transmitter operates in accordance with Commission rules.” We seek comment on whether, regardless of what equipment certification or approval framework might be applied to EAS

software, a similar approach makes sense for EAS software, and what modifications, if any, to EAS software—and by extension, EAS performance—should require resubmission of certification information (test data, etc.) as the equivalent to a Class II permissive change. We also seek comment on whether software is sufficiently different from physical hardware that it should require a periodic recertification throughout its life cycle, which would represent a fundamentally different approach from the current equipment authorization model. We note that, unlike a physical device that may never be modified, software is typically updated many times, and users sometimes continue to run software after it is no longer supported by the vendor. Updates may address critical and necessary security issues that emerge after initial approval, but such updates can unintentionally disrupt system functions and introduce new and unexpected faults. The use of software that is no longer supported can introduce functional and cybersecurity risks. Parties who support such an approach should discuss how a periodic reapproval process could be implemented, as well as what procedures we might adopt for automatically cancelling certification or approval when software is not recertified within the required time interval. If a certification or approval is automatically cancelled for software, what responsibilities should fall on the developer to notify impacted users and regulatory bodies? Additionally, what actions should be taken to ensure that system integrity and reliability are maintained during and after this process?

Cybersecurity. We acknowledge concerns raised by commenters responding to the NAB Petition regarding potential risks that EAS software may pose to EAS security. DAS, for example, observes that “[s]oftware systems—especially network-dependent platforms—tend to be far more exposed to cybersecurity threats than standalone hardware.” DAS further observes that “[u]nlike physical devices, software platforms have large attack surfaces, including APIs, databases, and remote access points.” Sage acknowledges that “[c]ybersecurity is an issue that needs to be taken into account,” but disagrees that EAS software poses a unique risk, stating that “the issues are known, and are not fundamentally different than any other IT component of a broadcast facility.” Cybersecurity is plainly a cause for concern in the EAS environment, as

exemplified by the many hacking incidents that have resulted in false alerts, and in the process, prevented the transmission of legitimate, lifesaving alerts, documented in the Report and Order. We tentatively agree with the Broadcast Warning Working Group that uniformity in EAS performance, regulatory certainty, and overall EAS security are critical to any EAS software configuration. We also tentatively agree with DAS that “[a]s the digital landscape continues to evolve, ensuring the security and integrity of systems involved in the EAS becomes increasingly vital.” We seek comment on these views.

Accordingly, we propose that, before EAS software can be marketed or used, the responsible party seeking its certification should be required to demonstrate to the Commission that it has taken appropriate steps to secure the software. We seek comment on the most effective way in which we can implement this requirement. Should a Declaration of Conformity with specific standards or best practices, a cybersecurity audit or test report, or other evidence be required to be included in the EAS software’s certification application? (In general, a Declaration of Conformity is an attestation from the responsible party that the equipment or software has been shown to comply with the applicable technical standards and other applicable requirements of the conformity assessment regime against which it is being issued.) If so, what specific cybersecurity criteria should the software satisfy? We observe that there are several existing cybersecurity certification programs for software, each with different focuses. Would a certification from one of these programs be best suited to demonstrating the cybersecurity of EAS software? For example, would one or more of the National Information Assurance Partnership’s (NIAP) Approved Protection Profiles provide such a set of standards or would an additional profile for EAS software be needed, either alone or in combination with existing profiles? If a new profile is required, how should it be developed, and how long would it take to develop? Additionally, should we require vendors of EAS software to participate in CISA’s Secure by Design program? Would cybersecurity certification of EAS software alone be sufficient to ensure the cybersecurity of the EAS, taken together with the cybersecurity requirements we adopt today? If we were to adopt cybersecurity requirements for EAS software, should

we also impose cybersecurity requirements on standalone EAS equipment on a going-forward basis in order to ensure parity? If so, should the cybersecurity criteria for equipment be different than software? Should foreign-produced EAS software be subject to importation and use prohibitions where national security is implicated, for example, where the software designer, manufacturer, or responsible party for certification is on the Covered List?

DAS asserts that EAS software will shift many of the responsibilities for implementing secure hardware configurations, maintaining firmware integrity, performing vulnerability testing, and ensuring end-to-end system hardening, which standalone EAS equipment manufacturers handle today, onto EAS Participants, “many of whom may lack the technical expertise or resources to manage them effectively.” We seek comment on this view. Does the successful use and maintenance of EAS software require EAS Participants to have more technical and cybersecurity expertise than when using standalone EAS equipment? Do EAS Participants generally have this expertise, or will the use of EAS software by the average EAS Participant introduce serious risks to EAS’s performance? Are there any characteristics or features that EAS software should be required to reduce the level of expertise that the EAS Participant would need to have in order to use it successfully? Should we limit the use of EAS software only to certain EAS Participants, and if so, how would EAS Participants demonstrate that they qualify to use it?

Operational Readiness. We propose to lessen the time that would be afforded to EAS Participants to repair or replace defective EAS software before notifying the Commission from 60 days to 72 hours. Under the current rules, EAS Participants may operate without defective equipment pending its repair or replacement for 60 days without further FCC authority. We observe that 60 days is an amount of time that in most cases may be sufficient for manual repair and shipping of defective equipment to and from the manufacturer. As noted above, however, the record indicates that one of EAS software’s main benefits is that it can be expeditiously repaired with rapid fail-over to backup EAS software in an auxiliary location. As the NAB Petition states, “maintenance of a station’s EAS system and the time needed to recover from a hardware component malfunction would be greatly reduced because a system repair could now be implemented through a software update,

patch, or other remote fix, eliminating the down-time needed to ship the legacy physical device to a manufacturer for factory repair.” Based on the record, we believe that EAS software is unlikely to be defective for very long and in many cases, EAS can continue to be provided by backup EAS software. In addition, we believe that EAS software may be more prone to cyberattack by virtue of its IP interconnectedness. Accordingly, there is a heightened need for Commission awareness of lingering EAS software defects that may derive from ransomware, viruses, or other cyberattacks. For these reasons, we tentatively conclude that 72 hours is a reasonable amount of time for an EAS Participant using EAS software to either effectuate repairs or switch over to backup EAS software to ensure EAS is still available until repairs of the EAS software in its main facility are completed. We seek comment on these views. Is 72 hours a reasonable amount of time to complete repairs of defective EAS software? Should this amount of time be lowered or increased, and why? What impact would providing more or less time have on the Commission’s situational awareness about the state of EAS operational readiness nationwide?

We invite commenters to recommend any additional or alternative requirements, changes, or limitations that may be needed to enable the Commission to assure EAS stakeholders and the public that EAS software can reliably meet or exceed all existing EAS operational requirements. Are the requirements we propose today sufficient, overall, to ensure EAS software meets or exceeds the reliability, security, and availability provided by current EAS equipment? If changes to the overall certification and cybersecurity framework for EAS software about which we seek comment above would be beneficial, how should the Commission implement them? Commenters that offer alternatives should comment on benefits and burdens for EAS software vendors, EAS Participants, and Commissions staff.

We previously observed that, according to the Bureau’s last nationwide EAS test report, an appreciable number of EAS Participants were unable to participate in testing due to equipment failure—despite advance notice that such test was to take place—suggesting that equipment failures are not addressed by EAS Participants as swiftly as reasonably possible and that more needs to be done to improve EAS operational readiness. As discussed above, we believe that allowing the use of EAS Software could expedite repairs. Would allowing the use of EAS software

also have an effect on the average amount of time needed to repair dedicated EAS devices? For example, would the entry of EAS software into the market reduce the number of EAS devices that need to be repaired at any given time, improve the availability of vendors’ repair teams, and therefore reduce wait times and repair speed? If so, should we modify our operational readiness rules for dedicated EAS devices to reflect that less repair time is needed?

Finally, we observe that § 11.35(c) currently requires EAS Participants who require more than 60 days to repair or replace defective EAS equipment to submit an informal request for additional time to the Regional Director of the FCC field office serving the area in which the EAS Participant is located, or in the case of DBS and SDARS providers, to the Regional Director of the FCC field office serving the area where their headquarters is located. To simplify this process for EAS Participants, we propose to require EAS Participants to file such informal request with the Public Safety and Homeland Security Bureau instead of the Regional Director of the FCC field office for their area. We believe this modification will make filing such requests far simpler for affected EAS Participants and improve the Bureau’s situational awareness of EAS outages across the country. We seek comment on this proposal.

Retiring 90-character WEA Messages. To reduce outdated and unnecessary compliance burdens for WEA, we propose to retire the requirement that Participating CMS Providers support transmission of an 90-character-maximum Alert Message “on and only on those elements of its network incapable of supporting a 360 character Alert Message.” This requirement is in addition to the 360-character maximum version. As a practical matter, this rule has meant that alerting authorities must submit a 90-character-maximum version of each WEA they transmit to ensure their alert can transit all networks and may also initiate a 360-character-maximum version to improve readability. The Santa Barbara County Office of Emergency Management recommends that we sunset the requirement to transmit a 90-character-maximum version of WEA messages because its length is “insufficient for modern public alerting,” and “[i]ts continued existence creates inconsistency in public messaging and hampers our ability to clearly convey life-saving information during time-sensitive emergencies.” The King County, Washington Office of

Emergency Management echoes this concern, adding that “[t]he five mandatory elements in a WEA message can be very difficult to fit into an understandable 90-character text.” The New York State Division of Homeland Security and Emergency Management’s comment suggests that the requirement to support two versions of every WEA message risks confusion for alerting authorities. We believe that retiring the 90-character alert will empower alerting authorities to stop creating two versions of each alert message and would save time and resources during emergencies in which every second matters. We seek comment on these views. Are there other ways in which retiring 90-character WEA messages will benefit alerting authorities? We also seek comment on whether retiring 90-character WEA messages would have benefits for other WEA stakeholders as well. For example, we anticipate that our proposal will allow Participating CMS Providers to conserve network resources when transmitting WEA messages. Would any benefits to public safety arise from conserving these resources during emergencies? Will conserving these resources help Participating CMS Providers better support future opportunities to improve WEA? Are there any other network resource-conserving changes to the Commission’s WEA rules that we should consider?

We seek comment on the extent to which legacy networks that were incapable of being upgraded to support 360-character-maximum WEA messages in 2016 remain in service today. When the Commission adopted the current requirement in 2016, it found that “[a] 360-character maximum Alert Message length balances emergency managers’ needs to communicate more clearly with their communities with the technical limitations of CMS networks.” The Commission noted that it should continue to allow Participating CMS Providers to transmit 90-character-maximum Alert Messages on legacy networks until those networks are retired. We understand that many Participating CMS Providers either have already retired or are actively retiring their 2G and 3G networks. According to the Master WEA Registry and the FCC’s Broadband Data Collection, however, at least some wireless providers continue to operate 3G networks, primarily in the U.S. territories. Which, if any, currently deployed networks can still only support 90-character maximum WEA messages? To what extent do Participating CMS Providers and their subscribers continue to rely on these

networks for the delivery of WEA messages? If any Participating CMS Providers continue to rely upon networks that still cannot be upgraded to support 360-character-maximum WEA messages, we seek comment on those providers' timelines for sunsetting those networks. Understanding when small- and medium-sized businesses, in particular, plan to sunset any such network would allow us to consider setting an effective date for the elimination of this requirement that fits into planned business cycles. Alternatively, what consequences might result if we were to eliminate the requirement to transmit 90-character-maximum versions of WEA messages before all deployed networks are able to support 360-character-maximum messages? To what extent could this diminish the availability of WEA? Would there be specific geographic regions in which those impacts would be experienced most acutely? How should we weigh these concerns against the communication limitations of 90-character-maximum messages?

We seek comment on whether, as a result of eliminating this requirement, some mobile devices may also no longer be able to receive WEAs at all. To what extent have mobile devices that only support 90-character messages already churned out of the market? Data from the 2023 nationwide WEA test found that 2.2% of devices only supported a 90-character-maximum alert. We seek comment on whether the proportion of legacy devices in the field has further declined since October 2023, when the test was conducted. Could any other negative impacts result from sunsetting 90-character-maximum WEA messages? To the extent that WEA may not be available in some geographic areas as a result of this change, would it significantly reduce the ability of alerting authorities to reach the public in those areas? Are reasonable substitutes available for WEA in those areas, such as EAS, private mass notification systems, highway signs, social media, and public news reports? Should we recognize any cost to Participating CMS Providers in needing to update systems and standards to end the transmission of 90-character WEA messages?

Analysis of Costs and Benefits

Benefits. We seek comment on the benefits of the proposals in this Further Notice. While these benefits are difficult to quantify, we believe the proposals to modernize the nation's alerting systems will result in greater prevention of property damage, injuries, and loss of life. We seek comment on this

assessment and whether any enhancements to our proposals would make our nation's alerting systems more resilient and more likely to save lives, prevent injuries, or protect property.

Securing EAS Through Message Authentication. We tentatively conclude that our proposal to secure EAS through message authentication will further enhance EAS security beyond the protections offered by the rules we adopt today in the Report and Order. We believe our proposal to require EAS Participants to reject unauthenticated EAS messages (where there is no valid digital signature) would prevent false alerts in three ways that would further our core objective of ensuring that alerting authorities can rapidly notify the public of emergencies. First, allowing EAS Participants to only transmit authenticated EAS messages would prevent malicious actors from injecting false information into an alerting authority's message; second, it would prevent malicious actors from modifying, or tampering with, the content of an otherwise valid alert without authorization; and third, it would prevent malicious actors from posing as (or spoofing) a valid alerting authority to trick an EAS Participant into broadcasting a false alert. Protecting against these false injections, tampering, and/or spoofing would help protect life and property. We seek comment on this assessment.

As we reasoned in the accompanying Report and Order, false EAS messages can disrupt the U.S. economy. The economic benefits of preventing even a 0.00043% disruption of the U.S. economy in a single year through EAS authentication would offset the one-time EAS software update costs that we discuss below. Likewise, the local radio and television broadcasting sector a subset of EAS Participants, supported \$1.19 trillion of the nation's GDP in 2025, so preventing a disruption of even 0.0011% in a single year would offset the one-time EAS software update costs. Are there other ways to quantify the benefits to EAS security that message authentication would deliver?

Bolstering the Reliability of Emergency Alerts. We believe our proposals to bolster the reliability of emergency alerts will advance our goal of rapidly notifying the public of emergencies that may put them at risk. We believe they will do so by minimizing delays in receipt and increasing consumer awareness and action in response to alerts. We tentatively conclude that requiring alerting participants to use a universal alert message identifier and ensuring consistent transmission of WEA

messages will allow for more timely delivery of alerts and minimize unnecessary duplicate alerts. Especially during fast-moving disasters such as a wildfire or a flash flood, we believe these proposals will improve alerting authorities' ability to reach people in targeted areas by using EAS and WEA and help ensure that the public is receiving alerts that are relevant to them. This, in turn, will maximize the likelihood that people will take protective action that may be necessary to save lives and property. We also believe a universal alert message identifier for both EAS and WEA would have the added benefit of minimizing duplicate alerts and avoiding alert fatigue. We seek comment on these conclusions and on other ways to quantify the impact of more narrowly tailored emergency alerts for faster and more effective protective actions taken by the public during disasters, as well as decreased alert fatigue.

Improving the Accuracy of Alert Geotargeting. Our proposals to improve geotargeting support our goal of providing alerting authorities with the ability to rapidly notify the public of emergencies that may put the public at risk. As we have previously concluded, we believe strengthening alert geotargeting will prevent alert fatigue, minimize consumer opt-out, increase consumer trust in alerting systems by preventing alerts from being delivered to consumers for whom the message is not relevant, and reduce the number of calls to 911 and therefore reduce the number of emergency responses. When consumers receive a geotargeted message in an emergency situation, they may have time to reach a safe location or take other action to avoid the need for 911 assistance. This will benefit first responders, who will be able to reduce emergency deployments and direct their efforts to other critical areas. We continue to believe that improving geotargeting will make it more likely that alerting authorities will use EAS and WEA in situations where it can save lives and prevent injuries. Over three recent years (2022–2024), there were a total of 3,401 fatalities and a total of 5,648 injuries from weather events in the United States. If enhancements to alert geotargeting resulted in even a 0.1% reduction in fatalities, injuries, and emergency response costs during 2022–2024, these enhancements could have resulted in, on average, a life saved each year. This is calculated as follows: 1,428 (2024 fatalities) + 1050 (2023 fatalities) + 869 (2022 fatalities) = 3,401 total fatalities (2022–2024). 3,401 total fatalities × 0.1% ~ 3 lives saved during

this 3-year period of time. As of 2011, first responders were deployed at least 456,250 times per year in the United States at a cost of approximately \$3,500 per deployment. A one percent reduction in emergency response costs, over the first three years these rules are in effect, would save at least \$48 million pursuant to these 2011 figures, so we believe the current cost is likely higher. This is calculated as follows:

$\$48,000,000 \sim 3 \text{ years} \times 456,250 \text{ deployments per year} \times \$3,500 \text{ per deployment}$. As discussed below, this is greater than the one-time compliance cost to update the standards and software necessary to comply with the WEA-related proposals. We seek comment on the applicability of this analysis to the enhanced geotargeting proposals at issue in this item. We also seek comment on ways to quantify these benefits. Are there other benefits related to enhanced geotargeting of WEA and EAS that we should consider?

Enhancing Alert Effectiveness. We believe our proposals to ensure that alerts are quickly and easily understandable advance our core alerting goals to deliver instructions that protect life and property, as well as to provide additional authoritative communications with the public before, during, and after an emergency. Specifically, we believe that requirements to establish a common symbology for alerts and amplify the perceived urgency of WEA earthquake alerts, if adopted, would hasten protective actions in situations where life and property are at risk, especially for people with disabilities or limited English proficiency. We seek comment on this assessment. We also seek comment on ways to quantify the benefits associated with faster recognition and understanding of alerts through the use of common, standardized symbology, and of earthquake alerts, in particular.

Removing Unnecessary Alerting Requirements. We tentatively conclude that allowing EAS Participants to replace their dedicated EAS equipment with EAS software and retiring the 90-character-maximum WEA message will advance the core goal of providing alerting authorities with the ability to rapidly notify the public of emergencies. As discussed above with regard to other security enhancing proposals, as EAS software becomes more accessible, we expect EAS Participants that choose to implement it may be able to avoid costly cyberattacks that disrupt their business and require investments in mitigation and recovery. Additionally, we believe installing EAS software as an alternative to stand-alone EAS equipment may

make it easier for EAS Participants to stay up to date with security patches, performance updates, and other software updates to enhance the resiliency and reliability of their systems. We seek comment on this assessment. We also agree with commenters that having a software-only option would save EAS Participants the higher cost of maintaining dedicated EAS decoder equipment. We seek comment on how to quantify those cost savings. What are the average maintenance and upgrade costs associated with maintaining dedicated EAS hardware? Will the exit of a major EAS equipment manufacturer from the market affect these costs going forward? If so, how? Moreover, the Further Notice seeks comment on adopting NAB's approach to make software-based EAS permissive and therefore does not impose mandatory costs. As such, EAS Participants whose costs would outweigh the benefits of installing EAS software would not be required to do so. We seek comment on these tentative conclusions.

Further, we believe that retiring the requirement to support 90-character-maximum messages would enable alerting authorities to avoid redundancies and send one single version of a WEA message more quickly, rather than a 90-character-maximum message and a 360-character-maximum message. We believe eliminating the requirement that, as a practical matter, forces alerting authorities to create two WEA messages would lessen the burden on alerting authorities and shorten the time it takes alerting authorities to issue an alert, which is particularly important in emergency situations when giving people a few seconds more time to respond could make a significant difference. We also believe that this will reduce burdens on Participating CMS Providers because their networks will no longer need to parse multiple versions of alerts for distribution among various generations of wireless technology. We seek comment on ways to quantify these benefits. We also seek comment on the public safety benefits.

Costs. We seek comment on the costs that alerting participants would expect to incur to comply with the rule changes proposed in this Further Notice. We believe the costs associated with each of these proposed rules will fall into one of the following categories: EAS software updates, EAS software authorization, EAS-related hardware replacement, WEA standards and testing, and WEA-related network configuration changes. We estimate that, taken together, these costs will not exceed \$52.5 million. The \$52.5 million

one-time cost includes \$13 million in EAS software updates and \$39.5 million in WEA updates. Even accounting for the estimated economic benefits of just one proposal, EAS authentication, discussed above, we believe the benefits of the proposals in this Further Notice will far outweigh the costs.

EAS Software Updates. We estimate that EAS Participants would incur no more than \$13 million in one-time costs to make the necessary software updates to comply with the proposed changes to CAP authentication and add new locations codes as adopted by the Bureau. If we were to require adoption of a universal alert message identifier and common symbology for CAP-based EAS messages, those costs would also be included in this estimate, insofar as those software updates could also be implemented at the same time. With respect to changes involving software modifications to EAS equipment, the Commission has previously conducted a cost estimate that we believe is relevant. In the MEP Report and Order, which established a dedicated Missing and Endangered Persons (MEP) event code for EAS, the Commission adopted a ceiling of five hours of labor to implement EAS event code rule changes. We also note that incremental EAS software update costs could be avoided by implementing the relevant changes in conjunction with previously scheduled software updates. Thus, assuming software updates to EAS equipment that update CAP authentication settings, add location codes, use a universal alert message identifier, or support common symbology can also be implemented in the normal course of business, we estimate that implementation costs for one-time necessary EAS software updates would not exceed \$13 million, adjusted for inflation. We calculate the total cost as follows: $\$99.24/\text{hour} \times 5 \text{ hours} \times 25,800 \text{ broadcasters, cable headends, SDARS, and DBS providers} = \$12,801,964$, which we round to \$13 million. Using an average hourly wage of \$63.53 for software and web developers, programmers, and testers, and factoring in a 46% markup of hourly wage for benefits ($\$63.53 \times 46\% = \$29.22$), and a 7% inflation adjustment between 2024 and 2026, we estimate an hourly compensation of \$99.24/hour. According to the Bureau of Labor Statistics, as of December 2025, civilian wages and salaries averaged \$33.45/hour and benefits averaged \$15.33/hour. Total compensation therefore averaged $\$33.45 + \$15.33 = \$48.78$. Using these figures, benefits constitute a markup of $\$15.33/\$33.45 =$

46%. We therefore markup wages by 46% to account for benefits. Adjusting for inflation, the hourly compensation is approximately \$99.24 ($= (\$63.53 + \$29.22) \times 107\%$). We seek comment on this analysis and on the cost to EAS equipment manufacturers to create these updates.

If we were to require EAS Participants to display EAS-related symbols on television screens, we expect that EAS Participants would need to make additional changes to their systems beyond updating their EAS equipment. What systems or equipment would EAS Participants need to modify to support the display of EAS-related symbols on television screens? How would they need to be modified, and how should the cost of those modifications be quantified? Are there differing costs associated with different ways of displaying symbols on the screen? If so, what would be the most cost-effective approach to displaying symbols? Are there steps that the Commission can take or changes it can make to its proposal to mitigate implementation costs?

EAS Software Certification. We seek comment on the costs to EAS software vendors that would arise from requiring them to obtain Commission authorization prior to selling or EAS Participants using their software. What is the cost associated with seeking Commission authorization for EAS devices that are currently permitted under our rules? In what ways is the authorization process for EAS software that we propose above different? Commenters on this issue should quantify the costs associated with each of those differences. How many vendors are expected to seek authorization for EAS software? Because the use of EAS software is voluntary, and the vendors would only seek Commission authorization for their EAS software when their assessed economic gains outweigh the costs of such authorization, we tentatively conclude this proposal would result in net gains despite any certification costs that may arise from the use of EAS software. We seek further comment on our preliminary conclusion.

EAS-related Hardware Replacement. While we believe most of the issues we seek comment on will be implemented through software modifications, others, such as legacy EAS authentication and implementation of a universal alert identifier for legacy EAS would likely involve the changes to the EAS header codes. As a result, these changes may ultimately require replacement of EAS equipment, National Weather Radio receivers, or other types of equipment

involved in the generation and reading of the existing EAS header codes. We seek comment on whether these changes would require the replacement of certain types of equipment, as well as the associated replacement costs. We believe these costs would be minimized if our associated compliance timeframes allowed EAS Participants to naturally replace their EAS equipment with its normal business lifecycle rather than require the equipment to be removed from service early to satisfy a compliance deadline. We seek comment on this belief. If we were to set a compliance deadline that was aligned with natural equipment replacement cycles, what is the normal lifespan for the types of equipment that would need to be replaced to effectuate these requirements?

WEA Standards and Testing. For WEA, we estimate that Participating CMS Providers would incur a maximum \$39.5 million industry-wide, one-time compliance costs to update the standards and software necessary to comply with the WEA-related proposals we put forth today. The total one-time cost of \$39.5 million includes: \$318,427 in standards development and modifications + \$11,500,614 in software modification + \$27,601,474 in software testing + \$66,337 in WEA configuration changes = \$39,486,852, rounded to \$39.5 million. We also note that participation in WEA is voluntary, so CMS Providers would only incur these costs if they choose to participate. Consistent with the Commission's assessment in the 2023 WEA Third Report & Order, we estimate that that Participating CMS Providers would incur a maximum \$318,427 cost to develop new standards to prevent duplicate alerts through a universal alert message identifier and eliminate outdated exceptions to WEA geotargeting. If we were to adopt rules requiring amplification of WEA earthquake alerts and retirement of 90-character WEA messages, necessary updates to the standards to comply with those rules would also be included in the same standards development process. We quantify the \$318,427 cost of modifying standards as the annual compensation for 30 network engineers compensated at the national average wage for their field (\$65.33/hour), plus a 46% mark-up for benefits (\$30.05/hour), and a 7% inflation adjustment between 2024 and 2026, working for 26 hours a year for a maximum of four distinct standards. The four standards that likely would need to be revised include J-STD-101 (Joint ATIS/TIA CMAS Federal Alert Gateway to CMSP

Gateway Interface Specification), ATIS-0700008 (Cell Broadcast Entity (CBE) to Cell Broadcast Center (CBC) Interface Specification); ATIS-0700010 (CMAS via EPS Public Warning System Specification); and J-STD-100 (WEA Mobile Device Behavior Specification). After adjusting the 7% inflation, the hourly compensation is \$102.06 ($= (\$65.33 + \$30.05) \times 107\%$). Multiplying it by the number of engineers, hours worked, and the number of standards, the one-time cost is calculated as follows: 30 network engineers $\times$ \$102.06 per hour per network engineer $\times$ 26 hours per standard $\times$ 4 standards = \$318,427.

In addition to standards development and modifications, we further estimate a one-time cost of \$36.5 million for WEA software updates, including \$11.5 million for software modifications and \$25.8 million for software testing. The Commission has previously quantified the cost of modifying WEA software as the compensation of a software developer compensated at the national average for their field (\$135,910/year), plus annual benefits (\$62,519/year), working for the amount of time it takes to develop software (10 months) at each of the 65 CMS Providers that participate in WEA. This is calculated as follows: $(\$135,910 + \$62,519)$ annually per Participating CMS Provider $\times$ 107% inflation adjustment $\times$ 10 months/12 months per year $\times$ 65 Participating CMS Providers = \$11,500,614. The Commission has also quantified the cost of testing these modifications (including integration testing, unit testing and failure testing) to require 12 software developers compensated at the national average for their field working for two months at each of the 65 CMS Providers that participate in WEA. This is calculated as follows: 12 software developers $\times$ $(\$135,910 + \$62,519)$ annually per Participating CMS Provider $\times$ 107% inflation adjustment $\times$ 2 months/12 months per year $\times$ 65 Participating CMS Providers = \$27,601,474. We have used the same framework since 2016 for changes to software, ranging from enhanced geotargeting to alert preservation. We seek comment on whether this remains an appropriate framework and on these cost estimates and the underlying methodology in general.

WEA Configuration Changes. If we were to require Participating CMS Providers to rebroadcast WEA messages at least once every sixty seconds throughout an alert's active period and cease retransmission of WEA messages with a 24-hour active period five minutes before the end of that period, we do not anticipate that compliance

would require the development of new standards or more than de minimis software development. We estimate that the necessary changes to configurations and settings of WEA-related systems would require no more than 10 hours per Participating CMS Provider, amounting to an estimated maximum cost of approximately \$66,000. This is calculated as follows: (\$65.33 + \$30.05) per hour for a network engineer per Participating CMS Provider $\times$ 107% $\times$ 10 hours $\times$ 65 Participating CMS Providers = \$66,337. We seek comment on this estimate.

Compliance Timeframes

Below, we propose compliance timeframes for the amendments to the rules discussed in this Further Notice. We aim to strike an appropriate balance between the urgent public safety need to improve our nation's alerting systems and alerting participants' need to develop software, practices, and procedures to effectively comply. Where possible, we have grouped compliance timeframes together to reduce implementation burdens. We seek comment on the compliance framework proposed below. Given the importance of EAS and WEA to our nation's safety, we seek comment on the proposed timelines, which we believe are the shortest practicable amount of time within which these measures could be implemented. To the extent an alternative timeframe would be more appropriate, we ask commenters to provide a detailed explanation.

Effective Date for Retiring 90-character WEA Messages. We propose that the rules to retire 90-character WEA messages should become effective 30 days after publication of the rule in the **Federal Register**. Because we are proposing to eliminate the requirement that Participating CMS Providers support these messages, but are not proposing to outright prohibit their use, we believe that this change can go into effect quickly. Retiring 90-character WEA messages may lead to standards development and technical changes to relevant networks and systems, but we believe it would be appropriate to allow stakeholders to deploy these changes as they become ready rather than set a distant effective date for requiring those changes to occur. We seek comment on this approach. Alternatively, would it promote regulatory clarity and stakeholder coordination to set a target date for the retirement of 90-character messages by all stakeholders after relevant necessary standards and software revisions are prepared? If so, what should that date be?

Effective Date for WEA Message Retransmission and EAS-related Requirements. We propose that the rules to ensure consistent retransmission of WEA messages, implement EAS location codes as adopted by the Bureau on delegated authority, and authenticate all CAP EAS messages become effective twelve months after publication of the rules in the **Federal Register**. We also propose that rules allowing the use of EAS software become effective either twelve months after publication of the rules in the **Federal Register** or 30 days after the Bureau publishes a notice in the **Federal Register** that Paperwork Reduction Act (PRA) review of rules by the Office of Management and Budget (OMB) is complete, whichever is later. We seek comment on this proposal. We expect that twelve months provides sufficient time for CMS Providers to implement consistent retransmission of WEA messages configuration and settings changes to their systems and for EAS Participants to replace, patch, or reconfigure its EAS equipment to support the EAS-related requirements. We also expect that 12 months would allow the Commission to make sufficient preparations for accepting authorization applications for EAS software, and we anticipate that some vendors may begin developing EAS software in parallel with these efforts. We seek comment on our proposal and expectations. Would any of these requirements require more or less than 12 months to implement, and if so, why? Would authentication of EAS CAP messages require equipment replacement? If we were to set a compliance deadline for EAS CAP authentication that was aligned with natural equipment replacement cycles, what is the normal lifespan for the types of equipment that would need to be replaced to effectuate these requirements? How long would it take for the EAS geotargeting functionality described above to become available to EAS Participants?

Effective Date for Remaining WEA Requirements. We propose that rules to strengthen WEA geotargeting, prevent duplicate alerts by requiring use of a universal alert message identifier, promote a common symbology for alerts, and amplify WEA earthquake alerts become effective thirty-six months after publication of the rules in the **Federal Register**. We believe these rules, if adopted, will require a longer time period to implement as they may require updates to standards, firmware, infrastructure, and mobile devices. For updates to WEA standards and firmware, the Commission has

previously reasoned that it requires industry 30 months to complete—*i.e.*, 12 months to work through appropriate industry bodies to publish relevant standards; another 12 months for Participating CMS Providers and mobile device manufacturers to develop, test, and integrate firmware upgrades consistent with those standards; and six more months to deploy the new technology to the field during normal technology refresh cycles. We also believe that providing an additional six months (for a total of three years) will help reduce costs for Participating CMS Providers in light of number of requirements that we are contemplating would need to be implemented in parallel. We seek comment on this approach. Would requiring the use of a universal alert message identifier require equipment replacement? If we were to set a compliance deadline for use of a universal alert message identifier that was aligned with natural equipment replacement cycles, what is the normal lifespan for the types of equipment that would need to be replaced to effectuate these requirements?

Are there benefits that may arise from further aligning these compliance timeframes? We seek comment on alternatives to the tiered timeframes we propose above and on any additional actions that we can take to promote efficient implementation.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the Further Notice of Proposed Rulemaking (Further Notice) assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in the item.

Need for, and Objectives of, the Proposed Rules. The Further Notice takes steps to modernize and improve the Emergency Alert System (EAS) and Wireless Emergency Alerts (WEA). In doing so, it advances the three core goals that alert and warning systems should serve: (1) alerting systems should provide authorities with the ability to rapidly notify the public of emergencies that may put the public at risk; (2) alerting systems should be capable of delivering instructions that facilitate the protection of life and

property; and (3) alerting systems should provide a mechanism for government officials to provide additional authoritative communications with the public before, during, and after an emergency. Specifically, the Further Notice seeks comment on: (i) enhancing EAS security against false messages by using digital signature-based authentication; (ii) bolstering the reliability of emergency alerts by establishing a universal alert identification number to improve the detection and blocking of duplicate alerts and ensuring that WEA messages are consistently sent to the public until the emergency ends; (iii) improving geographic accuracy by proposing to eliminate outdated WEA geotargeting exceptions that often cause alerts to be received in the wrong locations and expanding geotargeting options for EAS;

(iv) making alerts more effective by seeking comment on requiring EAS and WEA to display symbols that match the type of emergency and improving the ability of earthquake alerts to grab the public's attention; and (v) removing outdated and necessary alerting requirements by proposing to allow the implementation of EAS capabilities via software instead of hardware and retiring the 90-character-maximum versions of WEA messages.

Legal Basis. The proposed action is authorized pursuant to sections 1, 2, 4(i), 4(n), 301, 303(b), 303(e), 303(g), 303(j), 303(r), 303(v), 307, 309, 316, 335, 403, 624(g), 706, and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(n), 301, 303(b), 303(e), 303(g), 303(j), 303(r), 303(v), 307, 309, 316, 335, 403, 544(g), 606, and 613, as well as by

sections 602(a), (b), (c), (f), 603, 604, and 606 of the WARN Act, 47 U.S.C. 1201 (a), (b), (c), (f), 1203, 1204 and 1206, and the National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116–283, 134 Stat. 3388, sec. 9201, 47 U.S.C. 1201, 1206.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The rules proposed in the Further Notice will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Where available, we also provide additional information regarding the number of potentially affected entities in the industries identified below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	% Small firms
Electronic Computer Manufacturing	334111	1,250 employees	148	128	86.49
Radio and Television Broadcasting and Wireless Communications Equip Manufacturing.	334220	1,250 employees	155	136	87.74
Communications Equipment Manufacturing	334290	800 employees	310	294	94.84
Audio and Video Equipment Manufacturing	334310	750 employees	506	492	97.23
Software Publishers	513210	\$47 million	16,824	12,148	72.21
Radio Broadcasting Stations	516110	\$47 million	2,616	2,136	81.65
Television Broadcasting Stations	516120	\$47 million	413	316	76.51
Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers.	516210	\$47 million	5,217	3,673	70.40
Wired Telecommunications Carriers	517111	1,500 employees	3,403	3,027	88.95
Wireless Telecommunications Carriers (except Satellite).	517112	1,500 employees	1,184	1,081	91.30
Satellite Telecommunications	517410	\$44 million	332	195	58.73
All Other Telecommunications	517810	\$40 million	1,673	1,007	60.19

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)	SBA size standard (1,500 employees)		
	Total number FCC Form 499A filers	Small firms	% Small entities
Affected entity			
Wired Telecommunications Carriers	4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13
Wireless Telephony	326	247	75.77

TABLE 3—BROADCAST ENTITY DATA

Broadcast station owners (as of August 8, 2025)	SBA size standard (\$47 million)		
	Number commercial licensed	Small firms	% Small entities
Affected entity			
Radio Stations (AM & FM) Groups	2,881	2,863	99.38
Television Stations	171	142	83.04

TABLE 4—CABLE ENTITIES DATA

Cable entities	Size standard	Total firms	Small firms	% Small firms in industry
Cable System Operators (Telecom Act Standard) Small Cable Operator.	Serves fewer than 498,000 subscribers, either directly or through affiliates.	530	524	98.87
Cable Companies and Systems (Rate Regulation) Small Cable Company.	Serves 400,000 or fewer subscribers nationwide.	530	523	98.51
Cable Companies and Systems (Rate Regulation) Small Cable System (headends).	Serves 15,000 or fewer subscribers.	4,545	3,965	87.24

Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities. The proposed requirements in the Further Notice, if adopted, will impose new or modified reporting, recordkeeping and/or other compliance obligations. Specifically, we propose and seek comment on requiring all vendors of EAS software that small business entities and other EAS participants may choose to purchase and use apply for certification of that software in accordance with our part 2 rules. Because costs of complying with that requirement are difficult to estimate given unknowns about the number of vendors that will seek to bring EAS software to market and differing burdens that vendors may face, the Further Notice seeks comment on several aspects of those potential burdens.

For EAS Participants, including small business entities, we estimate a one-time \$500 cost per affected small entity to make the necessary software updates to comply with our proposed changes to Common Alerting Protocol (CAP) authentication and improvements to geotargeting via the addition of location codes. If we were to require adoption of a universal alert message identifier and common symbology for CAP-based EAS messages, we believe those costs would also be included in this estimate, insofar as those software updates could also be implemented at the same time. We believe these software updates would require a maximum of five hours of labor to implement, but we note that this is likely an overestimate, as incremental software update costs could be avoided for small and other EAS Participants by implementing the relevant changes in conjunction with previously scheduled software updates. Our estimate is based on an average hourly wage of \$63.53 for software and web developers, programmers, and testers, and factors in a 46% markup of hourly wage for benefits, and a 7% inflation adjustment between 2024 and 2026, which amounts to a total hourly wage of \$99.24/hour. We seek comment

on additional system modification costs that may arise from implementing EAS-related symbols on television screens. We also seek comment on whether it would be necessary for any small entities to replace equipment in the event that the Commission were to require legacy EAS to support authentication or universal alert identifiers, and if so, how those requirements could be implemented to minimize those costs.

For Participating Commercial Mobile Service (CMS) Providers, including small business entities, we estimate a maximum total one-time cost of \$570,000 to cover the standards development processes, software modifications, and software testing required to comply with the relevant rule changes we propose in the Further Notice. This includes preventing duplicate alerts through a universal alert message identifier and eliminating outdated exceptions to WEA geotargeting. If we were to adopt rules requiring amplification of WEA earthquake alerts and retirement of 90-character WEA messages, necessary updates to the standards to comply with those rules would also be included in the same standards development process. Our estimate is based on approximately a \$400,000 average cost for testing, a \$170,000 average cost for software modifications, and a \$10,600 cost to participate in a standards development process, if applicable. However, we do not expect all Participating CMS Providers to engage in the standards development process, so small entities that do not participate would avoid this aspect of the cost. Our estimates are based on the wages of a software developer compensated at the national average for their field (\$139,850/year), plus a 46% markup for annual benefits (\$64,331/year), working for the amount of time it takes to develop software (10 months) or test software (2 months) at each CMS Provider that participates in WEA.

If we were to require Participating CMS Providers, including small business entities, to rebroadcast WEA

messages at least once every sixty seconds throughout an alert's active period and cease retransmission of WEA messages with a 24-hour active period five minutes before the end of that period, we do not anticipate that compliance would require the development of new standards or more than de minimis software development. We estimate that the necessary changes to configurations and settings of WEA-related systems would require no more than 10 hours per Participating CMS Provider, amounting to an estimated maximum cost of approximately \$1,000 per provider.

To help the Commission more fully evaluate the cost of compliance for small entities, we requested comments on the cost implications and cost estimates to implement these proposals and asked whether there are more efficient and less burdensome alternatives that might achieve the same results, including alternatives specific to smaller entities. The Commission expects the information we receive in comments to help us identify and evaluate impacts to small entities that may result if the changes to the nation's emergency alerting systems discussed in the Further Notice were adopted.

Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities. In the Further Notice, the Commission's proposals and requests for comment are designed to minimize the economic impact on small entities where feasible, and the Commission seeks comment on the costs of alerting participants, including small entities. The Commission also seeks comment broadly on alternatives to the proposed compliance timeframes that might minimize economic burdens on small entities. We believe that the proposals in the Further Notice are the most efficient and least burdensome approaches.

Specifically, we believe our proposal to secure EAS through message authentication will protect small entities from costly cyberattacks that disrupt their business. We seek

comment whether there might be potentially costly risks associated with adopting this requirement and if so, how to mitigate those risks. We also seek comment on additional ways to reduce burdens while maintaining expectations for EAS.

To improve the reliability of emergency alerts, the Commission also proposes to require a single, universal message identifier for WEA and EAS messages and sought comment on ways to reduce overhead for alerting participants, including small entities, including through hashing, and other, less burdensome alternatives.

The Commission also proposes to improve the accuracy of WEA geotargeting by eliminating outdated regulatory exceptions, such as those related to legacy infrastructure and legacy devices, mobile devices with location services disabled, and alerts whose target areas are not specified by a polygon or circle. The Commission seeks comment on what types of Participating CMS Providers would be most impacted by these proposals, how costly the proposals might be, and whether there are less burdensome alternatives that should be considered. The Commission asks about small providers' timelines for sunseting legacy networks, in order to inform future rules' effective dates that fit into planned business cycles for those entities.

For its proposal to promote rapid protective action in response to earthquake alerts, the Commission seeks comment on the technical implementation of text-to-speech for WEA, including ways to minimize implementation burdens on small entities. For both EAS and WEA, the Commission seeks comment on requiring alert messages to include standardized symbology that identifies the relevant threat type. The Commission asks whether, if adopted, such a requirement should be based on the National Alliance for Public Safety GIS (NAPSG) symbol library, which is publicly available at no cost, to minimize burdens on alerting participants, including small entities.

Finally, the Commission proposes to minimize burdens on all alerting participants, including small ones, by removing unnecessary alerting requirements. Namely, it proposes to permit, but not require, EAS Participants to meet their EAS obligations through the use of EAS software instead of dedicated hardware. This grants EAS Participants greater flexibility in how they design and configure their EAS systems. The Commission also seeks comment on

alternative methods of implementing EAS software, including the software authentication and operational readiness requirements, that could further minimize burdens on EAS Participants. For Participating CMS providers, the Commission proposes to retire support for 90-character WEA messages. We believe this will minimize burdens on Participating CMS Providers, including small providers, and alert originators by eliminating the redundancy of having to send both a 90-character-maximum message and a 360-character-maximum message. We also believe that this will reduce burdens on Participating CMS Providers because their networks will no longer need to parse multiple versions of alerts for distribution among various generations of wireless technology.

Having data on the issues the Commission proposes and seeks comment on in the Further Notice regarding costs, benefits, and potential impacts of resulting rule changes will assist the Commission in evaluating the economic impact on small entities. It will also help the Commission determine how to minimize any significant economic impacts on small entities and less burdensome alternatives that were not yet considered. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments and reply comments filed in response to the Further Notice. The Commission's evaluation of the record will shape the alternatives it considers, final conclusions it reaches, and the actions it takes to minimize any significant economic impact on small entities.

Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules. None.

Legal Authority. Sections 1, 2, 4(i), 4(n), 301, 303(b), 303(e), 303(g), 303(j), 303(r), 303(v), 307, 309, 316, 335, 403, 624(g), 706, and 713 of the Communications Act of 1934, as amended, 47 U.S.C 151, 152, 154(i), 154(n), 301, 303(b), 303(e), 303(g), 303(j), 303(r), 303(v), 307, 309, 316, 335, 403, 544(g), 606, and 613, as well as by sections 602(a), (b), (c), (f), 603, 604, and 606 of the WARN Act, 47 U.S.C. 1201 (a), (b), (c), (f), 1203, 1204 and 1206, and the National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388, sec. 9201, 47 U.S.C. 1201, 1206.

List of Subjects

47 CFR Part 0

Authority delegations (Government agencies), Classified information, Communications, Communications common carriers, Equal access to justice, Freedom of information, Government publications, Infants and children, Investigations, Organization and functions (Government agencies), Penalties, Postal Service, Privacy, Reporting and recordkeeping requirements, Sunshine Act, Telecommunications.

47 CFR Part 10

Communications, Communications common carriers, Communications equipment, Electronic products, Individuals with disabilities, Radio, Telecommunications.

47 CFR Part 11

Radio, Television.

Federal Communications Commission.

Marlene Dortch,
Secretary, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 0, 10 and 11 as follows:

PART 0—COMMISSION ORGANIZATION

- 1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 409, and 1754, unless otherwise noted.

- 2. Amend § 0.392 by redesignating paragraph (l) as paragraph (m) and adding new paragraph (l) to read as follows:

§ 0.392 Authority delegated.

* * * * *

(l) The Chief of the Public Safety and Homeland Security Bureau is delegated authority to revise the Code of Federal Regulations to adopt Emergency Alert System (EAS) location codes for inclusion in § 11.31(f) in response to a request from an alerting authority or State Emergency Communications Committee responsible for emergency alerting in that location.

PART 10—WIRELESS EMERGENCY ALERTS

- 3. The authority citation for part 10 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154(i), 154(n), 201, 301, 303(b), 303(e), 303(g), 303(j), 303(r), 307, 309, 316, 403, 544(g), 606, 1201, 1202, 1203, 1204, and 1206.

■ 4. Revise and republish § 10.430 to read as follows:

§ 10.430 Character limit.

A Participating CMS Provider must support transmission of an Alert Message that contains a maximum of 360 characters of alphanumeric text.

■ 5. Amend § 10.450 by revising paragraph (a) to read as follows:

§ 10.450 Geographic targeting.

* * * * *

(a) A Participating CMS Provider must deliver any Alert Message that is specified by a geocode, circle, or polygon to an area that matches the specified geocode, circle, or polygon.

(1) A Participating CMS Provider is considered to have matched the target area when it:

(i) delivers and displays each Alert Message on 100 percent of opted-in WEA-capable mobile devices that are connected to its network and located in the Alert Message's target area; and

(ii) does not display an Alert Message on WEA-capable mobile devices located more than 0.1 of a mile outside of the Alert Message's target area.

(2) Notwithstanding any other legal or regulatory requirements, any and all location data collected solely for the purpose of conducting WEA geographic targeting shall be:

(i) prohibited from being used for any purpose other than WEA geographic targeting, except as required by statute or law;

(ii) prohibited from being used by the mobile device, software on the mobile device, firmware on the mobile device, and/or any applications on the mobile device, except to conduct WEA geographic targeting and as otherwise required by statute or law;

(iii) prohibited from being transmitted off of the mobile device, including over the airwaves or network of the Participating CMS Provider, except as required by statute or law; and

(iv) deleted immediately after the geotargeting is performed, regardless of whether the geotargeting is successful or unsuccessful, except as required by statute or law.

(3) If a mobile device automatically enables location services upon receipt of a WEA message, location services must be disabled immediately after the device collects or attempts to collect the location data necessary for compliance with the requirements of this section.

* * * * *

■ 6. Revise § 10.460 to read as follows:

§ 10.460 Retransmission frequency.

Participating CMS Providers shall rebroadcast an Alert Message once per

minute until the Alert Message expires. For Alert Messages that expire at 24 hours, Participating CMS Providers shall cease rebroadcasting the Alert Message five minutes before the Alert Message's scheduled expiration.

■ 7. Amend § 10.500 by revising paragraph (g) to read as follows:

§ 10.500 General Requirements.

* * * * *

(g) Detection and suppression of presentation of duplicate alerts across Participating CMS Provider networks, including through the use of a universal Alert Message identifier.

* * * * *

PART 11—EMERGENCY ALERT SYSTEM (EAS)

■ 8. The authority citation for part 11 is revised to read as follows:

Authority: 47 U.S.C. 151, 152, 154 (i) and (n), 301, 303, 307, 309, 316, 335, 403, 544(g), 606, 613, 1201, and 1206.

■ 9. Amend § 11.2 by adding paragraph (e) to read as follows:

§ 11.2 Definitions.

* * * * *

(e) *EAS Software.* Software physically integrated within an EAS Participant's audio and video processing system that performs and/or manages the requirements specified in § 11.32, § 11.33, and § 11.56. EAS Software may be installed in a single device (such as a server, personal computer, or custom-manufactured system component), or across multiple components within an EAS Participant's signal processing system, but must be located at the EAS Participant's local facility used to provide service, such as a broadcaster's studio or transmitter site associated with its licensed service area, or cable service provider's headend facility. EAS functions and alerts produced within cloud-based systems, and cloud-based third-party EAS services, are excluded from this definition.

■ 10. Amend § 11.32 by revising paragraphs (a)(2) and (3), (a)(7), (a)(9)(iv) through (vi) to read as follows:

§ 11.32 EAS Encoder.

(a) * * *

(2) *Inputs.* The encoder shall have at least one virtual or physical input port used for audio messages and at least one input port used for data messages.

(3) *Outputs.* The encoder shall have at least one virtual or physical audio output port and at least one virtual or physical data output port.

* * * * *

(7) *Indicator.* An aural or visible means that is activated when the

Preamble is sent and deactivated at the End of Message code.

* * * * *

(9) * * *

(iv) *Time Period for Transmission of Tones.* The encoder shall accurately generate the two tones simultaneously for a time period of 8 seconds.

(v) *Inadvertent activation.* The controls used for initiating the automatic generation of the simultaneous tones shall be protected to prevent accidental operation.

(vi) *Indicator Display.* The encoder shall provide a visual and/or aural indicator which clearly shows that the Attention Signal is activated.

* * * * *

■ 11. Amend § 11.33 by revising paragraphs (a)(4) and (a)(7) to read as follows:

§ 11.33 EAS Decoder.

(a) * * *

(4) *Display and logging.* For received alert messages formatted in both the EAS Protocol and Common Alerting Protocol, a visual message shall be developed from any valid header codes for tests, national activations, and any preselected header codes received. The message shall at a minimum include the Originator, Event, Location, the valid time period of the message and the local time the message was transmitted. The message shall be in the primary language of the EAS Participant and be fully displayed on the decoder, decoder user interface, or other display available to participant operators and readable in normal light and darkness. The visual message developed from received alert messages formatted in the Common Alerting Protocol must conform to the requirements in §§ 11.51(d), (g)(3), (h)(3), and (j)(2) of this part. EAS decoders must provide a means to permit the selective display and logging of EAS messages containing header codes for state and local EAS events.

* * * * *

(7) *Outputs.* Decoders shall provide at least one data output port where received valid EAS header codes and received preselected header codes are available, at least one audio output port that is capable of monitoring each decoder audio input, and an internal speaker to enable personnel to hear audio from each input. EAS Software can comply with the internal speaker requirement by providing an additional audio output capable of driving external speakers.

* * * * *

■ 12. Amend § 11.34 by revising paragraphs (a) through (f) to read as follows:

§ 11.34 Acceptability of the equipment.

(a) An EAS Encoder used for generating the EAS codes and the Attention Signal must be Certified in accordance with the procedures in part 2, subpart J, of this chapter. The data and information submitted must show the capability of the equipment to meet the requirements of this part as well as the requirements contained in part 15 of this chapter for digital devices, with the exception that the requirement to demonstrate compliance with part 15 shall not apply to EAS Software.

(b) Decoders used for the detection of the EAS codes and receiving the Attention Signal must be Certified in accordance with the procedures in part 2, subpart J, of this chapter. The data and information submitted must show the capability of the equipment to meet the requirements of this part as well as the requirements contained in part 15 of this chapter for digital devices, with the exception that the requirement to demonstrate compliance with part 15 shall not apply to EAS Software.

(c) The functions of the EAS decoder, Attention Signal generator and receiver, and the EAS encoder specified in §§ 11.31, 11.32 and 11.33 may be combined and Certified as a single unit or as EAS Software defined in § 11.2(e) provided that the unit or EAS Software complies with all specifications in this rule section.

(d) Manufacturers must include instructions and information on how to install, operate and program an EAS Encoder, EAS Decoder, combined unit, or EAS Software as defined in § 11.2(e) and a list of all State and county ANSI numbers with each unit sold or marketed in the U.S.

(e) Waiver requests of the Certification requirements for EAS Encoders, EAS Decoders, or EAS Software which are constructed for use by an EAS Participant but are not offered for sale will be considered on an individual basis in accordance with part 1, subpart G, of this chapter.

(f) Modifications to existing authorized EAS decoders, encoders combined units, or EAS Software as defined in § 11.2(e) necessary to implement EAS codes specified in § 11.31 will be considered Class I permissive changes that do not require a new application for and grant of equipment certification under part 2, subpart J of this chapter.

* * * * *

■ 13. Revise and republish § 11.35 to read as follows:

§ 11.35 Equipment operational readiness.

(a) EAS Participants are responsible for ensuring that EAS Encoders, EAS

Decoders, Attention Signal generating and receiving equipment, Intermediate Devices, and EAS Software used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failure to receive the required tests or activations specified in § 11.61(a)(1) and (2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in §§ 73.1820 and 73.1840 of this chapter for all broadcast streams and cable system records as specified in §§ 76.1700, 76.1708, and 76.1711 of this chapter. All other EAS Participants must also keep records indicating reasons why any tests were not received and these records must be retained for two years, maintained at the EAS Participant's headquarters, and made available for public inspection upon reasonable request.

(b) If an EAS Encoder, EAS Decoder or Intermediary Device used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol becomes defective, the EAS Participant may operate without the defective equipment pending its repair or replacement for 60 days without further FCC authority. If EAS Software used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol becomes defective, the EAS Participant may operate without the defective equipment pending its repair or replacement for 72 hours without further FCC authority. Entries shall be made in the broadcast station log, cable system records, and records of other EAS Participants, as specified in paragraph (a) of this section, showing the date and time the equipment was removed and restored to service. For personnel training purposes, the required monthly test script must still be transmitted even though the equipment for generating the EAS message codes, Attention Signal and EOM code is not functioning.

(c) If repair or replacement of defective equipment is not completed within 60 days, or 72 hours in the case of EAS Software, an informal request shall be submitted to the Public Safety and Homeland Security Bureau for additional time to repair the defective equipment. This request must explain what steps have been taken to repair or replace the defective equipment, the

alternative procedures being used while the defective equipment is out of service, and when the defective equipment will be repaired or replaced.

■ 14. Amend § 11.55 by revising the introductory text of paragraph (d) to read as follows:

§ 11.55 EAS operation during a State or Local Area emergency.

* * * * *

(d) An EAS Participant that participates in the State or Local Area EAS, upon receipt of a State or Local Area EAS message that has been formatted in the Common Alerting Protocol and that has an event code and CAP area segment (using SAME geocodes or polygon/circle coordinates) indicating that it is a type of message that the EAS Participant normally relays, must do the following:

* * * * *

■ 15. Amend § 11.56 by revising paragraph (c) to read as follows:

§ 11.56 Obligation to process CAP-formatted EAS messages.

* * * * *

(c) EAS Participants shall configure their systems to reject all CAP-formatted EAS messages that do not include a valid digital signature.

* * * * *

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DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****49 CFR Parts 240 and 242**

[Docket No. FRA-2026-2014; Notice No. 1]

RIN 2130-AD65

Qualification and Certification of Locomotive Engineers and Conductors; English Language Proficiency and Other Requirements

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes to amend its regulations governing the qualification and certification of locomotive engineers and conductors to establish English language proficiency as a requirement for a railroad carrier to certify and recertify locomotive engineers and conductors. FRA also proposes that each railroad carrier conducting a triennial examination of skill performance, and an annual

operational monitoring observation for locomotive engineers, which are current requirements, conduct those examinations and observations without engaging energy management systems that limit the need for a locomotive engineer to operate the throttle or braking systems. Further, FRA proposes to codify limitations on operations at the southern border, including a 10 route-mile geographic limitation, to ensure domestic training, testing, and certification requirements for Mexican crew members are adequate. In addition, FRA proposes changes to clarify that a locomotive engineer or conductor's territorial qualification is limited to the specific direction of travel traversed during the qualification process.

DATES: Written comments must be received on or before September 29, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: You may submit comments identified by the Docket Number FRA–2026–2014 via the *Federal eRulemaking Portal*: <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Christian Holt, Staff Director-Operating Practices Division, FRA, telephone: 202–366–0978, email: Christian.Holt@dot.gov; or Michael Spinnicchia, Attorney Adviser, FRA, telephone: 202–713–7671, email: Michael.Spinnicchia@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Proposing New Requirements for English Language Proficiency (ELP)

FRA is responsible for ensuring the safety of rail operations throughout the nation. Under current regulations in 49 CFR parts 240 and 242, railroad carriers are required to certify that locomotive engineers and conductors possess the knowledge, skills, and abilities necessary to perform their duties safely. ELP is essential to safe rail operations in the U.S. as each railroad's rules and practices, and all written and verbal communications, take place in English. Further, on March 1, 2025, President Trump issued Executive Order (E.O.) 14224, designating English as the

official language of the U.S., and this proposed rule is consistent with E.O. 14224 in affirming each railroad carrier's duty to ensure every certified locomotive engineer and conductor possesses sufficient ELP in reading, speaking, and writing skills to do their jobs. This rule also responds to FRA's recent safety oversight of cross border operations where FRA found Mexican-domiciled crews who could not sufficiently communicate in the English language, posing a potential safety risk.

The proposed rule would confirm that English is mandatory and will be used at all stages of the training and testing certification process. By doing so, FRA is proposing to eliminate any potential loophole a railroad carrier may have created for a non-English proficient locomotive engineer or conductor to impact safe rail operations negatively. FRA proposes to enforce the ELP requirement against each railroad carrier or person responsible for allowing an unqualified person to be issued a locomotive engineer or conductor certification, as each railroad carrier issuing such a certification is a gatekeeper that could prevent allowing the unsafe person to work in safety-sensitive service.

FRA is unaware of any U.S. railroad carrier that does not already conduct the training and testing of locomotive engineers and conductors exclusively in English. Because this is the established industry standard, FRA is not proposing that railroad carriers must proactively amend their existing programs to incorporate rigorous training or testing of the English language for all new or existing certified locomotive engineers and conductors. For instance, any railroad carrier that currently requires all written and verbal communications be exclusively in English will not be required to alter its training or testing protocols, provided it has integrated sufficient internal checks to ensure that all personnel possess the necessary reading, writing, and verbal comprehension necessary for compliance with all rail safety requirements.

As the proposed rule would mandate all training and testing for certification in English, U.S. railroads should be able to assess quickly whether ELP might be an obstacle to certifying any person. Like DOT requirements for commercial motor vehicle (CMV) drivers issued by the Federal Motor Carrier Safety Administration (FMCSA),¹ FRA plans to

evaluate whether locomotive engineers and conductors read and speak the English language sufficiently to perform their duties safely and will expect each railroad carrier to do so, as proposed in this rule. For this reason, FRA proposes guidance in a new appendix for both parts 240 and 242, that provides a sample conversational interview that can be used to evaluate whether a person meets the proposed requisite conversational ELP suitable for law enforcement, emergency responders, or the public. Each railroad carrier should be able to evaluate during current training and testing whether the person can converse appropriately in English with dispatchers and other rail employees. Likewise, currently required tests of a railroad's rules and practices are expected to both ensure knowledge of those safety requirements and confirm reading comprehension skills that are ELP.

Revising Requirements for International Train Crew Operations

Mexican-Based Crews

Mexico has not established qualification requirements for locomotive engineers or conductors. In addition, Mexico has not provided similar governmental oversight of rail safety as the U.S. This disparity in qualification requirements and level of government oversight represents a safety risk. Thus, FRA's current certification rules for those Mexican-based crew members do not permit the controlling U.S. host railroad carrier to accept their locomotive engineer or conductor qualifications.

On December 19, 2025, DOT announced that during FRA's routine regulatory oversight of cross-border operations on Canadian Pacific Kansas City Limited (CPKC) and Union Pacific Railroad (UP), FRA observed "instances in which inbound [Mexican-based] crew members appeared to have difficulty interpreting General Track Bulletins and communicating safety requirements in English with [FRA] inspectors."² Because essential train documents, radio communications, and mandatory directives are maintained exclusively in English for U.S. operations, ELP is an inherent and essential component of qualification under FRA's locomotive engineer and conductor qualification and certification requirements. The ability of operating crews to

¹ See 49 CFR 391.11(b)(2) and FMCSA–DQ–391.11–FAQ001 (2025–05–22) (providing guidance on how a motor carrier can assess a CMV driver's ELP during the driver qualification process).

² Press Release, "Trump's Transportation Secretary Sean P. Duffy to Enforce English Language Proficiency Among Rail Crews Along the Southern Border," available at <https://www.transportation.gov/briefing-room/trumps-transportation-secretary-sean-p-duffy-enforce-english-language-proficiency>.

communicate accurately with dispatchers and emergency responders during a crisis is a safety-critical function that must be ensured. U.S. railroad carriers engaged in operations with Mexican railroad carriers would likely need to assess whether their existing training and testing adequately address the ELP issue, so that Mexican train crews abide by the proposed U.S. standards, as FRA proposes to hold those U.S. railroad carriers responsible for compliance.

Based on FRA's observations raising critical rail safety concerns, FRA proposes to amend its certification regulations to ensure that Mexican-based crews possess the necessary linguistic and operational skills to function safely or are otherwise assisted by qualified domestic personnel supplied by the U.S. host railroad carrier that controls the joint operation. Supported by the recent FRA investigations at the southern border finding non-ELP crews operating in the United States, as an additional check to ensure safe operations, this proposed rule includes a 10 route-mile geographic limit for Mexican-based crews,³ a requirement for U.S. railroad carriers to train and certify these crews independently, and a mandate for ELP or a pilot who is proficient in English and Spanish. Imposing both the ELP requirement and the 10 route-mile limitation at the southern border is appropriate and consistent with railroad safety, because railroad crews must be able to communicate fully and accurately when crossing into the United States, most notably with dispatchers and emergency responders during a crisis, as a safety-critical function. FRA has determined that the ELP requirement alone is not sufficient at the southern border to ensure safe operations in the United States and is therefore also proposing to impose the explicit 10 route-mile limit.

³ Allowing Mexican-domiciled crews to travel no farther than 10 route miles into the U.S. provides a railroad with operational flexibility and is consistent with other FRA regulations. *See, e.g.*, 49 CFR 219.3(d)(2)(i) (stating that certain alcohol and drug testing requirements do not apply to employees of foreign railroads whose primary reporting point is outside the U.S. and who do not perform train or dispatching service beyond 10 route miles from the point of entry into the U.S.). Further, this restriction should not disrupt a railroad's existing operations as it is FRA's understanding that these crews do not currently travel beyond 10 route miles from the point of entry into the U.S. The limitation is also consistent with the current crew exchange points as established by U.S. Customs and Border Protection, which are currently less than 10 miles from the points of entry at the southern border.

Canadian-Based Crews

In contrast to the southern border, where Mexico has not established qualification requirements for crew members and the Mexican government has not provided similar oversight of rail safety as the U.S., the U.S. and Canada have a long history of cooperation in rail operations. In the locomotive engineer and conductor certification context, this cooperation is based on both countries establishing qualification requirements for these safety-sensitive jobs. For instance, during the first rulemaking proposing locomotive engineer certification requirements in 1989, FRA explained that the proposed rule "contains a provision . . . which is designed to accommodate qualification determinations that are made pursuant to requirements issued by the Canadian Transport Commission in 1987."⁴ In the final rule, FRA explained that it was retaining the proposed provision "to accept qualification decisions made under the regulations issued by Transport Canada."⁵ Both FRA and Canada also established minimum qualification standards for conductors.⁶ The oversight provided by Canada is comparable to FRA's rail safety oversight, which provides significant assurances that railroad carriers will ensure that their locomotive engineers and conductors are qualified on the necessary safety requirements before allowing those regulated employees the opportunity to operate or be in charge of a train movement on their own. FRA also notes that while Canada has two official languages, the majority of Canadians use English as their primary language, thus reducing the overall risk of cross border operations by crews who cannot fully and accurately communicate in English.⁷

Though FRA has not identified similar safety issues with Canadian-based crew members as described above with Mexican-based crews, this proposed rule would ensure consistency by amending the locomotive engineer

⁴ 54 FR 50890, 50916 (Dec. 11, 1989) (referring to SOR/87-150 of the Canada Transportation Act, Railway Employee Qualification Standards Regulations).

⁵ 56 FR 28228, 28239 (June 19, 1991).

⁶ 76 FR 69802 (Nov. 9, 2011) (establishing 49 CFR part 242) and SOR/87-150 of the Canada Transportation Act, Railway Employee Qualification Standards Regulations.

⁷ *See also* 49 CFR 241.7(c)(3)(iii), reflecting that ELP requirements are not novel to FRA's regulations (stating "[t]he fringe border dispatcher shall communicate instructions to the train crew and maintenance of way employees working on the line in the English language and, when referencing units of measurement, shall use English units of measurement.").

and conductor certification regulations to ensure that inbound crews from Canada possess ELP.

Given that FRA has not identified similar ELP issues at the northern border, as those found in investigations of recent operations of Mexican-domiciled crews at the southern border, and after decades of experience of the U.S. and Canada working together monitoring rail safety compliance, FRA does not find it necessary to propose imposing a similar 10 route-mile limitation for northern border operations.

Otherwise, the proposed amendments to the certification regulations that impact Canadian-based crew members are non-substantive and merely are proposed to provide clarity. The regulatory amendments proposed in this rulemaking are intended to carry forward the U.S. and Canada's long and positive history of regulatory reciprocity on crew qualifications and certification.

Proposing a New Requirement for Testing and Observing Skills

Energy management systems have been commercially available since about 2009. These technologies have evolved over time from the early passive systems that advised a locomotive engineer to notch the throttle up or down based on an analysis of terrain data. Currently, the commonly used energy management systems are active systems designed to be initiated by the locomotive engineer, and then to operate the train with minimal intervention by the engineer. Railroad rules require engineers to use the technology as much as possible because it is effective at saving fuel.⁸

Despite being sometimes confused for automation, these systems are meant to be overridden by the engineer any time a railroad operating rule or practice might be violated—which means a failure of the system does not cause an unsafe condition directly. For this reason, FRA does not regulate a railroad's use of energy management systems. The main objective of these systems is to save fuel, not to substitute for the engineer. However, like a car's cruise control, they can be engaged for long periods and reliably stay under the

⁸ Each Class I freight railroad has rules mandating use of energy management systems like Trip Optimizer, which is manufactured by Wabtec, and LEADER, which is manufactured by New York Air Brake. As examples, with certain exceptions, BNSF's ABTH Rule 103.2.1 requires engineers to initiate and engage Trip Optimizer on all equipped trains. Norfolk Southern's NS-1 Rules for Equipment Operation and Handling, Section 60, similarly requires, with certain exceptions, that energy management systems, such as Trip Optimizer and LEADER, be used in auto control mode when operating conditions permit.

maximum authorized speed without the need for operator intervention. When engaged, the engineer may have few opportunities to engage the brake systems or to have hands-on-the-throttle operation of the train. For this reason, FRA is proposing that examination of an engineer's performance skills that occurs triennially and the operational monitoring observations that are required annually, must not be conducted when an energy management system that operates the throttle is engaged.

FRA is aware that some railroads are experimenting with using energy management systems in an integrated system with positive train control (PTC) or other critical-safety systems. To the extent there is integration with a critical-safety system, FRA does not propose the disengagement of that system to conduct skills testing or monitoring.

Proposing a New Requirement for Territorial Qualifications

During certification program reviews, audits, and inspections, FRA has noted that some railroad carriers have misinterpreted the territorial qualification requirements in ways that have a substantial negative safety impact. FRA currently requires each locomotive engineer and conductor to be qualified on the physical characteristics of any territory that they operate over with a locomotive or train, and has provided each railroad carrier with the discretion to decide what training and testing is required to meet that qualification requirement. Use of videos and simulator training is permitted and useful to supplement qualification familiarization rides that occur on a train. Typically, railroads have opted to state in their certification programs that only the regulatory minimum of at least one qualification ride is required, though it is not uncommon for experienced engineers and conductors to take 10 qualification rides over particularly challenging territories. The proposed changes to territorial qualifications requirements are intended to clarify the current requirements and to ensure that each railroad carrier meets FRA's intended minimum standards.

For these reasons, FRA proposes changes to clarify that a person's territorial qualification is limited to the specific direction of travel traversed during the qualification process. This proposed requirement would likewise clarify that a person is not qualified to serve as a locomotive engineer or conductor in a direction of travel for which they have not successfully

completed a qualification move and demonstrated knowledge of the physical characteristics as viewed from that direction. This focus on the direction of travel during a qualification ride is practical, because the visual perspective, signal placements, and gradient changes are unique to the orientation of the movement. For instance, landmarks and signal aspects that are critical for safety and compliance in one direction may not be visible, or may have different operational implications, when traveling in the opposite direction. By qualifying in the specific direction of travel, the railroad carrier ensures the engineer or conductor has demonstrated proficiency regarding the physical characteristics—such as permanent close clearances, switch locations, and track profiles—as they will actually be encountered during live operations, thereby reducing the risk of accidents caused by lack of situational awareness.

Legal Authority

FRA is proposing amendments to the regulations concerning the qualifications and certification of locomotive engineers and conductors based on the statutory general authority of the Secretary of Transportation (Secretary). The general authority states, in relevant part, that the Secretary “as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970.”⁹ The Secretary delegated this authority to the Federal Railroad Administrator.¹⁰

By statute, the Secretary is required to “prescribe regulations and issue orders to establish a program requiring the licensing or certification . . . of any operator of a locomotive.”¹¹ FRA fulfilled that statutory requirement in 1991 by issuing a regulation requiring each railroad carrier to file a locomotive engineer certification program with FRA.¹² Each railroad carrier's program must specify how the railroad carrier plans to make the determinations necessary to certify each of its locomotive engineers, as well as ensure that the certified locomotive engineers of other railroad carriers are qualified to operate safely on the controlling railroad carrier's track.¹³ A locomotive

engineer's main task is to operate the train safely. Other important tasks central to safe operation include ensuring that the locomotive mechanical requirements are met; coordinating with the conductor about operational details; and, under the conductor's supervision, interpreting train orders, signals, and operating rules.

FRA also administers and enforces statutorily mandated¹⁴ conductor certification requirements.¹⁵ FRA defines a conductor as the crewmember in charge of a train or yard crew,¹⁶ and the conductor's job requires supervising train operations to ensure they are safe. The conductor's responsibilities include managing the train consist; coordinating with the locomotive engineer for safe and efficient en route operation; interacting with dispatchers, roadway workers, and others outside the locomotive cab; and dealing with unexpected situations (e.g., mechanical problems).¹⁷ The purpose of the conductor certification regulation is to ensure that only those persons meeting minimum Federal safety standards serve as conductors.

Further, this proposed rule is consistent with President Trump's E.O. 14224, “Designating English as the Official Language of the United States,” by affirming each railroad carrier's duty to ensure every certified locomotive engineer and conductor possesses sufficient ELP in reading, speaking, and writing skills to do their jobs in our national language.¹⁸

II. Section-by-Section Analysis

Part 240, Subpart B—Component Elements of the Certification Process

§ 240.7 Definitions

The current regulation does not include two terms that are used in this proposed rule, “energy management system” and “English language proficient,” and thus FRA proposes to add them for clarity. The railroad industry should be familiar with the term energy management system (EMS) due to the widespread use of the

provided in an interpretation published Aug. 29, 2008. 73 FR 50883.

¹⁴ 49 U.S.C. 20163, Certification of train conductors.

¹⁵ 49 CFR part 242.

¹⁶ 49 CFR 242.7 (defining “conductor”).

¹⁷ Rosenhand, Hadar, Emilie Roth, and Jordan Multer, *Cognitive and Collaborative Demands of Freight Conductor Activities: Results and Implications of a Cognitive Task Analysis*, FRA (July 2012).

¹⁸ E.O. 14224, 90 FR 11363, Sec. 1, Purpose and Policy (stating “it is in America's best interest for the Federal Government to designate one—and only one—official language.”)

⁹ 49 U.S.C. 20103.

¹⁰ 49 CFR 1.89(a); 49 U.S.C. 103(g).

¹¹ 49 U.S.C. 20135.

¹² 56 FR 28254 (June 19, 1991), 49 CFR part 240.

¹³ See 49 CFR part 240, subpart B—Component Elements of the Certification Process, and § 240.229 (requiring certain action on the part of a railroad controlling the conduct of joint operations with another railroad). Additional guidance was

technology. For purposes of this rule, FRA proposes that an EMS will mean any onboard system, software, or device that automatically intervenes in, modifies, or provides guidance on throttle or braking application for purposes of optimizing train handling, fuel consumption, or energy use, regardless of the commercial name, designation, or classification assigned to the system by the railroad or manufacturer. This definition should include all EMS.

The term “English language proficient,” means possessing sufficient ability in the English language to complete successfully the railroad’s written and oral certification program requirements as provided in part 240. To verify such proficiency, FRA proposes three components in the definition. The first component will ensure that an engineer, through knowledge training and testing, will be able to read, to comprehend, and to apply all railroad rules and instructions in English. The second component will ensure the person can speak English with sufficient proficiency to communicate effectively with U.S. based dispatchers, other rail employees, emergency responders, and anyone else the person might need to speak with. The third component will ensure that the person can make required entries on reports, records, and forms in English, regardless of whether the entries are made on a computer or require handwriting. In the proposed definition, FRA clarifies that proficiency is not required to be measured against any general English fluency standard, as it is specific to the safety-critical communicative functions identified in the proposed definition, that are specific to the requirements of a locomotive engineer and railroad employee.

§ 240.123 Training

FRA proposes adding a new paragraph (g) to 49 CFR 240.123 to require that all training in accordance with this section must be conducted in English. This requirement ensures that training is communicated in a standardized language to maintain consistency and safety across the general system. The proposed change is consistent with other changes requiring the English language be used in every manner of implementation of the certification program, to reinforce the importance of ELP.

§ 240.125 Knowledge Testing

The proposed change to paragraph (b) would add the phrase “in the English language” and explicitly includes “signage” as a component of the

railroad’s rules and practices. This revision establishes a baseline requirement for ELP as it relates to safety-critical information. By requiring the test to determine knowledge in the English language, the proposed change would ensure that engineers can comprehend the standard language used for dispatching, emergency communications, and operating manuals in the United States. The addition of “including signage” emphasizes that the engineer must not only understand verbal or written rules but must also be able to interpret physical trackside signs and signals correctly, as they are presented in the field.

The proposed change to paragraph (c)(1) would append “in English” to the description of the test design. This paragraph currently governs the “testing methods” selected by a railroad, and thus the proposed change would mandate that the testing instruments themselves, *i.e.*, written or electronic exams, be designed and administered in English. This proposed change would prevent the use of translated versions of exams for certification purposes, ensuring that the candidate’s mastery of the rules is inseparable from their ability to process those rules in the language of the operating environment.

Proposed changes to paragraph (e) would specify that the opportunity to consult with a supervisory employee must occur “in English.” Existing regulations allow a candidate to ask for clarification on a question from a supervisor who possesses territorial qualifications. The proposal mandates that this exchange happen in English. This ensures the candidate can communicate complex technical questions and understand nuanced clarifications in English, and it maintains the integrity of the testing environment by ensuring that the assistance provided by the supervisor remains within the linguistic constraints required for the certification.

§ 240.127 Criteria for Examining Skill Performance

The proposed change to paragraph (c) is consistent with other proposed requirements in this rulemaking that would ensure certification training and testing are conducted in English and promote ELP. This paragraph currently requires a railroad to have procedures for examining skill performance. The proposal would ensure that testing procedures must be conducted in English and must specifically serve to test the English language proficiency of the candidate.

Proposed paragraph (c)(1) would add a sentence stating that operational monitoring observations shall not be conducted while “an energy management system that operates the throttle is engaged, unless the energy management system is integrated with a critical-safety system.” As explained in the *Background* section, allowing such systems to be used during an examination of skill performance would skew the exam, as the person would only be demonstrating skills when the system operating the throttle failed or was close to violating a railroad operating rule requirement. FRA is aware that these energy management systems also often use dynamic braking and eventually air brakes, and thus, are even more greatly integrated into train operations. In addition, if the energy management system is integrated with a critical-safety system, such as PTC, FRA proposed an exception so that safety is not compromised. Thus, the proposed change is consistent with the current regulations requiring that testing be held in the “most demanding class or type of service” because allowing a system that automates throttle controls, and potentially brakes too, could defeat the test’s purpose.

§ 240.129 Criteria for Monitoring Operational Performance of Certified Engineers

Proposed paragraph (c)(1) addresses the same safety issue of using a “non-safety-critical system that operates the throttle” when a railroad carrier is supposed to be determining whether a locomotive engineer can operate safely. The difference between the two sections is that § 240.127 applies to the skills performance examination that occurs every three years at certification and recertification, while paragraph (c)(1) of this section refers to the annual requirement to monitor a locomotive engineer for operational performance. In addition, if the energy management system is integrated with a critical-safety system such as PTC, FRA proposed an exception so that safety is not compromised. Thus, the proposed changes address whether a supervisor can evaluate an engineer’s manual train-handling skills if an EMS is controlling the locomotive’s power and speed during the observation.

Part 240, Subpart C—Implementation of the Certification Process

§ 240.203 Determinations Required as a Prerequisite to Certification

The proposed change to paragraph (a)(3) addresses whether the current knowledge testing requirements

sufficiently ensure an engineer's ability to interpret railroad-specific signage and whether the medium of testing is standardized for safety. Under current paragraph (a)(3), railroads must determine that an individual has the "necessary knowledge" demonstrated by a test meeting the requirements of § 240.125. The proposed change adds two critical qualifiers. First, it explicitly includes "signage" as a core component of the required knowledge of railroad rules and practices. Second, it would mandate that the test be conducted as a "written test in English." This ensures that the engineer's theoretical understanding of safety protocols is not only comprehensive regarding physical track indicators, but also validated through a standardized language used for safety communications in the U.S. By adopting this change, FRA would clarify that proficiency in interpreting signs and the ability to pass a written English exam are prerequisites for certification.

Proposed paragraph (a)(4) seeks to refine the terminology used to describe the validation of an engineer's performance skills, to ensure it aligns with broader testing standards. The current rule refers to an "operational performance test" that meets the requirements of § 240.127, but that cross-reference refers to the criteria for examining skill performance, and not the criteria for monitoring operational performance of certified engineers as found in § 240.129. The proposed amendment replaces "operational performance test" with the broader term "examination" to more closely match the cross-referenced requirement.

Proposed paragraph (a)(5) remains the same except to add an "and" at the end as a placeholder to add new paragraph (a)(6).

Proposed paragraph (a)(6) contains new specific requirements for ELP. The primary issue is whether an engineer can operate safely in a complex environment where communication with various stakeholders is essential to prevent accidents or respond to emergencies, and how to ensure those subjects are covered in training and testing. Currently, part 240 does not have a dedicated, multi-point English proficiency determination specifically for safety-critical communication and recordkeeping. Proposed paragraph (a)(6) would establish three specific proficiency benchmarks. Under paragraph (i), an engineer must be able to communicate train hazards and cargo information to emergency responders and the public, which is critical during derailments or HAZMAT incidents. Under paragraph (ii), the engineer must

be able to handle "mandatory directives" with dispatchers; as these directives govern track authority, any miscommunication could lead to head-on collisions. Finally, under paragraph (iii), the engineer must be able to document safety data accurately in reports. Thus, this paragraph would formalize ELP as a safety-critical skill, ensuring that engineers can effectively navigate the human and administrative elements of rail safety.

§ 240.227 Qualification Requirements for International Cross-Border Operations

FRA proposes amending this section to clarify and to improve the requirements for railroad carriers that conduct joint operations with Canadian or Mexican railroad carriers and seek to certify locomotive engineers for cross-border service. The proposed changes would provide continuity by recognizing the decades-long governmental qualification requirements of Canadian locomotive engineers, and providing a limited and clear path forward for a Mexican railroad carrier's locomotive engineers to operate in the U.S., despite not having the same longstanding history of operations as the U.S. and Canada. Accordingly, FRA proposes amending the title of this section so that it no longer reads "reliance on qualification requirements of other countries" to reflect the proposed content of this section better.

Paragraph (a) would clarify the impact of corporate structures on the employer-employee relationship for the purposes of this section. The proposed paragraph specifies that employees of a Canadian or Mexican railroad carrier are not to be considered employees of a U.S. railroad carrier, regardless of whether the foreign railroad carrier is a subsidiary of, or has a legal relationship with, a U.S. parent company. FRA also proposes a catch-all phrase that employees of a Canadian or Mexican railroad are not to be considered employees of a U.S. railroad if the foreign railroad "otherwise has a legal arrangement or other relationship with the controlling U.S. railroad" to capture all other formal legal arrangements, or even informal relationships. Thus, the plain meaning of this proposed requirement is to prohibit a U.S. railroad from considering the employees of a Canadian or Mexican railroad as employees of the U.S. railroad, despite a corporate structure that attempts to obscure the Canadian or Mexican railroad's employment relationship. This paragraph is intended to distinguish between the regulatory

responsibilities of the domestic railroad and the employment status of foreign personnel.

Paragraph (b) addresses proposed requirements for Canadian operations. It would allow a railroad carrier to certify a locomotive engineer employed by a Canadian railroad carrier, provided certain conditions are met. Specifically, as proposed, the U.S. railroad carrier must determine that the individual is employed by the Canadian railroad carrier, and meets or exceeds the qualification standards issued by Transport Canada. Proposed paragraphs (b), (b)(1), and (b)(2), are intended to capture the current regulatory text of 49 CFR 240.227. As discussed in the *Background* section, FRA does not have the same concerns regarding safe operations at the northern border as it has with the southern border.

Paragraph (c) proposes requirements for Mexican-based operations. Under this paragraph, a railroad carrier would be permitted to certify an engineer employed by a Mexican railroad carrier only if the person is trained, tested, and certified directly by the U.S. railroad carrier, in accordance with its own FRA-approved program. As discussed in the *Background* section, in contrast to Transport Canada, Mexico does not have comparable regulatory oversight. The U.S. railroad carrier is prohibited explicitly from relying on qualification determinations made by Mexican railroad carriers or Mexican governmental agencies. Further, to ensure safe operations at the southern border, this paragraph would limit the Mexican engineer's operations to a continuous movement between the international border and a U.S. railroad yard that has a southernmost point of entry within 10 route miles of the international border point of entry. The proposed rule would also require the Mexican-based engineer to be English language proficient or be accompanied by a U.S.-certified and territory-qualified locomotive engineer pilot who is proficient in English and Spanish.

Paragraph (d) proposes an option for a single, dual-certified pilot to assist a Mexican-based railroad crew. If neither the engineer nor the conductor is proficient in English, this proposed paragraph would allow a single U.S. railroad employee to serve as a pilot for both crew members. To ensure safety, this pilot would be required to be certified as both a locomotive engineer under part 240 and a conductor under part 242, be qualified on the specific territory, and be proficient in English and Spanish. This provision is intended to provide operational flexibility while maintaining rigorous safety and

communication standards in cross-border joint operations territory.

FRA is not proposing a similar single, dual-certified pilot option for Canadian crews as FRA has no evidence of non-English language proficient Canadian crews. If, through comments or other reliable information, FRA becomes aware of such a safety issue, FRA may consider adding a similar 10 route-mile operation limitation for joint operations with Canadian railroad crews as it has for Mexican crews, or some other reasonable limitations on Canadian railroad crew operations.

§ 240.231 Requirements for Locomotive Engineers Unfamiliar With Physical Characteristics in Other Than Joint Operations

Proposed paragraph (a) addresses the issue raised in the *Background* section that some railroads have misinterpreted the territorial qualification requirements in ways that have a substantial negative safety impact. FRA proposes changes to clarify that a person's territorial qualification is limited to the specific direction of travel traversed during the qualification process. This proposed requirement would likewise clarify that a person is not qualified to serve as a locomotive engineer in a direction of travel for which they have not successfully completed a qualification move and demonstrated knowledge of the physical characteristics as viewed from that direction.

Appendix B to Part 240—Procedures for Submission and Approval of Locomotive Engineer Qualification Programs

The current appendix establishes the procedures for submission and approval of a railroad's certification program as required in part 240. The proposed changes to the description for the submission by a railroad carrier address that each railroad carrier will need to comply with the ELP requirements proposed in this rule, but that FRA is not proposing that each railroad carrier will be required to submit or resubmit a certification program solely because its program does not address the proposed ELP requirements. FRA explains in the appendix that no submission or resubmission of programs would be required, but railroad carriers would simply be expected to comply with the ELP requirements once a final rule in this docket is effective. FRA anticipates that, except for approximately 93 Mexican-based crewmembers¹⁹ operating near the

Mexican border, engineers certified by U.S. railroad carriers would not have difficulty meeting ELP requirements. This rule would ensure that any non-English language proficient engineers are restricted from operating until they receive the proper training and can pass all the required tests as necessary to do the job safely. The proposed appendix explains that FRA retains enforcement discretion if, after the effective date of a final rule, non-English language proficient engineers are found operating without English language proficient qualified pilots.

As this proposed rule would remove the emphasis in § 240.227 that a railroad may rely on a determination made in other countries, FRA proposes to amend the procedures in Section 7 to explain that § 240.227 contains the qualification requirements for international cross-border operations, which requires a railroad carrier to document the factual basis the railroad carrier relied on in making its determinations, including the procedures it will employ to ensure compliance with these provisions. Thus, FRA expects a railroad carrier with international cross-border operations to describe its training, testing, and qualification procedures required to comply with § 240.227 and then to retain records demonstrating compliance.

Appendix H to Part 240—Recommended Procedures for Conducting English Language Proficiency Evaluations

This proposed new appendix is intended to provide useful information regarding how a railroad carrier can include procedures ensuring that each certified locomotive engineer is English language proficient to the extent that the person can safely perform assigned duties. It covers the need for a systematic approach that ensures the railroad carrier makes a correct determination that the person can perform the job in English. As part of that determination, railroad carriers that do not already include conversational interviews in their certification programs are recommended to add

daily average of 31. See Bureau of Transportation Statistics (BTS) Data Inventory, available at <https://data.bts.gov/stories/s/Tables-Query-Tool/6rt4-smhh>. To estimate the total number of crew members who would need to be trained, FRA multiplied the total daily train count (31) from BTS by the estimated number of crew on board (2) to estimate a baseline number of 62 crew members. Since it is likely that the 62 crew members are not working 365 days a year, FRA assumed there would be additional crew members who need to be trained. FRA applied a 50 percent multiplier to the daily baseline to estimate additional crew members, resulting in 93 total crew members (62 crew members * 1.5 = 93).

them. Railroad carriers are recommended to use training and testing involving required reporting and recordkeeping to ensure ELP requirements are met. The appendix contains recommendations for how to evaluate ELP and detect problems objectively. Each railroad carrier is recommended to retain a written evaluation record to reduce the risk that the evaluators will introduce subjectivity into an ELP determination. Rather than mandating specific Federal standards or tests, FRA is proposing that railroad carriers develop their own tests and standards to evaluate each person—which retains the general approach of FRA's certification requirements that provide the flexibility each railroad carrier may need to design training and testing that conforms with a particular operation. Certainly, it could be expected that some railroad associations or groups of railroad carriers may find common ground and develop shared standardized training and testing. Further, while a railroad carrier may want to score any ELP tests, the appendix concludes that the standard against which any scoring system should be measured is whether the person possesses functional proficiency in the safety-critical communicative functions required for their duties, not general English fluency.

Part 242, Subpart B—Program and Eligibility Requirements

§ 242.7 Definitions

The proposed changes to this section mirror the changes proposed for 49 CFR 240.7, with the exception that this section applies to conductors instead of locomotive engineers. For that reason, the section-by-section analysis for the proposed changes to the locomotive engineer regulation can be read to apply to this conductor regulation.

§ 242.109 Determinations Required for Certification and Recertification

The proposed changes to this section are similar to the changes proposed for 49 CFR 240.203, with the exception that this section applies to conductors instead of engineers. For that reason, the section-by-section analysis for the proposed changes to the engineer regulation can be read to apply to this conductor regulation.

§ 242.119 Training

The proposed changes to this section are similar to the changes proposed for 49 CFR 240.123 and other changes for ELP, with the exception that this section applies to conductors instead of engineers. For that reason, the section-

¹⁹ In 2025, there were 11,309 total inbound trains from Mexico. FRA divided this by 365 to get the

by-section analysis for the proposed changes to the engineer regulation can be read to apply to this conductor regulation.

§ 242.121 Knowledge Testing

The proposed changes to this section are similar to the changes proposed for 49 CFR 240.125 and other changes for ELP, with the exception that this section applies to conductors instead of engineers. For that reason, the section-by-section analysis for the proposed changes to the engineer regulation can be read to apply to this conductor regulation.

§ 242.127 Qualification Requirements for International Cross-Border Operations

The proposed changes to the title of this section and the section itself mirror the changes proposed for 49 CFR 240.227, with the exception that this section applies to conductors instead of engineers. Thus, the section-by-section analysis for the proposed changes to part 240 can be read to apply to part 242.

Part 242, Subpart D—Territorial Qualification and Joint Operations

§ 242.301 Requirements for Territorial Qualification

The proposed changes to this section are similar to the changes proposed for 49 CFR 240.231 regarding territorial qualifications, with the exception that this section applies to conductors instead of engineers, and a paragraph was added, not amended. For that reason, the section-by-section analysis for the proposed changes to the engineer regulation can be read to apply to this conductor regulation.

Appendix B to Part 242—Procedures for Submission and Approval of Conductor Certification Programs

The proposed changes to this appendix mirror the changes proposed for part 240, appendix B, albeit that the number and title of the section proposed for amendment are different. For that reason, the section-by-section analysis for the proposed changes to part 240, appendix B, can be read to also apply to part 242, appendix B.

Appendix F to Part 242—Recommended Procedures for Conducting English Language Proficiency Evaluations

The proposed addition of this appendix mirrors the proposed addition for part 240 for new appendix H. For that reason, the section-by-section analysis for the proposed addition of part 240, appendix H, can be read to also apply to part 242, appendix F.

III. Regulatory Impact and Notices

A. E.O. 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

E.O. 12866 (“Regulatory Planning and Review”)²⁰ requires agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose the least burden on society.” 49 CFR 5.5(g) specifies that regulations generally should “not be issued unless their benefits are expected to exceed their costs.” E.O. 12866 states that agencies should consider “both quantifiable measures . . . and qualitative measures of costs and benefits that are difficult to quantify.” Under E.O. 12866, “agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating” and should select regulatory approaches that “maximize net benefits . . . unless a statute requires another regulatory approach.”

E.O. 12866 and 49 CFR part 5 also require that FRA submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) within the Executive Office of the President’s Office of Management and Budget (OMB) for review. This proposed rule is a significant regulatory action pursuant to section 3(f) of E.O. 12866.

This rule proposes to amend parts 240 and 242 by requiring ELP for all U.S. railroad carriers, to certify and recertify locomotive engineers and conductors, requiring that the examination of an engineer’s performance skills and operational monitoring observations must not be conducted when an EMS that operates the throttle is engaged, and clarifying that a person’s territorial qualification is limited to the specific direction of travel traversed during the qualification process. In addition, this proposed rule would revise requirements for international train crew operations, by requiring a 10 route-mile geographic limit for Mexican-based crews, a requirement for U.S. railroad carriers to train and certify these crews independently, and a mandate for ELP or piloting by a person who is proficient in English and Spanish. FRA is proposing these changes to reduce the risk of potential costly accidents caused by crews not being English language proficient. The changes are also consistent with E.O. 14224.

²⁰ 58 FR 51735 (Oct. 4, 1993).

Need for Regulation

With this proposed rule, FRA aims to reduce the risk of accidents caused by miscommunication, or the inability to interpret written safety materials, by including procedures that ensure each certified locomotive engineer and conductor would be English language proficient to perform duties safely. Though FRA is unaware of any accidents due to a language barrier, there is a safety risk due to a potential loophole a railroad carrier may have created for a non-English language proficient engineer or conductor to be trained and certified. For example, if the railroad employee has received a mandatory directive through the radio, but they do not understand it due to a lack of ELP, there is a potential safety risk.²¹ This includes international crews who would have crossed the border enroute to the interchange location, as FRA has observed instances where Mexican-based crews could not communicate with inspectors. If a mandatory directive is transmitted to the crew through the radio and a language barrier exists, a safety risk to life and property would be present. In addition, the 10-route mile limit is needed to ensure safe operations of Mexican-based crews in the United States.

The proposed new requirement for testing and observing skills, and the new requirement for territorial qualifications, are needed to provide clarity during the certification process. When EMS is engaged during the monitoring of performance skills, the engineer may have few opportunities to engage the brake systems and to have hands-on-the-throttle operation of the train. To ensure that the engineer is in full operation of the throttle or braking system, the regulation would need to be updated to confirm EMS cannot be engaged. For the territorial qualification provision, FRA has noted during audits that some railroad carriers have misinterpreted the territorial qualification requirements in ways that have a substantial negative safety impact. Clarification is needed to ensure that a locomotive engineer or conductor’s territorial qualification is limited to the specific direction of travel traversed during the qualification process.

²¹ See Press Release, “Trump’s Transportation Secretary Sean P. Duffy to Enforce English Language Proficiency Among Rail Crews Along the Southern Border,” available at <https://www.transportation.gov/briefing-room/trumps-transportation-secretary-sean-p-duffy-enforce-english-language-proficiency>.

Regulatory Options

1. No Action Baseline

One alternative approach to this proposed rule would be the no action baseline. Under the baseline, while FRA is unaware of any accidents due to a language barrier, there is currently a safety risk due to any potential railroad carriers training and certifying a non-English language proficient engineer or conductor. For example, if a crew member has received a mandatory directive through the radio but they do not understand it due to a lack of ELP, a safety risk is possible. The proposed rule would mitigate these potential risks and would prevent a scenario where an accident could occur due to a lack of ELP.

FRA currently requires each locomotive engineer and conductor to be qualified on the physical characteristics of any territory that they operate over with a locomotive or train, and has provided each railroad carrier with the discretion to decide what training and testing is required to meet that qualification requirement. FRA has noted during audits that some railroad carriers have misinterpreted the territorial qualification requirements. With respect to EMS, currently for testing and observing, when EMS is engaged, the engineer may have few opportunities to engage the brake systems and throttle during the operation of the train. To ensure that the engineer is in full operation of the throttle or braking system, the proposal would update the rule so that EMS is not engaged during testing.

2. Requiring Resubmission of Training Programs for ELP Compliance

Another alternative approach to this proposed rule would be to require all railroad carriers to resubmit their certification programs to comply with ELP requirements. This would ensure that all railroad carriers comply with the revisions to the rule. However, this would result in undue costs for all U.S. railroad carriers to prepare and submit the program, as FRA is unaware of any U.S. railroad carriers who do not already train and test locomotive engineers and conductors in English. This proposed alternative offers less flexibilities to U.S. railroad carriers that may not outweigh the imposed costs. Instead, in this proposed rule, each railroad carrier would not be required to submit or resubmit a certification program for compliance with ELP. This would result in benefits, such as time saved by railroad companies, as they would not have to update and submit or

resubmit their program because of the ELP requirements.

Benefits

FRA analyzed the potential benefits and costs of this proposed rule. There would be several qualitative benefits that would result from this proposed rule. Specifically, this proposed rule would reduce the risk of accidents caused by the inability to interpret written safety materials or miscommunication due to a lack of ELP, by requiring ELP for all locomotive engineers and conductors operating in the U.S. Similarly, the requirement for Mexican-based crews to be English language proficient or be accompanied by a bilingual crew member would reduce the risk of accidents caused by international crews failing to interpret accurately or understand mandatory directives. The addition of the 10 route-mile limit for Mexican-based crews provides consistency with other FRA regulations.²²

In addition, this proposed rule would clarify that territorial qualifications must be direction specific. This would reduce the risk of accidents caused by a lack of situational awareness, as visual perspective, signal placements, and gradient changes are unique to the orientation of the movement. The requirement for testing and observing skills ensures supervisors would accurately be able to evaluate an engineer's manual train handling skills without EMS engaged.

Costs

The proposed rule would require that the examination of an engineer's performance skills and operational monitoring observations be conducted when an EMS is not engaged. As this provision is clarifying, FRA anticipates no additional costs associated with this change. Additionally, this proposed rule would clarify that a person's territorial qualification is limited to the specific direction of travel traversed during the qualification process. FRA acknowledges there may be *de minimis* costs associated with the territorial qualification requirement. FRA seeks comment on the potential costs of both proposed requirements.

The proposed rule would require U.S. railroad carriers to ensure that all locomotive engineers and conductors would be English language proficient through the training and certification process. FRA is unaware of any U.S. railroad carrier that does not already conduct the training and testing of locomotive engineers and conductors

exclusively in English. Because FRA is not proposing that each railroad carrier be required to submit or resubmit a certification program solely because its program does not address the proposed ELP requirements, for most railroad carriers, it is unlikely substantive changes would be required. FRA anticipates there would be *de minimis* costs associated with railroad carriers' reviews of their current training programs in compliance with the proposed ELP requirements.

This proposed rule would also require a 10 route-mile geographic limit for Mexican-based crews, and a requirement for U.S. railroad carriers to train and certify these crews independently. Currently, all crew interchanges at the southern border happen at the border or at interchange yards less than 10 miles into the U.S.²³ Therefore, this provision would not be expected to have additional costs. For the international crew certification requirement, UP and CPKC already certify crews from Mexico upon entry into the U.S.²⁴ No additional costs would be expected from this provision.

In addition, this proposed rule would require ELP, or an option for a pilot for Mexican-based operations, who is proficient in English and Spanish. U.S. railroad carriers engaged in operations with Mexican railroad carriers likely would need to assess whether their existing training and testing adequately addresses the revised ELP provisions, so that Mexican-based crews abide by the proposed standard. FRA anticipates this likely would include testing for ELP by U.S. railroad carriers, of Mexican-based crews, resulting in *de minimis* costs.

According to FRA subject matter experts, it would be unlikely that U.S. railroad carriers would choose the option for an English and Spanish proficient pilot, and would instead mandate ELP for Mexican-based crews. Based on data from the U.S. DOT Bureau of Transportation Statistics, FRA estimates there are about 31 daily train entries from Mexico into the U.S. through various entry points along the southern border.²⁵ Assuming each train

²³ Association of American Railroads, "Freight Rail International Interchange," available at: <https://www.aar.org/issue/international-interchange/> (accessed June 5, 2026).

²⁴ *Id.*; see also UP, "Union Pacific Enhances Safety and Security at Eagle Pass Border Crossing," available at: <https://www.up.com/news/service/enhancing-safety-at-eagle-crossing-251121> (accessed June 5, 2026).

²⁵ In 2025, there were 11,309 total inbound trains from Mexico. FRA divided this by 365 to get the daily average of 31. See Bureau of Transportation Statistics (BTS) Data Inventory, available at <https://data.bts.gov/stories/s/Tables-Query-Tool/6rt4-smhh>.

²² See 49 CFR 219.3(d)(2)(i).

has two crew members, plus backups, FRA estimates 93 Mexican-based crew members that need to be trained for ELP.²⁶ FRA recognizes that it is likely not all Mexican-based crew members would need to be trained for ELP, as some may already be English proficient. To avoid underestimating, FRA assumed that all 93 Mexican-based crew members would need training. FRA recognizes this might overestimate the total costs but provides these estimates as an upper bound.

FRA welcomes public comment on the length of time rail carriers would require, to ensure that crew members are compliant with the proposed requirements related to ELP, energy management systems, and territorial qualification.

FRA is not requiring general English fluency, but rather functional proficiency in safety critical communicative functions required for the job duties of locomotive engineers and conductors. FRA is not mandating how railroad carriers train their crews in

English, but for purposes of this analysis, FRA is assuming crew members would take English courses during their normally scheduled work hours.²⁷

Table 1 shows the costs to U.S. railroad carriers over a 10-year period for railroads to train Mexican-based crews for ELP. FRA estimates that the first-year cost to train 93 employees would cost \$43,431 to U.S. railroad carriers and an additional \$934 to U.S. railroad carriers in each subsequent year.

TABLE 1—U.S. RAILROAD CARRIER ELP TRAINING COSTS FOR MEXICAN-BASED CREWS
[2025, \$]

Year	Number of employees ²⁸	English language course cost	Total cost—ELP
	a	b	c = a × b
1	93	\$467	\$43,431
2	2	467	934
3	2	467	934
4	2	467	934
5	2	467	934
6	2	467	934
7	2	467	934
8	2	467	934
9	2	467	934
10	2	467	934
Total	111	.....	51,837

FRA estimates this proposed rule would result in costs to U.S. railroad carriers of \$49,516 over a 10-year period (discounted at seven percent) in 2025

dollars and \$50,703 over a 10-year period (discounted at three percent, 2025 dollars). The annualized costs of this proposed rule would be \$7,050

discounted at seven percent and \$5,944 discounted at three percent in 2025 dollars. Table 2 below shows the total costs for this proposed rule.

TABLE 2—10-YEAR TOTAL COSTS TO U.S. RAILROAD CARRIERS

Year	ELP training costs	Discounted 7%	Discounted 3%
1	\$43,431	\$43,431	\$43,431
2	934	873	907
3	934	816	880
4	934	762	855
5	934	713	830
6	934	666	806
7	934	622	782
8	934	582	759
9	934	544	737
10	934	508	716
Total	51,837	49,516	50,703
Annualized .....	.....	7,050	5,944

²⁶ To estimate the total number of crew members who would need to be trained, FRA multiplied the total daily train count (31) by the estimated number of crew on board (2) to estimate a baseline number of 62 crew members. Since it is likely that the 62 crew members are not working 365 days a year, FRA assumed there would be additional crew members who need to be trained. FRA applied a 50 percent multiplier to the daily baseline to estimate additional crew members, resulting in 93 total crew members (62 crew members * 1.5 = 93).

²⁷ English language course types vary from private self-paced online courses to corporate group courses. For purposes of this analysis, FRA assumed U.S. railroad carriers would choose an online English language group program to train Mexican-based crews. Based on examples of five different online language platforms, the average cost was \$467 (2025 dollars). See Berlitz Languages, available at <https://shopberlitz.us/english/>; Washington English Center, available at <https://www.washingtonenglish.org/students/>; Berlitz Business, available at <https://www.berlitz.com/corporations/>; International Language Institute,

available at <https://ilidc.com/esl/tutorials/>; Temple University, available at <https://noncredit.temple.edu/search/publicCourseSearchDetails.do?method=load&courseId=197068321>.

²⁸ Due to attrition, FRA assumes two employees would need to be trained in ELP every year. Based on Surface Transportation Board (STB) employment data, employment has increased on average by 2 percent per year (2021–2024) for L600—Transportation Train and Engine employees. STB Employment Data, available at <https://www.stb.gov/reports-data/economic-data/employment-data/>.

FRA requests comments on the benefits and costs associated with this proposed rule.

B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”²⁹ Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.³⁰

This rule responds to E.O. 14224, Designating English as the Official Language of the United States. A determination of whether a final rule here would be considered “regulatory” or partially or fully exempt from the requirements of E.O. 14192 will be made when any final rule in this rulemaking is issued.

C. Regulatory Flexibility Act and E.O. 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,³¹ and E.O. 13272 (67 FR 53461, Aug. 16, 2002) 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. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these entities. An agency must prepare an Initial Regulatory Flexibility Analysis (IRFA) unless it certifies that a rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. FRA does not anticipate this proposed rule would have a significant economic impact on a substantial number of small entities but has prepared this IRFA to aid the public in providing comments on any potential economic impacts.

²⁹ Executive Office of the President, Executive Order 14192 of January 31, 2025, *Unleashing Prosperity Through Deregulation*, 90 FR 9065–9067 (Feb. 6, 2025).

³⁰ Executive Office of the President, OMB, *Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation,”* Memorandum M–25–20 (Mar. 26, 2025).

³¹ Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

1. Reasons for Considering Agency Action

FRA is initiating this rulemaking to amend its regulations governing the qualification and certification of engineers and conductors, to establish ELP requirements and to require international crews to be English language proficient. As discussed above, FRA observed “instances in which inbound [Mexican-based] crew members appeared to have difficulty interpreting General Track Bulletins and communicating safety requirements in English with [FRA] inspectors.”³² FRA is proposing to amend this regulation, as the ability of operating crews to communicate accurately with dispatchers and emergency responders during a crisis is a safety-critical function. FRA aims to reduce the risk of potential costly accidents caused by crews not being English language proficient.

FRA also proposes that each railroad carrier conducting a triennial examination of skill performance and an annual operational monitoring observation for engineers conduct those without engaging EMS that limit the need for an engineer to operate the throttle or braking systems. When engaged, the engineer may have few opportunities to engage the brake systems or have hands-on-the-throttle operation of the train. For this reason, FRA is proposing that examination and operational monitoring observations must not be conducted when an EMS that operates the throttle is engaged.

In addition, FRA proposes to clarify that a person’s territorial qualification is limited to the specific direction of movement traversed during the qualification process. FRA proposes this revision to clarify the current requirements, and to ensure that each railroad carrier meets FRA’s intended minimum standards.

2. Objective and Legal Basis for the Proposed Rule

FRA is proposing amendments to the regulations concerning the qualifications and certification of locomotive engineers and conductors based on the statutory general authority of the Secretary of Transportation (Secretary). By statute, the Secretary is required to “prescribe regulations and issue orders to establish a program requiring the licensing or certification

³² Press Release, “Trump’s Transportation Secretary Sean P. Duffy to Enforce English Language Proficiency Among Rail Crews Along the Southern Border,” available at <https://www.transportation.gov/briefing-room/trumps-transportation-secretary-sean-p-duffy-enforce-english-language-proficiency>.

. . . of any operator of a locomotive.”³³ FRA fulfilled that statutory requirement in 1991 by issuing a regulation requiring each railroad carrier to file a locomotive engineer certification program with FRA.³⁴ Each railroad carrier’s program must specify how the railroad carrier plans to make the determinations necessary to certify each of its locomotive engineers, as well as ensure that the certified locomotive engineers of other railroad carriers are qualified to operate safely on the controlling railroad carrier’s track.³⁵ FRA also administers and enforces statutorily mandated conductor certification requirements.³⁶

By amending its regulations governing the qualification and certification of locomotive engineers and conductors to establish ELP as a requirement, the proposed rule would more closely align with E.O. 14224, designating English as the official language of the U.S. This proposed rule is consistent with E.O. 14224 in affirming each railroad carrier’s duty to ensure that every certified locomotive engineer and conductor possesses sufficient ELP to do their jobs.

3. Description of and Estimated Number of Small Entities Affected

The Regulatory Flexibility Act of 1980 requires a review of proposed and final rules to assess their impact on small entities, unless the Secretary certifies that the rule would not have a significant economic impact on a substantial number of small entities. “Small entity” is defined in 5 U.S.C. 601 as a small business concern that is independently owned and operated and is not dominant in its field of operation. The U.S. Small Business Administration (SBA) has authority to regulate issues related to small businesses and stipulates in its size standards that a “small entity” in the railroad industry is a for profit “line-haul railroad” that has fewer than 1,500 employees, a “short line railroad” with fewer than 1,500 employees, or a “commuter rail system” with annual receipts of less than \$47.0 million.³⁷

³³ 49 U.S.C. 20135.

³⁴ 56 FR 28254 (June 19, 1991), 49 CFR part 240.

³⁵ See 49 CFR part 240, subpart B—Component Elements of the Certification Process, and § 240.229 (requiring certain action on the part of a railroad controlling the conduct of joint operations with another railroad). Additional guidance was provided in an interpretation published Aug. 29, 2008. 73 FR 50883.

³⁶ 49 CFR part 242, Qualification and Certification of Conductors.

³⁷ U.S. SBA, “Table of Small Business Size Standards Matched to North American Industry Classification System Codes” (Mar. 17, 2023),

Federal Agencies may adopt their own size standards for small entities, in consultation with SBA, and in conjunction with public comment. Under that authority, FRA published a statement of agency policy that formally establishes “small entities” or “small business” as railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad, as set forth in 49 CFR 1201.1, which is \$20 million or less in inflation-adjusted annual revenues.³⁸ For commuter railroads or small Governmental jurisdictions, small entities are those that serve populations of 50,000 or less.³⁹ FRA is using this definition for the proposed rule.

FRA considered the impact that the proposed rule would have on small entities. FRA estimates that the provisions for international train crew operations would impact two Class I railroads. Neither of these railroads are classified as small entities. FRA estimates that the provisions for new requirements for ELP would not have a significant economic impact on any railroad carriers, including small entities, as FRA is unaware of any U.S. railroad carrier that does not already conduct their training and testing of locomotive engineers and conductors exclusively in English. FRA anticipates there would be *de minimis* costs associated with railroad carriers’ reviews of their current training programs in compliance with the proposed ELP requirements. Moreover, FRA is not proposing to require railroad carriers to submit or resubmit their training programs. The revisions proposing new requirements for testing and monitoring a certified locomotive engineer or conductor’s skill set, and the new requirement for territorial qualification, are clarifying provisions. Therefore, FRA does not estimate these revisions will impact any small entities. FRA welcomes comments from the public about whether small entities are impacted by this proposed rule, and whether that impact would be significant.

available at: <https://www.sba.gov/document/support-table-size-standards> (accessed June 5, 2026).

³⁸ The Class III railroad revenue threshold is \$48.2 million or less for 2024. (The Class II railroad threshold is between \$48.2 million and \$1.07 billion.) See STB data, available at <https://www.stb.gov/reports-data/economic-data/>.

³⁹ 68 FR 24891 (May 9, 2023) (codified at 49 CFR part 209, app. C).

4. Description of the Proposed Reporting, Recordkeeping, and Other Compliance Requirements of the Rule

As part of the proposed rule, railroad carriers will not be required to submit or resubmit their training plans to comply with the revisions. No additional reporting, recordkeeping, or other compliance requirements for small entities are necessary with this proposed rule.

5. Identification of the Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

FRA is not aware of any Federal rule that duplicates, overlaps with, or conflicts with the proposed rule.

6. Significant Regulatory Alternatives No Action Alternative

One alternative approach to this proposed rule would be the no action baseline. Under the baseline, while FRA is unaware of any accidents due to a language barrier, there is currently a safety risk due to any potential railroad carriers training and certifying a non-English language proficient engineer or conductor. For example, if the railroad employee has received a mandatory directive through the radio, but they do not understand it due to a lack of ELP, a safety risk is possible. The proposed rule would mitigate these potential risks, and would prevent a scenario where an accident could occur due to a lack of ELP.

Requiring Resubmission of Training Programs for ELP Compliance

Another alternative approach to this proposed rule would be to require all railroad carriers to resubmit their certification programs to comply with ELP requirements. This would ensure that all railroad carriers comply with the revisions to the rule. However, this would result in costs for all railroad carriers, including Class III railroads, to prepare and submit the program. In this proposed rule, each railroad carrier would not be required to submit or resubmit a certification program for compliance with ELP. This would result in benefits, such as time saved by railroad companies, as they would not have to update and submit or resubmit their program because of the ELP requirements.

D. Paperwork Reduction Act

This proposed rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Therefore, an information collection submission to OMB is not required.

E. Federalism Implications

This proposed rule would not have a substantial 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. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

F. International Trade Impact Assessment

The Trade Agreements Act of 1979⁴⁰ prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles.⁴¹ The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. This proposed rule aims to improve rail safety in the U.S., a legitimate domestic objective, and therefore does not create unnecessary obstacles to foreign commerce.

G. Environmental Impact

FRA has analyzed this proposed rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15).

This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

Pursuant to section 106 of the National Historic Preservation Act and its implementing regulations, FRA has determined this undertaking has no potential to affect historic properties.⁴² FRA has also determined that this rulemaking would not approve a project resulting in a use of a resource protected by section 4(f).⁴³

H. Unfunded Mandates Reform Act of 1995

This proposed rule would not result in the expenditure, in the aggregate, of \$100,000,000 or more, adjusted for inflation, in any one year by State, local,

⁴⁰ 19 U.S.C. ch. 13.

⁴¹ 19 U.S.C. 2531(a).

⁴² 54 U.S.C. 306108.

⁴³ Department of Transportation Act of 1966, as amended (Pub. L. 89–670, 80 Stat. 931); 49 U.S.C. 303.

or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

I. E.O. 13175 (Tribal Consultation)

FRA has evaluated this proposed rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (Nov. 6, 2000). The proposed rule would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian Tribal governments, and would not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.”⁴⁴ FRA evaluated this proposed rule under E.O. 13211 and determined that this regulatory action is not a “significant energy action” within the meaning of E.O. 13211.

K. 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, to <https://www.regulations.gov>, as described in the system of records notice, DOT/ALL–14 FDMS, accessible through <https://www.transportation.gov/privacy>. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

L. Rulemaking Summary

As required by 5 U.S.C. 553(b)(4), a summary of this proposed rule can be found at [regulations.gov](https://www.regulations.gov), Docket No. FRA–2026–2014, in the **SUMMARY** section of this proposed rule.

List of Subjects

49 CFR Part 240

Administrative practice and procedure, Locomotive engineer, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 242

Administrative practice and procedure, Conductor, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

The Proposed Rule

For the reasons discussed in the preamble, FRA proposes to amend 49 CFR parts 240 and 242 of chapter II, subtitle B of title 49 of the Code of Federal Regulations as follows:

PART 240—QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

■ 1. The authority citation for part 240 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. Section 240.7 is amended by adding definitions in alphabetical order for “Energy management system” and “English language proficient” to read as follows:

§ 240.7 Definitions.

* * * * *

Energy management system (EMS) means any onboard system, software, or device that automatically intervenes in, modifies, or provides guidance on throttle or braking application for purposes of optimizing train handling, fuel consumption, or energy use, regardless of the commercial name, designation, or classification assigned to the system by the railroad or manufacturer.

English language proficient means possessing sufficient ability in the English language to complete successfully the railroad’s written and oral certification program requirements as provided in this part. Proficiency is not required to be measured against any general English fluency standard, as it is specific to the safety-critical communicative functions identified in this definition. As used in this part, a person is English language proficient when the person can:

(1) Read, comprehend, and correctly apply railroad operating rules, timetables, special instructions,

mandatory directives, and safety notices as written in English;

(2) Communicate by voice in English, including the transmission and receipt of mandatory directives, instructions from train dispatchers and other operating personnel, and communications with emergency responders and law enforcement regarding safety hazards, train consist, and cargo information; and

(3) Make required entries on reports, records, and forms in English.

* * * * *

■ 3. Section 240.123 is amended by adding paragraph (g) to read as follows:

§ 240.123 Training.

* * * * *

(g) All training conducted in accordance with this section must be in English.

■ 4. Section 240.125 is amended by revising paragraphs (b), (c)(1), and (e) to read as follows:

§ 240.125 Knowledge testing.

* * * * *

(b) A railroad shall have procedures for testing a person being evaluated for qualification as a locomotive engineer in either train or locomotive service to determine that the person has sufficient knowledge in the English language of the railroad’s rules and practices, including signage, for the safe operation of trains.

(c) * * *

(1) Designed to examine a person’s knowledge of the railroad’s rules and practices, in English, for the safe operation of trains;

* * * * *

(e) For purposes of paragraph (c) of this section, the railroad must provide the person(s) being tested with an opportunity to consult in English with a supervisory employee, who possesses territorial qualifications for the territory, to explain a question.

* * * * *

■ 5. Section 240.127 is amended by revising paragraph (c) introductory text and (c)(1) to read as follows:

§ 240.127 Criteria for examining skill performance.

* * * * *

(c) The testing procedures selected by the railroad shall be in English, and used to test the English language proficiency of a person, and:

(1) Designed to examine a person’s skills in safely operating locomotives or trains, including the proper application of the railroad’s rules and practices for the safe operation of locomotives or trains, when performing the most demanding class or type of service that

⁴⁴ 66 FR 28355 (May 22, 2001).

the person will be permitted to perform. To ensure that the operational monitoring observation is effective, it shall not be conducted when an energy management system that operates the throttle is engaged, unless the energy management system is integrated with a critical-safety system;

* * * * *

■ 6. Section 240.129 is amended by revising paragraph (c)(1) to read as follows:

§ 240.129 Criteria for monitoring operational performance of certified engineers.

* * * * *

(c) * * *

(1) Be designed to determine that the person possesses and routinely employs the skills to operate locomotives or trains safely, including the proper application of the railroad's rules and practices for the safe operation of locomotives and trains. To ensure that the operational monitoring observation is effective, it shall not be conducted when an energy management system that operates the throttle is engaged, unless the energy management system is integrated with a critical-safety system;

* * * * *

■ 7. Section 240.203 is amended by revising paragraphs (a)(3) through (5), and adding paragraph (a)(6), to read as follows:

§ 240.203 Determinations required as a prerequisite to certification.

(a) * * *

(3) The individual has the necessary knowledge of the railroad's rules and practices, including signage, for the safe operation of trains, as demonstrated by successfully completing a written test in English that meets the requirements of § 240.125;

(4) The individual has the necessary applied knowledge and operating performance skills, as demonstrated by successfully completing an examination that meets the requirements of § 240.127;

(5) Where a person has not previously been certified, that the person has completed a training program that meets the requirements of § 240.123; and

(6) The individual has the necessary English language proficiency to:

(i) Communicate effectively with emergency responders, law enforcement, and the general public regarding issues of rail safety, including information regarding the train consist, cargo, and known hazards;

(ii) Communicate effectively with railroad employees, such as dispatchers, regarding rail operations, including the

procedures necessary to transmit and receive mandatory directives; and

(iii) Make entries on reports and records.

* * * * *

■ 8. Section 240.227 is revised to read as follows:

§ 240.227 Qualification requirements for international cross-border operations.

(a) *Employment Status of Foreign Railroad Personnel.* For purposes of this section, a Canadian or Mexican railroad's employees must not be considered employees of a U.S. railroad, even if the Canadian or Mexican railroad is a subsidiary of a U.S. railroad or U.S. parent company, or otherwise has a legal arrangement or other relationship with the controlling U.S. railroad.

(b) *Canadian Operations.* A railroad that conducts operations with a Canadian railroad, or a Canadian railroad required to comply with this part, may certify a person as a locomotive engineer provided the railroad determines that:

(1) The person is employed by the Canadian railroad; and

(2) The person meets or exceeds the qualification standards issued by Transport Canada for such service.

(c) *Mexican Operations.* A controlling U.S. railroad that conducts operations with a Mexican railroad may certify a person as a locomotive engineer provided the railroad determines that:

(1) The person is employed by the Mexican railroad;

(2) The person is trained, tested, and certified by the U.S. railroad in accordance with its approved program, and the railroad does not rely on any qualification determinations made by a Mexican railroad or any Mexican governmental agency;

(3) The person's operation on the U.S. railroad is limited to a continuous movement between the international border and a U.S. railroad yard, provided that:

(i) The southernmost point of entry to the U.S. railroad yard is located within 10 route miles of the international border point of entry;

(ii) For northbound movements, the train proceeds directly into the yard and travels no further north than necessary to clear the yard's entry switches and place the train on its designated receiving track; and

(iii) For southbound movements, the train departs directly from the designated yard track where it was staged for departure, proceeding directly to the international border;

(4) If there is any conflict or inconsistency between the provisions of

this section and 49 CFR part 219, the provisions of this section shall control as the exclusive requirements for persons certified pursuant to this section to operate a train between a U.S.-Mexico rail port of entry to a yard for the purpose of interchange; and

(5) Either the person is:

(i) English language proficient as required in this part and in the U.S. railroad's certification program; or

(ii) Accompanied by a pilot who is an employee of the U.S. railroad, is certified as a locomotive engineer under this part, is qualified on the physical characteristics of the territory to be operated over, and is proficient in English and Spanish.

(d) *Option for a Single, Dual-Certified Pilot for Mexican Operations.* If both the locomotive engineer and the conductor of a Mexican railroad crew are not proficient in English, as described in paragraph (c)(5) of this section, a single U.S. railroad employee may act as a pilot for both crew members, if the pilot is:

(1) Certified under both this part and part 242 of this chapter;

(2) Qualified on the territory to be operated over; and

(3) Proficient in English and Spanish.

■ 9. Section 240.231 is amended by revising paragraph (a) to read as follows:

§ 240.231 Requirements for locomotive engineers unfamiliar with physical characteristics in other than joint operations.

(a) Except as provided in paragraph

(b) of this section, no locomotive engineer shall operate a locomotive over a territory unless he or she is qualified on the physical characteristics of the territory pursuant to the railroad's certification program. A person's territorial qualification is limited to the specific direction of travel traversed during the qualification process. A person is not qualified to serve as a locomotive engineer in a direction of travel for which they have not successfully completed a qualification move and demonstrated knowledge of the physical characteristics as viewed from that direction.

* * * * *

■ 10. In appendix B to part 240, revise the section under the heading "Submission by a Railroad" and section 7 to read as follows:

* * * * *

Submission by a Railroad

As provided for in § 240.101, each railroad must have a program for determining the certification of each person it permits or requires to operate a locomotive. In designing its program,

a railroad must consider the trackage and terrain over which it operates, the system(s) for train control that are employed, and the operational design characteristics of the track and equipment being operated, including train length, train makeup, and train speeds. In designing the program, the railroad must also include procedures that ensure each certified locomotive engineer is English language proficient to perform assigned duties safely, which will normally be accomplished by conducting all training and testing in English; e.g., knowledge testing of a railroad's operating rules will cover written comprehension, classroom role playing or OJT involving various scenarios, will test for verbal comprehension and adequate English language proficiency (ELP) spoken responses, and training on required recordkeeping will cover written ELP. Because all training and testing under a railroad's program must be in English, it is unnecessary for a railroad to submit or resubmit a program that fails to address the ELP requirements. FRA will audit training programs and conduct regular inspections to determine effectiveness, and FRA will consider enforcement action when certified persons do not meet the ELP standards.

Each railroad must submit its individual program to FRA for approval, as provided for in § 240.103. Each program must be accompanied by a request for approval, organized in accordance with this appendix. Requests for approval must contain appropriate references to the relevant portion of the program being discussed. Requests can be in letter or narrative format. The primary method for a railroad's submission is by email to FRAOPCERTPROG@dot.gov. For a railroad that is unable to send the program by email, the program shall be sent to the Associate Administrator for Railroad Safety and Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Simultaneous with its filing with FRA, each railroad must provide a copy of its submission to the president of each labor organization that represents the railroad's employees subject to this part.

A railroad that electronically submits an initial program, or new portions or revisions to an approved program required by this part, shall be considered to have provided its consent to receive approval or disapproval notices from FRA by email. FRA may electronically store any materials required by this part, regardless of whether the railroad that submits the materials does so by delivering the

written materials to the Associate Administrator and opts not to submit the materials electronically. A railroad that opts not to submit the materials required by this part electronically, but provides one or more email addresses in its submission, shall be considered to have provided its consent to receive approval or disapproval notices from FRA by email or mail.

* * * * *

Section 7 of the Submission: Procedures for Routine Administration of the Engineer Certification Program

The final section of the request must contain a summary of how the railroad's program and procedures will implement the various specific aspects of the regulatory provisions that relate to routine administration of its certification program for locomotive engineers. At a minimum, this section needs to address the procedural aspects of the rule's provisions identified in the following paragraph.

Section 240.109 provides that each railroad must have procedures for review and comment on adverse prior safety conduct but allows the railroad to devise its own system within generalized parameters. Sections 240.115, 240.117, and 240.119 require a railroad to have procedures for evaluating data concerning prior safety conduct as a motor vehicle operator and as railroad workers yet leave selection of many details to the railroad. Sections 240.203, 240.217, and 240.219 place a duty on the railroad to make a series of determinations, but allow the railroad to select what procedures it will employ to assure that all of the necessary determinations have been made in a timely fashion; who will be authorized to conclude that a person is or is not qualified; and how it will communicate adverse decisions. Documentation of the factual basis the railroad relied on in making determinations under sections 240.205, 240.207, 240.209, 240.211, and 240.213 is required, but these sections permit the railroad to select the procedures it will employ to accomplish compliance with these provisions. Section 240.225 permits reliance on qualification determinations made by other entities, and permits a railroad latitude in selecting the procedures it will employ to ensure compliance with these provisions. Section 240.227 contains the qualification requirements for international cross-border operations, which require a railroad to document the factual basis the railroad relied on in making its determinations, including the procedures it will employ to ensure compliance with these

provisions. If a railroad is choosing to use the pilot option, the railroad will be responsible for documenting how the person serving as the pilot is both English and Spanish language proficient for purposes of railroad safety. Similarly, § 240.229 permits use of railroad selected procedures to meet the requirements for certification of engineers performing service in joint operations territory. Sections 240.301 and 240.307 allow a railroad a certain degree of discretion in complying with the requirements for replacing lost certificates, or the conduct of certification revocation proceedings.

This section of the request should outline in summary fashion the way the railroad will implement its program to comply with the specific aspects of each of the rule's provisions described in the preceding paragraph.

* * * * *

- 11. Add new appendix H to part 240 to read as follows:

**Appendix H to Part 240—
Recommended Procedures for
Conducting English Language
Proficiency Evaluations**

FRA requires that each railroad's certification program include procedures ensuring that each certified locomotive engineer is English language proficient as necessary to perform assigned duties safely. FRA has afforded railroads discretion in selecting how to make this determination, to allow each railroad to tailor its evaluation to its operational realities. Such evaluations are only necessary if it is unclear, after talking with a person, that he or she is proficient in English. For example, a railroad would not need to test a native English speaker for English language proficiency, presumably. This appendix contains FRA's recommendations for conducting English language proficiency evaluations. Evaluations should be conducted entirely in English. The person being evaluated may not use translation applications, bilingual reference cards, or third-party interpreters.

The Need for a Systematic Approach

A locomotive engineer must be able to perform several distinct communicative functions in English: transmitting and receiving mandatory directives; providing safety-critical information to emergency responders and law enforcement; communicating with the public in safety situations; and making required entries on reports and records. A railroad's evaluation should be designed to assess each of these functions. A railroad that has not established clear criteria for adequate proficiency in each area will have difficulty conducting evaluations consistently or supporting adverse certification determinations. FRA recommends that railroads develop a written evaluation guide identifying the communicative situations relevant to their operations, and the observable indicators of

adequate and inadequate performance in each.

Conversational Interview

FRA recommends that each evaluation begin with a conversational interview covering the safety-critical topics a supervisor, inspector, or emergency responder would need to discuss with a crew member. The evaluator should ask follow-up questions on brief or unclear responses to distinguish genuine comprehension from a memorized answer. At a minimum, the interview should cover the following:

- Certification and assignment, including the person's name, employer, certification type, issuing railroad, qualified territories, and restrictions;
- Current crew composition and positions;
- Trip and train information, including origin, destination, intermediate stops, number of cars in the consist, and any hazardous materials being transported;
- Movement restrictions, including any Form B protection, special instructions, or mandatory directives in effect;—Hours of service, including time on duty and time remaining; and
- Locomotive and train condition, including mechanical problems, status of the inspection record, brake test conducted, and off-duty procedures.

The interview may be conducted in a classroom setting or in the field. Where sample documents, such as a consist or inspection record, are available, the evaluator should ask the person to use them during the interview.

Proficiency Scenarios

Following the conversational interview, FRA recommends scenario-based prompts to assess communicative functions under mild contextual pressure. Scenarios need not be elaborate, and may be presented as a brief oral description followed by a prompt question. At a minimum, FRA recommends addressing the following four situations:

- Public interaction. The person explains a train delay or operational matter to a member of the public in plain English, without railroad-specific jargon.
- Dispatcher radio communication. The person gives or receives a mandatory directive over a simulated radio exchange, using standard protocol, and read-back confirmation.
- Emergency responder communication. The person provides a responding officer or fire official with consist information, including the location and nature of any hazardous material cars, using correct terminology.
- Public safety command. The person uses short imperative English commands to direct an individual away from a hazardous location near the right-of-way.

Report and Record Entry

Each certified locomotive engineer must be able to make required entries on reports and records in English. FRA recommends that railroads assess this through at least one of the following methods:

- Provide a blank inspection record or switch list and read aloud a brief scenario describing a condition requiring an entry.

Ask the person to complete the relevant fields and assess whether entries are legible, accurate, and reflect the information given.

- Provide a standard operational document, such as a waybill or safety bulletin, and ask the person to read and summarize the key safety information aloud in their own words.
- Ask the person to write two or three sentences describing a hypothetical incident, such as a minor derailment, and assess whether the description is clear, uses correct terminology, and would be understandable without additional explanation.

Objectivity and the Evaluation Record

Proficiency evaluations will involve some degree of subjectivity. FRA recommends using a written evaluation record to reduce that risk. The record should document the date, location, evaluator identity, subjects and scenarios covered, observations on each communicative function, and the pass or fail determination with supporting rationale. It should be retained in the employee's qualification file. FRA recommends that the form include space for narrative observations, so that specific examples supporting the determination can be recorded. Indicators that tend to support a finding of adequate proficiency include: self-correction of technical terms without prompting; appropriate adjustment of vocabulary between dispatcher and public communications; and accurate read-back of mandatory directives. Indicators that tend to support a finding of inadequate proficiency include: repeating the evaluator's question without answering it; confusion of safety-critical directional or operational terms; extended silence when asked to describe an emergency or provide hazardous materials information; and inability to complete a record entry from a verbal description without a translation aid.

Scoring

FRA does not prescribe a specific scoring system. Each railroad should develop a reasonable scoring methodology suited to its operations, and specify that methodology, including a defined passing threshold for certification and recertification, in its approved program. The standard against which any scoring system should be measured is whether the person possesses functional proficiency in the safety-critical communicative functions required for their duties, not general English fluency.

PART 242—QUALIFICATION AND CERTIFICATION OF CONDUCTORS

■ 12. The authority citation for part 242 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 20138, 20162, 20163, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 13. Section 242.7 is amended by adding a definition in alphabetical order for “English language proficient” to read as follows:

§ 242.7 Definitions.

* * * * *

English language proficient means possessing sufficient ability in the English language to complete successfully the railroad's written and oral certification program requirements as provided in this part. Proficiency is not required to be measured against any general English fluency standard, as it is specific to the safety-critical communicative functions identified in this definition. As used in this part, a person is English language proficient when the person can:

(1) Read, comprehend, and correctly apply railroad operating rules, timetables, special instructions, mandatory directives, and safety notices as written in English;

(2) Communicate by voice in English, including the transmission and receipt of mandatory directives, instructions from train dispatchers and other operating personnel, and communications with emergency responders and law enforcement regarding safety hazards, train consist, and cargo information; and

(3) Make required entries on reports, records, and forms in English.

* * * * *

■ 14. Section 242.109 is amended by revising paragraphs (a)(3) and (4) and adding paragraph (a)(5) to read as follows:

§ 242.109 Determinations required for certification and recertification.

(a) * * *

(3) The individual has the necessary knowledge, as demonstrated by successfully completing a written test in English that meets the requirements of § 242.121 (“Knowledge Testing”);

(4) Where a person has not previously been certified, that the person has completed a training program that meets the requirements of § 242.119 (“Training”); and

(5) The individual has the necessary English language proficiency to:

(i) Communicate effectively with emergency responders, law enforcement, and the general public regarding issues of rail safety, including information regarding the train consist, cargo, and known hazards;

(ii) Communicate effectively with railroad employees, such as dispatchers, regarding rail operations, including the procedures necessary to transmit and receive mandatory directives; and

(iii) Make entries on reports and records.

* * * * *

■ 15. Section 242.119 is amended by adding paragraph (m) to read as follows:

§ 242.119 Training.

* * * * *

(m) All training conducted in accordance with this section must be in English.

■ 16. Section 242.121 is amended by revising paragraphs (b), (c)(1), and (e) to read as follows:

§ 242.121 Knowledge testing.

* * * * *

(b) After the pertinent date specified in § 242.105(d) or (e), each railroad, prior to initially certifying or recertifying any person as a conductor for any type of service, shall determine that the person has, in accordance with the requirements of this section, demonstrated sufficient knowledge in the English language of the railroad's rules and practices, including signage, for the safe movement of trains.

(c) * * *

(1) Designed to examine a person's knowledge of the railroad's operating rules and practices, in English, for the safe operation of trains;

* * * * *

(e) For purposes of paragraph (c) of this section, the railroad must provide the person(s) being tested with an opportunity to consult in English with a supervisory employee, who possesses territorial qualifications for the territory, to explain a question.

* * * * *

■ 17. Section 242.127 is revised to read as follows:

§ 242.127 Qualification requirements for international cross-border operations.

(a) *Employment Status of Foreign Railroad Personnel.* For purposes of this section, a Canadian or Mexican railroad's employees must not be considered employees of a U.S. railroad, even if the Canadian or Mexican railroad is a subsidiary of a U.S. railroad or U.S. parent company, or otherwise has a legal arrangement or other relationship with the controlling U.S. railroad.

(b) *Canadian Operations.* A railroad that conducts operations with a Canadian railroad, or a Canadian railroad required to comply with this part, may certify a person as a conductor provided the railroad determines that:

(1) The person is employed by the Canadian railroad; and

(2) The person meets or exceeds the qualification standards issued by Transport Canada for such service.

(c) *Mexican Operations.* A railroad that hosts or conducts operations with a Mexican railroad may certify a person as a conductor provided the railroad determines that:

(1) The person is employed by the Mexican railroad;

(2) The person is trained, tested, and certified by the U.S. railroad in accordance with its approved program, including all English language proficiency requirements, and the U.S. railroad does not rely on any qualification determinations made by a Mexican railroad or any Mexican governmental agency;

(3) The person's operation on the U.S. railroad is limited to a continuous movement between the international border and a U.S. railroad yard, provided that:

(i) The southernmost point of entry to the U.S. railroad yard is located within 10 route miles of the international border point of entry;

(ii) For northbound movements, the train proceeds directly into the yard and travels no further north than necessary to clear the yard's entry switches and place the train on its designated receiving track; and

(iii) For southbound movements, the train departs directly from the designated yard track where it was staged for departure, proceeding directly to the international border;

(4) If there is any conflict or inconsistency between the provisions of this section and 49 CFR part 219, the provisions of this section shall control as the exclusive requirements for persons certified pursuant to this section to operate a train between a U.S.-Mexico rail port of entry to a yard for the purpose of interchange; and

(5) Either the person is:

(i) English language proficient as required in this part and in the U.S. railroad's certification program; or

(ii) Accompanied by a pilot who is an employee of the U.S. railroad, is certified as a conductor under this part, is qualified on the physical characteristics of the territory to be operated over, and is proficient in English and Spanish.

(d) *Option for a Single, Dual-Certified Pilot for Mexican Operations.* If both the locomotive engineer and the conductor of a Mexican railroad crew are not proficient in English, as described in paragraph (c)(5) of this section, a single U.S. railroad employee may act as a pilot for both crew members, if the pilot is:

(1) Certified under both this part and part 240 of this chapter;

(2) Qualified on the territory to be operated over; and

(3) Proficient in English and Spanish.

■ 18. Section 242.301 is amended by adding paragraph (f) to read as follows:

§ 242.301 Requirements for territorial qualification.

* * * * *

(f) A person's territorial qualification is limited to the specific direction of travel traversed during the qualification process. A person is not qualified to serve as a conductor in a direction of travel for which they have not successfully completed a qualification move and demonstrated knowledge of the physical characteristics as viewed from that direction.

■ 19. Add new appendix F to part 242 to read as follows:

Appendix F to Part 242—Recommended Procedures for Conducting English Language Proficiency Evaluations

FRA requires that each railroad's certification program include procedures ensuring that each certified conductor is English language proficient as necessary to perform assigned duties safely. FRA has afforded railroads discretion in selecting how to make this determination, to allow each railroad to tailor its evaluation to its operational realities. Such evaluations are only necessary if it is unclear, after talking with a person, that he or she is proficient in English. For example, a railroad would not need to test a native English speaker for English language proficiency, presumably. This appendix contains FRA's recommendations for conducting English language proficiency evaluations. Evaluations should be conducted entirely in English. The person being evaluated may not use translation applications, bilingual reference cards, or third-party interpreters.

The Need for a Systematic Approach

A conductor must be able to perform several distinct communicative functions in English: transmitting and receiving mandatory directives; providing safety-critical information to emergency responders and law enforcement; communicating with the public in safety situations; and making required entries on reports and records. A railroad's evaluation should be designed to assess each of these functions. A railroad that has not established clear criteria for adequate proficiency in each area will have difficulty conducting evaluations consistently or supporting adverse certification determinations. FRA recommends that railroads develop a written evaluation guide identifying the communicative situations relevant to their operations, and the observable indicators of adequate and inadequate performance in each.

Conversational Interview

FRA recommends that each evaluation begin with a conversational interview covering the safety-critical topics a supervisor, inspector, or emergency responder would need to discuss with a crew member. The evaluator should ask follow-up questions on brief or unclear responses to distinguish genuine comprehension from a memorized answer. At a minimum, the interview should cover the following:

- Certification and assignment, including the person's name, employer, certification type, issuing railroad, qualified territories, and restrictions;
- Current crew composition and positions;
- Trip and train information, including origin, destination, intermediate stops, number of cars in the consist, and any hazardous materials being transported;
- Movement restrictions, including any Form B protection, special instructions, or mandatory directives in effect;—Hours of service, including time on duty and time remaining; and
- Locomotive and train condition, including mechanical problems, status of the inspection record, brake test conducted, and off-duty procedures.

The interview may be conducted in a classroom setting or in the field. Where sample documents, such as a consist or inspection record, are available, the evaluator should ask the person to use them during the interview.

Proficiency Scenarios

Following the conversational interview, FRA recommends scenario-based prompts to assess communicative functions under mild contextual pressure. Scenarios need not be elaborate, and may be presented as a brief oral description followed by a prompt question. At a minimum, FRA recommends addressing the following four situations:

- Public interaction. The person explains a train delay or operational matter to a member of the public in plain English, without railroad-specific jargon.
- Dispatcher radio communication. The person gives or receives a mandatory directive over a simulated radio exchange, using standard protocol, and read-back confirmation.
- Emergency responder communication. The person provides a responding officer or fire official with consist information, including the location and nature of any hazardous material cars, using correct terminology.
- Public safety command. The person uses short imperative English commands to direct an individual away from a hazardous location near the right-of-way.

Report and Record Entry

Each certified conductor must be able to make required entries on reports and records in English. FRA recommends that railroads assess this through at least one of the following methods:

- Provide a blank inspection record or switch list and read aloud a brief scenario describing a condition requiring an entry. Ask the person to complete the relevant fields and assess whether entries are legible, accurate, and reflect the information given.
- Provide a standard operational document, such as a waybill or safety bulletin, and ask the person to read and summarize the key safety information aloud in their own words.
- Ask the person to write two or three sentences describing a hypothetical incident, such as a minor derailment, and assess whether the description is clear, uses correct terminology, and would be

understandable without additional explanation.

Objectivity and the Evaluation Record

Proficiency evaluations will involve some degree of subjectivity. FRA recommends using a written evaluation record to reduce that risk. The record should document the date, location, evaluator identity, subjects and scenarios covered, observations on each communicative function, and the pass or fail determination with supporting rationale. It should be retained in the employee's qualification file. FRA recommends that the form include space for narrative observations, so that specific examples supporting the determination can be recorded.

Indicators that tend to support a finding of adequate proficiency include: self-correction of technical terms without prompting; appropriate adjustment of vocabulary between dispatcher and public communications; and accurate read-back of mandatory directives. Indicators that tend to support a finding of inadequate proficiency include: repeating the evaluator's question without answering it; confusion of safety-critical directional or operational terms; extended silence when asked to describe an emergency or provide hazardous materials information; and inability to complete a record entry from a verbal description without a translation aid.

Scoring

FRA does not prescribe a specific scoring system. Each railroad should develop a reasonable scoring methodology suited to its operations, and specify that methodology, including a defined passing threshold for certification and recertification, in its approved program. The standard against which any scoring system should be measured is whether the person possesses functional proficiency in the safety-critical communicative functions required for their duties, not general English fluency.

- 20. In appendix B to part 242, revise the section under the heading "Submission by a Railroad" and section 6 to read as follows:

* * * * *

Submission by a Railroad

As provided for in § 242.101, each railroad must have a program for determining the certification of each person it permits or requires to perform as a conductor or as a passenger conductor. In designing the program, the railroad must also include procedures that ensure each certified conductor is English language proficient to perform assigned duties safely, which will normally be accomplished by conducting all training and testing in English; *e.g.*, knowledge testing of a railroad's operating rules will cover written comprehension, classroom role playing or OJT involving various scenarios, will test for verbal comprehension and adequate English

language proficient spoken responses, and training on required recordkeeping will cover written English language proficiency (ELP). Because all training and testing under a railroad's program must be in English, it is unnecessary for a railroad to submit or resubmit a program that fails to address the ELP requirements. FRA will audit training programs and conduct regular inspections to determine effectiveness, and FRA will consider enforcement action when certified persons do not meet the ELP standards.

Each railroad must submit its individual program to FRA for approval, as provided for in § 242.103. Each program must be accompanied by a request for approval, organized in accordance with this appendix. Requests for approval must contain appropriate references to the relevant portion of the program being discussed. Requests should be submitted in writing on standard sized paper (8 1/2 × 11) and can be in letter or narrative format. The railroad's submission shall be sent to the Associate Administrator for Railroad Safety and Chief Safety Officer, FRA. Themailing address for FRA is 1200 New Jersey Avenue SE, Washington, DC 20590. Simultaneous with its filing with FRA, each railroad must serve a copy of its submission on the president of each labor organization that represents the railroad's employees subject to this part.

Each railroad is authorized to file by electronic means any program submissions required under this part. Prior to any person submitting a railroad's first program submission electronically, the person shall provide the Associate Administrator with the following information in writing:

- (1) The name of the railroad;
- (2) The names of two individuals, including job titles, who will be the railroad's points of contact and will be the only individuals allowed access to FRA's secure document submission site;
- (3) Themailing addresses for the railroad's points of contact;
- (4) The railroad's system or main headquarters address located in the United States;
- (5) The email addresses for the railroad's points of contact; and
- (6) The daytime telephone numbers for the railroad's points of contact.

A request for electronic submission or FRA review of written materials shall be addressed to the Associate Administrator for Railroad Safety and Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Upon receipt of a request for electronic submission that contains the information listed above, FRA will then

contact the requestor with instructions for electronically submitting its program.

A railroad that electronically submits an initial program, or new portions or revisions to an approved program required by this part, shall be considered to have provided its consent to receive approval or disapproval notices from FRA by email. FRA may electronically store any materials required by this part, regardless of whether the railroad that submits the materials does so by delivering the written materials to the Associate Administrator and opts not to submit the materials electronically. A railroad that opts not to submit the materials required by this part electronically, but provides one or more email addresses in its submission, shall be considered to have provided its consent to receive approval or disapproval notices from FRA by email or mail.

* * * * *

Section 6 of the Submission: Procedures for Routine Administration of the Conductor Certification Program

The final section of the request must contain a summary of how the railroad's program and procedures will implement the various specific aspects of the regulatory provisions that relate to routine administration of its certification program for conductors. At a minimum this section needs to address the procedural aspects of the

rule's provisions identified in the following paragraph.

Section 242.109 provides that each railroad must have procedures for review and comment on adverse prior safety conduct but allows the railroad to devise its own system within generalized parameters.

Sections 242.111, 242.115, and 242.403 require a railroad to have procedures for evaluating data concerning prior safety conduct as a motor vehicle operator and as railroad workers yet leave selection of many details to the railroad. Sections 242.109, 242.201, and 242.401 place a duty on the railroad to make a series of determinations, but allow the railroad to select what procedures it will employ to assure that all of the necessary determinations have been made in a timely fashion; who will be authorized to conclude that a person will or will be not certified; and how it will communicate adverse decisions. Documentation of the factual basis the railroad relied on in making determinations under sections 242.109, 242.117, 242.119, and 242.121 is required, but these sections permit the railroad to select the procedures it will employ to accomplish compliance with these provisions. Section 242.125 permits reliance on certification/qualification determinations made by other entities, and permits a railroad latitude in selecting the procedures it will employ to assure compliance with

these provisions. Section 242.127 contains the qualification requirements for international cross-border operations, which require a railroad to document the factual basis the railroad relied on in making its determinations, including the procedures it will employ to ensure compliance with these provisions. If a railroad is choosing to use the pilot option, the railroad will be responsible for documenting how the person serving as the pilot is both English and Spanish language proficient for purposes of railroad safety. Similarly, § 242.301 permits the use of railroad selected procedures to meet the requirements for certification of conductors performing service in joint operations territory. Sections 242.211 and 242.407 allow a railroad a certain degree of discretion in complying with the requirements for replacing lost certificates, or the conduct of certification revocation proceedings.

This section of the request should outline in summary fashion the way the railroad will implement its program, to comply with the specific aspects of each of the rule's provisions described in the preceding paragraph.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,
Administrator.

[FR Doc. 2026-15605 Filed 7-30-26; 8:45 am]

BILLING CODE 4910-06-P

Notices

Federal Register

Vol. 91, No. 146

Friday, July 31, 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 COMMERCE

Foreign-Trade Zones Board

[B-33-2026]

Foreign-Trade Zone (FTZ) 164; Authorization of Limited Production Activity; Webco Industries, Inc.; (Steel Tubing); Kellyville, Oklahoma

On March 23, 2026, Webco Industries, Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 164, in Kellyville, Oklahoma.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (91 FR 14678, March 26, 2026). On July 28, 2026, the applicant was notified of the FTZ Board's decision that further review of part of the proposed activity is warranted. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including section 400.14, and further subject to a two-year time period.

Dated: July 28, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-15563 Filed 7-30-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-91-2026]

Foreign-Trade Zone (FTZ) 202, Notification of Proposed Production Activity; Industrial Parts Depot, LLC; (Engine Parts and Components); Carson, California

Industrial Parts Depot, LLC, submitted a notification of proposed production activity to the FTZ Board (the Board) for

its facility in Carson, California within FTZ 202. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on July 28, 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 diesel engine kits, crank shafts, cam shafts, shaft bearings, gasket sets, and piston liner kits (duty rate ranges from duty-free to 4.5%).

The proposed foreign-status materials/components include: steel piston liners; iron piston liners; aluminum piston liners; steel pistons; steel piston pins; steel valves; steel valve seats; steel springs; steel bearings; fluoroelastomer seals; elastomeric o-rings; rubber o-rings; steel o-rings; brass o-rings; fiber o-rings; elastomeric gaskets; steel gaskets; brass gaskets; rubber gaskets; fiber gaskets; steel seals; brass seals; elastomeric seals; rubber seals; fiber seals; rubber fittings; brass fittings; elastomeric fittings; steel fittings; fiber fittings; head gaskets; iron nuts; steel nuts; iron washers; steel washers; iron studs; steel studs; steel springs; steel shaft bearings; steel valves; steel crankshafts; and steel camshafts (duty rate ranges from duty-free to 4.5%).

The request indicates that certain materials/components are subject to duties under section 232 of the Trade Expansion Act of 1962 (section 232) or section 301 of the Trade Act of 1974 (section 301) depending on the country of origin. The applicable section 232 and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is September 9, 2026.

A copy of the notification will be available for public inspection in the

“Online FTZ Information System” section of the Board's website.

For further information, contact Christopher Williams at christopher.williams@trade.gov.

Dated: July 28, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-15564 Filed 7-30-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-16-2026]

Foreign-Trade Zone (FTZ) 46; Authorization of Limited Production Activity; General Electric Company; (Production and Testing of Jet Engines); Peebles, Ohio

On February 22, 2026, General Electric Company submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 46N, in Peebles, Ohio.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (91 FR 6185, February 11, 2026). On July 28, 2026, the applicant was notified of the FTZ Board's decision that further review of part of the proposed activity is warranted. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including section 400.14, and further subject to a restriction requiring entry and duty payment on any steel, aluminum or derivative components unless eligible for drawback under the effective Section 232 proclamations at the time of entry.

Dated: July 28, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-15555 Filed 7-30-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-502]

Circular Welded Carbon Steel Pipes and Tubes from Thailand: Notice of Court Decision Not in Harmony With the Results of Antidumping Duty Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 17, 2026, the U.S. Court of International Trade (CIT) issued its final judgment in *Saha Thai Steel Pipe Public Company Limited v. United States*, Court no. 21-00627, sustaining the U.S. Department of Commerce (Commerce)'s third remand results pertaining to the administrative review of the antidumping duty (AD) order on circular welded carbon steel pipes and tubes from Thailand covering the period of review March 1, 2019, through February 29, 2020. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the review, and that Commerce is amending the final results with respect to the dumping margin assigned to Saha Thai Steel Pipe Public Co., Ltd. (Saha Thai) and Thai Premium Pipe Co., Ltd. (Thai Premium).

DATES: Applicable July 27, 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 December 8, 2021, Commerce published its *Final Results* of this administrative review. Commerce calculated a weighted-average dumping

margin of 36.97 percent for Saha Thai and Thai Premium.¹

Saha Thai challenged Commerce's *Final Results* and Thai Premium intervened in the litigation as a plaintiff-intervenor. On October 11, 2022, the CIT remanded the *Final Results* to Commerce to revisit its cost-based particular market situation adjustment in light of intervening Federal Circuit precedent.²

In its first remand redetermination, filed with the CIT on November 28, 2022, Commerce recalculated the weighted average dumping margin without making a cost-based particular market situation adjustment.³

On November 13, 2023, the CIT remanded the *Final Results*.⁴ The CIT remanded the issue of whether sales of dual-stenciled pipe should be included in the margin calculation due to ongoing litigation in a separate proceeding involving the scope of the order, and also the issue of application of partial adverse facts available to find affiliation between Saha Thai and one of its home market customers.⁵

In its second remand redetermination, filed with the CIT on October 10, 2024, Commerce continued to include sales of dual-stenciled pipe in its calculations following the resolution of the separate scope litigation, and Commerce also found that the sharing of a single human resources manager without further record evidence showing affiliation would be insufficient to determine that Saha Thai and BNK were affiliated within the meaning of section 771(33) of the Tariff Act of 1930, as amended (the Act). Therefore, Commerce treated Saha Thai and BNK as unaffiliated entities and recalculated the weighted-average dumping margin for Saha Thai accordingly.⁶

On June 5, 2025, the CIT remanded for a third time, holding that Commerce had changed its position without acknowledging the change in its rationale and identification of the specific question to Saha Thai that Commerce based its application of partial adverse facts available.⁷ The CIT sustained Commerce's inclusion of the

sales of dual-stenciled pipe in its calculations.⁸

In its third final results of redetermination, issued on August 11, 2025, Commerce again applied an adverse inference to determine that Saha Thai and BNK are affiliated and recalculated the dumping margin to be applied to Saha Thai and Thai Premium of 14.74 percent. Commerce stated that in the final determination it inadvertently cited the incorrect supplemental questionnaire question as the basis to apply partial adverse facts available, and that Commerce was changing its position on remand, including by correcting Commerce's citation to supporting documentation to accurately reflect Commerce's analysis.⁹

On July 17, 2026, the CIT sustained Commerce's *Third Final Results of Redetermination* holding that Commerce's determination that Saha Thai failed to report necessary information and that Saha Thai failed to cooperate by not acting to the best of its ability were supported by substantial evidence, and that Commerce otherwise complied with its statutory obligations in applying partial adverse facts available.¹⁰

Timken Notice

In its decision in *Timken*,¹¹ as clarified by *Diamond Sawblades*,¹² the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's July 17, 2026, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Saha Thai and Thai Premium as follows:

⁸ *Id.* at 1303.

⁹ See *Final Results of Redetermination Pursuant to Court Remand; Saha Thai Steel Pipe Public Company Limited v. United States*, Consolidated Court No. 21-00627, Slip Op. 25-71 (CIT June 5, 2025), dated August 11, 2025 (*Third Final Results of Redetermination*).

¹⁰ See *Saha Thai Steel Pipe Public Company Limited v. United States*, Ct. No. 21-00627, Slip Op. 26-76 (CIT July 17, 2026).

¹¹ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹² See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹ See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019-2020*, 86 FR 69620 (December 8, 2021) (*Final Results*), and accompanying Issues and Decision Memorandum.

² See *Saha Thai Steel Pipe Public Company Limited v. United States*, Consolidated Court No. 21-00627 (CIT October 11, 2022) (First Remand Order).

³ See *Final Results of Redetermination Pursuant to Court Remand; Saha Thai Steel Pipe Public Company Limited v. United States*, Consolidated Court No. 21-00627 (CIT October 11, 2022), dated

November 28, 2022 (*First Final Results of Redetermination*).

⁴ See *Saha Thai Steel Pipe Public Company Ltd. v. United States*, 663 F.Supp.3d 1356 (CIT 2023) (*Second Remand Order*).

⁵ *Id.* at 1376.

⁶ See *Final Results of Redetermination Pursuant to Court Remand; Saha Thai Steel Pipe Public Company Limited v. United States*, Consolidated Court No. 21-00627, Slip Op. 23-158 (CIT November 13, 2023), dated October 9, 2024 (*Second Final Results of Redetermination*).

⁷ See *Saha Thai Steel Pipe Public Company Ltd. v. United States*, 789 F.Supp.3d 1293, 1308 (CIT 2025).

Exporter or producer	Amended final results weighted-average dumping margin (percent)
Saha Thai Steel Pipe Public Co., Ltd.	14.74
Thai Premium Pipe Co., Ltd.	14.74

Cash Deposit Requirements

Because Saha Thai and Thai Premium have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review,¹³ we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were produced by Saha Thai and exported by Blue Pipe Steel Center Company Ltd.; were produced and exported by Saha Thai; and were produced and/or exported by Thai Premium, and were entered, or withdrawn from warehouse, for consumption during the period March 1, 2019, through February 29, 2020. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT’s ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise described above in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,¹⁴ we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

¹³ See Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review; 2023–2024, 90 FR 29529, 29530 (July 3, 2025).
¹⁴ See 19 CFR 351.106(c)(2).

Dated: July 28, 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. 2026–15561 Filed 7–30–26; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE
International Trade Administration
[C–570–125]
Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof From the People’s Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce
SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines) from the People’s Republic of China (China) would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the “Final Results of Sunset Review” section of this notice.
DATES: Applicable July 31, 2026.
FOR FURTHER INFORMATION CONTACT: Bushra Bani-Salman, 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) 482–9170.
SUPPLEMENTARY INFORMATION:

Background

On May 4, 2021, Commerce published in the **Federal Register** the *Order* on small vertical engines from China.¹ On April 1, 2026, Commerce published the notice of initiation of the first five-year

¹ See *Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof from the People’s Republic of China: Antidumping and Countervailing Duty Orders*, 86 FR 23675 (May 4, 2021) (*Order*).

(sunset) review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).²
On April 13, 2026, Commerce received notices of intent to participate from Briggs & Stratton, LLC (the petitioner) within the deadline specified in 19 CFR 351.218(d)(1)(i).³ The petitioner claimed interested party status under section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) as a producer of the domestic like product.⁴
On May 1, 2026, Commerce received an adequate substantive response from the petitioner, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁵ We did not receive a substantive response from any other interested party in this proceeding. On May 20, 2026, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.⁶ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order*.
Scope of the Order
The products covered by the *Order* are small vertical engines from China. For a full description of the scope of the *Order*, see the Issues and Decision Memorandum.⁷
Analysis of Comments Received
A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is provided in the Issues and Decision
² See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 16181 (April 1, 2026) (*Initiation Notice*).
³ See Petitioner’s Letter, “Domestic Industry’s Notice of Intent to Participate,” dated April 13, 2026.
⁴ *Id.*
⁵ See Petitioner’s Letter, “Domestic Industry’s Substantive Response,” dated May 1, 2026.
⁶ See Commerce’s Letter, “Sunset Reviews Initiated on April 1, 2026,” dated May 20, 2026.
⁷ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Countervailing Duty Order on Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof from the People’s Republic of China,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Memorandum. A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Manufacturer/producer/ exporter	Net countervailable subsidy (percent)
Chongqing Kohler Engines Ltd	2.84
Chongqing Zongshen General Power Machine Co	18.13
All Others	10.46

Notification Regarding Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials, or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: July 29, 2026.

Scot Fullerton,

*Acting Deputy Assistant Secretary for
Antidumping and Countervailing Duty
Operations.*

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*

V. Legal Framework

VI. Discussion of the Issues

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Rates Likely to Prevail
3. Nature of the Subsidies

VII. Final Results of Sunset Review

VIII. Recommendation

[FR Doc. 2026–15566 Filed 7–30–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–224]

Truck Bed Covers From China: Preliminary Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of truck bed covers from the People's Republic of China (China). The period of investigation (POI) is January 1, 2025, through December 31, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable July 31, 2026.

FOR FURTHER INFORMATION CONTACT: Suresh Maniam and Dusten Hom, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0176 and (202) 482–5075, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). On March 20, 2026, Commerce published the notice of initiation of this countervailing duty investigation in the **Federal Register**.¹ On May 6, 2026, Commerce postponed the preliminary determination until July 27, 2026.²

For a complete description of the events that followed the initiation of

this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System, which is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed at <https://access.trade.gov/frnotices>.

Scope of the Investigation

The product covered by this investigation is truck bed covers from China. For a complete description of the scope of this 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).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce intends to issue its preliminary decision regarding comments concerning the scope of the less-than-fair-value (LTFV) and CVD investigations on or before the preliminary determination in the companion LTFV investigation.

Methodology

Commerce is conducting this investigation in accordance with section 701 of 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.⁶

Commerce notes that, in making these findings, it relied on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in

³ *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Countervailing Duty Investigation of Truck Bed Covers from the People's Republic of China," 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* Initiation Notice.

⁶ *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.

¹ *See* Truck Bed Covers from the People's Republic of China: Initiation of Countervailing Duty Investigation, 91 FR 13573 (January 26, 2026) (*Initiation Notice*).

² *See* Truck Bed Covers from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation, 91 FR 24511 (May 6, 2026).

selecting from among the facts otherwise available.⁷ For further information, *see* the “Use of Facts Otherwise Available and Adverse Inferences” section in the Preliminary Decision Memorandum.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually

examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for the mandatory respondents 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 individual estimated subsidy rates calculated for the examined respondents using each company’s publicly-ranged values for the merchandise under consideration.⁸

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent <i>ad valorem</i>)
Changzhou Sunwood International Trading Co., Ltd	30.38
Hangzhou Golden Sun Auto Parts Co., Ltd	8.72
Century Distribution Systems (Shenzhen) Ltd	* 100.95
Foshan Baitai Auto Accessories Co	* 100.95
Shenzhen Haishang Wanyun Supply Chain Management Co., Ltd	* 100.95
Shenzhen Longhua Supply Chain Co., Ltd	* 100.95
Shenzhen Maichuang International	* 100.95
Shenzhen Qianhai Yahee E-Commerce Co., Ltd	* 100.95
All Others	20.25

* Rate is based on facts available with adverse inferences.

Suspension of Liquidation

In accordance with section 703(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 the scope of the investigation section 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 703(d)(1)(B) of the Act and 19 CFR 351.107(e), Commerce will CBP to require a cash deposit equal to the estimated company-specific countervailable subsidy rate or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in this preliminary determination; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates determined in this preliminary determination, 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 have a company-specific

estimated subsidy rate determined in this preliminary determination, 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 equal to the estimated all-others subsidy rate.

Disclosure

Commerce intends to disclose its calculations performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date 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.

publicly-ranged U.S. sale 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*

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

All interested parties will have the opportunity to submit scope case and rebuttal briefs on the preliminary decision regarding the scope of the LTFV and CVD investigations. The deadlines to submit scope case and rebuttal briefs will be provided in the preliminary scope decision memorandum to be issued with the LTFV investigation preliminary determination. For all scope case and rebuttal briefs, parties must file identical documents simultaneously on the records of the ongoing LTFV and CVD truck bed covers investigations. No new factual information or business proprietary information may be included in either scope case or rebuttal briefs.

Non-scope related 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

⁷ See sections 776(a) and (b) of the Act.

⁸ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company’s

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 all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* the Calculation of Subsidy Rate for All Others Memorandum.

investigation. 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 or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁰

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 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, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission (ITC) Notification

In accordance with section 703(f) of the Act, Commerce will notify the ITC of its 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 imports of truck bed covers from China are materially injuring the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: July 27, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of the investigation covers truck bed covers, which are protective shields made of aluminum, steel, fiberglass, carbon fiber, plastic, and/or water-resistant fabric that are sized to span the open-top area of a pickup truck. When fully assembled and installed, truck bed covers have a width between 45 and 75 inches (actual) and a length between 55 and 100 inches (actual), and can be used to secure the cargo area of a pickup truck and/or repel water.

Truck bed covers typically encompass four general configurations—*i.e.*, folding, roll-up, one-piece, and retractable. Folding truck bed covers consist of two or more interconnected, hinged panels which may be made from a rigid material or a soft material with a rigid frame. Roll-up truck bed covers can be made of soft material with rigid crossbars, or rigid material such as slats, which allow the cover to roll forward for access to the truck bed, and which can be secured with straps, buckles, or other fasteners. One-piece truck bed covers are rigid covers that open from the tailgate end of the truck bed using a hinge or pivot, typically with the assistance of struts for opening and closing. Retractable truck bed covers are made of interconnected rigid slats or one-piece aluminum-reinforced polycarbonate that retract into a recessed canister to allow access to the truck bed. Retractable truck bed covers may be manually operated or electrically powered with a motor, and electric models may include additional features such as fob keys, Bluetooth connectivity, or LED lights.

The scope of the investigation includes not only the cover material (*i.e.*, the protective shield made of aluminum, steel, fiberglass, carbon fiber, plastic, and/or water-resistant fabric), but also any accompanying hardware for the mounting or storage of the truck bed cover (*e.g.*, rails, canisters, latches, straps, clasps, clamps, nuts, bolts, washers, screws, hitch pins, weather strips/seals/gaskets) or other parts (*e.g.*, locks, struts, drain tubes, motors), provided that such hardware or other parts are entered with and invoiced with the cover material. Truck bed covers are included within the scope whether or not they are accompanied with such hardware or other parts. Moreover, any hardware for the mounting or storage of the truck bed cover (*e.g.*, rails, canisters, latches, straps, clasps, clamps, nuts, bolts, washers, screws, hitch

pins, weather strips/seals/gaskets) or other parts (*e.g.*, locks, struts, drain tubes, motors) are covered within the scope if such items are separately entered as a truck bed cover mounting or installation kit.

Excluded from the scope are truck caps (also known as camper shells, toppers, or canopies), which are enclosures that can be mounted on truck bed rails to extend the height of a truck bed by at least 12 inches (actual), thus creating a fully-enclosed, lockable storage area for cargo.

Also excluded from the scope of the investigation are any products already covered by the scope of any extant antidumping and/or countervailing duty orders, including *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011), and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011).

The products subject to the investigation are currently classifiable under subheading 8708.29.5160 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Injury Test
- IV. Diversification of China's Economy
- V. Analysis of China's Financial System
- VI. Use of Facts Available and Adverse Inferences
- VII. Subsidies Valuation Information
- VIII. Interest Rates and Benchmarks
- IX. Analysis of Programs
- X. Recommendation

[FR Doc. 2026–15559 Filed 7–30–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–124]

Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof (Small Vertical Engines) 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 vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical shaft engines) from the People's Republic of China (China) would be likely to lead to the continuation or recurrence of

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 Final Rule*).

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2).

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 Final Rule*.

dumping, at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable July 31, 2026.

FOR FURTHER INFORMATION CONTACT:

Zachary Shaykin, 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) 482–2638.

SUPPLEMENTARY INFORMATION:

Background

On May 4, 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 13, 2026, Commerce received a timely and complete notice of intent to participate in the sunset review for the domestic interested party³ within the deadline specified in 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. 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.⁵

On May 1, 2026, pursuant to 19 CFR 351.218(d)(3)(i), the domestic interested party filed a timely and adequate substantive response.⁶ Commerce did not receive a substantive response from any respondent interested party. On May 20, 2026, Commerce notified the ITC that it did not receive substantive responses from any respondent interested parties.⁷ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the *Order*.

¹ See *Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 86 FR 23675 (May 4, 2021) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 16181 (April 1, 2026).

³ The domestic interested party in this review is Briggs & Stratton, LLC (domestic interested party).

⁴ See Domestic Interested Party's Letter, “Domestic Industry's Notice of Intent to Participate,” dated April 13, 2026.

⁵ See Commerce's Letter, “Sunset Reviews Initiated on April 1, 2026,” dated April 23, 2026.

⁶ See Domestic Interested Party's Letter, “Domestic Industry's Substantive Response,” dated May 1, 2026.

⁷ See Commerce's Letter, “Sunset Reviews Initiated on April 1, 2026,” dated May 20, 2026.

Scope of the Order

The merchandise covered by the *Order* is small vertical shaft engines from China. For a full description of the scope of the *Order*, see the Issues and Decision Memorandum.⁸

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Order* and the magnitude of the margins likely to prevail if the *Order* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.⁹ A list of the topics discussed in the Issues and Decision Memorandum is attached in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at <https://access.trade.gov/frnotices>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 541.75 percent.

Notification Regarding Administrative Protective Orders

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 terms of an APO is a violation which is subject to sanction.

⁸ See Memorandum, “Issues and Decision Memorandum for the First Sunset Review of the Antidumping Order on Certain Vertical Shaft Engines Between 99cc and Up To 225cc from the People's Republic of China,” dated concurrently with, and hereby adopted by, this notice.

⁹ *Id.*

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 771(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: July 28, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2026–15473 Filed 7–30–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–555–001, A–557–818, A–801–002, A–549–841, A–489–841, A–552–827]

Mattresses From Cambodia, Malaysia, Serbia, Thailand, the Republic of Türkiye, and the Socialist Republic of Vietnam: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on mattresses from Cambodia, Malaysia, Serbia, Thailand, the Republic of Türkiye (Türkiye) and the Socialist Republic of Vietnam (Vietnam), would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the “Final Results of Sunset Reviews” section of this notice.

DATES: Applicable July 31, 2026.

FOR FURTHER INFORMATION CONTACT:

Katerina Katsiadas, Operations Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–4929.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2020, Commerce published the *Orders* in the **Federal Register**.¹ On April 1, 2026, Commerce published the notice of initiation of these first sunset reviews of the *Orders*, 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 these sunset reviews from the domestic interested parties³ within the deadline specified in 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claimed interested party status within the meaning of sections 771(9)(C) and (D) of the Act as producers in of the domestic like product in the United States and a certified union.⁵ On February 20, 2026, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁶

On May 1, 2026, pursuant to 19 CFR 351.218(d)(3)(i), the domestic interested parties filed timely and adequate substantive responses.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 party.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 expedited (120-day) sunset reviews of the *Orders*.

Scope of the Orders

The product covered by these *Orders* are mattresses from Cambodia, Malaysia, Serbia, Thailand, Türkiye and Vietnam. For the full description of the scope of the *Orders*, see the Issues and Decision Memorandum.⁹

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Orders* and the magnitude of the margins likely to prevail if the *Orders* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.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 Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at <https://access.trade.gov/frnotices>.

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 103.79

percent for Cambodia, 42.92 percent for Malaysia, 112.11 percent for Serbia, 763.28 percent for Thailand, 20.03 percent for Türkiye, and 668.38 percent for Vietnam.

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials, or conversion to judicial protective, orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: July 28, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. History of the *Orders*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation

[FR Doc. 2026–15471 Filed 7–30–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–523–814]

Common Alloy Aluminum Sheet From the Sultanate of Oman: Amended Final Results of Antidumping Duty Administrative Review; 2023–2024; Correction

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Notice; correction.

¹ See *Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders and Amended Final Affirmative Antidumping Determination for Cambodia* (May 14, 2021) (*Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 16181 (April 1, 2026).

³ The domestic interested party consists of Brooklyn Bedding LLC; Carpenter Company; Future Foam, Inc.; FXI, Inc.; Kolcraft Enterprises Inc.; Leggett & Platt, Incorporated; Serta Simmons Bedding, LLC; Tempur Sealy International, Inc.; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO.

⁴ See Domestic Interested Party's Letters: "Mattresses from Cambodia: Mattress Petitioners' Notice of Intent to Participate," dated April 15, 2026; "Mattresses from Malaysia: Mattress Petitioners' Notice of Intent to Participate," April 15, 2026; "Mattresses from Serbia: Mattress Petitioners' Notice of Intent to Participate," April 15, 2026; "Mattresses from Thailand: Mattress Petitioners' Notice of Intent to Participate," April 15, 2026; "Mattresses from Turkey: Mattress Petitioners' Notice of Intent to Participate," dated April 15, 2026; and "Mattresses from Vietnam: Mattress Petitioners' 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 Letters, "Five-Year ("Sunset") Review of the Antidumping Duty Order on Mattresses from Cambodia: Mattress Petitioners' Substantive Response," dated May 1, 2026; "Five-Year ("Sunset") Review of the Antidumping Duty Order on Mattresses from Malaysia: Mattress Petitioners' Substantive Response," dated May 1, 2026; "Five-Year ("Sunset") Review of the Antidumping Duty Order on Mattresses from Serbia: Mattress Petitioners' Substantive Response," dated May 1, 2026; "Five-Year ("Sunset") Review of the Antidumping Duty Order on Mattresses from Thailand: Mattress Petitioners' Substantive Response," dated May 1,

2026; "Five-Year ("Sunset") Review of the Antidumping Duty Order on Mattresses from the Republic of Turkey: Mattress Petitioners' Substantive Response," dated May 1, 2026; "Five-Year ("Sunset") Review of the Antidumping Duty Order on Mattresses from Vietnam: Mattress Petitioners' Substantive Response," dated May 1, 2026.

⁸ See Commerce's Letter, "Sunset Reviews Initiated on April 1, 2026," dated May 20, 2026.

⁹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders on Mattresses from Cambodia, Malaysia, Serbia, Thailand, the Republic of Türkiye and the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice.

¹⁰ *Id.*

SUMMARY: The U.S. Department of Commerce (Commerce) published a notice in the **Federal Register** on May 29, 2026, in which Commerce issued the amended final results of the administrative review of the antidumping duty (AD) order on common alloy aluminum sheet (aluminum sheet) from the Sultanate of Oman (Oman), covering the period of review (POR) April 1, 2023, through March 31, 2024. This notice incorrectly listed the company Oman Aluminium Rolling Company SPC under an “exporter” header in the rate table section of the notice, when it should have been listed under an “exporter/producer” header.

FOR FURTHER INFORMATION CONTACT: Javeria Ali, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0462.

SUPPLEMENTARY INFORMATION:

Background

On May 29, 2026, Commerce published in the **Federal Register** the amended final results of the 2023–2024 administrative review of aluminum sheet from Oman.¹ In the *Amended Final Results*, we incorrectly listed the company “Oman Aluminium Rolling Company SPC” under an “exporter” header in the rate table section of the notice, when it should have been listed under an “exporter/producer” header.²

Correction

In the **Federal Register** of May 29, 2026, in FR Doc 2026–10795, on page 32005, in the third column, correct “Exporter” to read “Exporter/Producer” in the heading of the rate table section of the notice.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(h) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.224(e).

Dated: July 28, 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. 2026–15558 Filed 7–30–26; 8:45 am]

BILLING CODE 3510–DS–P

¹ See *Common Alloy Aluminum Sheet from the Sultanate of Oman: Amended Final Results of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 32005 (May 29, 2026) (*Amended Final Results*).

² *Id.*, 91 FR at 32005.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–804, A–570–851, A–533–813, A–560–802]

Certain Preserved Mushrooms From Chile, the People’s Republic of China, India, and Indonesia: Continuation of Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) orders on certain preserved mushrooms (preserved mushrooms) from Chile, the People’s Republic of China (China), India, and Indonesia would likely lead to the continuation or recurrence of dumping and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD orders.

DATES: Applicable July 16, 2026.

FOR FURTHER INFORMATION CONTACT: Kristen Ho, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4243.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1998, and February 19, 1999, Commerce published in the **Federal Register** the AD orders on preserved mushrooms from Chile, China, India, and Indonesia.¹

On February 2, 2026, the ITC instituted,² and Commerce initiated,³ the fifth sunset review of the *Orders*, pursuant to section 751(c) of the Tariff

Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping, and therefore, notified the ITC of the magnitude of the margins of dumping likely to prevail should the *Orders* be revoked.⁴ On July 16, 2026, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

Scope of the Orders

The products covered by the *Orders* are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species *Agaricus Bisporus* and *Agaricus Bitorquis*. “Preserved mushrooms” refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of the investigation are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this investigation are the following:

- (1) all other species of mushroom, including straw mushrooms;
- (2) all fresh and chilled mushrooms, including “refrigerated” or “quick blanched mushrooms”;
- (3) dried mushrooms;
- (4) frozen mushrooms; and
- (5) “marinated”, “acidified” or “pickled” mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to the *Orders* is classifiable under subheadings 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000 of the Harmonized Tariff

⁴ See *Certain Preserved Mushrooms from Chile, the People’s Republic of China, India, and Indonesia: Final Results of the Expedited Fifth Sunset Review of the Antidumping Duty Orders*, 91 FR 32003 (May 29, 2026), and accompanying Issues and Decision Memorandum (IDM).

⁵ See *Preserved Mushrooms from Chile, China, India, and Indonesia*, 91 FR 45282 (July 20, 2026).

¹ See *Notice of Antidumping Duty Order: Certain Preserved Mushrooms from Chile*, 63 FR 66529 (December 2, 1998) (*Chile Order*); *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from the People’s Republic of China*, 64 FR 8308 (February 19, 1999) (*China Order*); *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from India*, 64 FR 8311 (February 19, 1999) (*India Order*); *Notice of Antidumping Duty Order: Certain Preserved Mushrooms from Indonesia*, 64 FR 8310 (February 19, 1999) (*Indonesia Order*) (collectively, *Orders*).

² See *Certain Preserved Mushrooms from Chile, China, India, and Indonesia: Institution of Five-Year Reviews*, 91 FR 4622 (February 2, 2026).

³ See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 4499 (February 2, 2026).

Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, Commerce's written description of the merchandise under the *Orders* is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders*. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be July 16, 2026.⁶ Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to fifth anniversary of the date of the last determination by the ITC.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: July 28, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026-15472 Filed 7-30-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-018]

Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this second expedited sunset review, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on boltless steel shelving units prepackaged for sale (boltless steel shelving) 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 Review" section of this notice.

DATES: Applicable July 31, 2026.

FOR FURTHER INFORMATION CONTACT: Kabir Archuleta, 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) 482-2593.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 2015, Commerce issued the AD Order on boltless steel shelving from China.¹ On May 12, 2021, Commerce published the most recent continuation of the Order.² On April 1, 2026, Commerce published the *Initiation Notice* of the second sunset review of the Order on boltless steel shelving from China pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).³ On April 14, 2026, Commerce received a notice of intent to participate from Edsal Manufacturing Company Inc. (the petitioner), a domestic producer of boltless steel shelving and the petitioner in the underlying investigation, within the deadline specified in 19 CFR 351.218(d)(1)(i).⁴ The petitioner claimed

domestic interested party status under section 771(9)(C) of the Act, as a manufacturer of a domestic like product in the United States.⁵ On April 30, 2026, the petitioner filed its timely substantive response within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁶

Commerce received no substantive responses from any other interested parties with respect to the Order covered by this sunset review, nor was a hearing requested. On May 20, 2026, Commerce notified the U.S. International Trade Commission in writing that Commerce did not receive adequate substantive responses from the respondent interested parties.⁷ Commerce received no comments on the adequacy of responses in this sunset review. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the Order.

Scope of the Order

The scope of the Order covers boltless steel shelving units prepackaged for sale, with or without decks (boltless steel shelving). A full description of the scope of the Order is contained in the Issues and Decision Memorandum.⁸

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the Order and the magnitude of the margins likely to prevail if the Order were to be revoked, is provided in the accompanying Issues and Decision Memorandum.⁹ A list of the topics discussed in the Issues and Decision Memorandum is attached in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision

⁵ *Id.* at 2.

⁶ See Petitioner's Letter, "Petitioner's Substantive Response to Notice of Initiation," dated April 30, 2026.

⁷ See Commerce's Letter, "Sunset Reviews Initiated on April 1, 2026," dated May 20, 2026.

⁸ See Memorandum, "Issues and Decisions Memorandum for the Final Results of the Antidumping Duty Administrative Review: Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decisions Memorandum).

⁹ *Id.*

⁶ See ITC Final Determination.

¹ See *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Antidumping Duty Order*, 80 FR 63741 (October 21, 2015) (Order).

² See *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Continuation of Antidumping Duty Order and Countervailing Duty Order*, 86 FR 26000 (May 12, 2021).

³ See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 16181 (April 1, 2026) (*Initiation Notice*).

⁴ See Petitioner's Letter, "Petitioner's Notice of Intent to Participate," dated April 14, 2026.

Memorandum can be directly accessed at <https://access.trade.gov/frnotices>.

Final Results of Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the antidumping duty order on boltless steel shelving from China would be likely to lead to continuation or recurrence of dumping, and that the margins of dumping likely to prevail would be weighted-average margins of up to 112.68 percent.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely notification of the 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.

Notifications to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: July 28, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. History of the Order
- V. Legal Framework
- VI. Discussion of the Issues
 - Comment 1: Likelihood of Continuation or Recurrence of Dumping
 - Comment 2: Magnitude of the Margins Likely to Prevail
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2026-15470 Filed 7-30-26; 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; North Pacific Fishery Management Council Cooperative Annual Reports

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 1/20/2026, 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: North Pacific Fishery Management Council Cooperative Annual Reports.

OMB Control Number: 0648-0678.

Form Number(s): None.

Type of Request: Regular submission: revision and extension of a current information collection.

Number of Respondents: 25.

Average Hours per Response: Alaska Crab Rationalization Program Cooperative Annual Report, 30 hours for ICE and 5 hours for the other Cooperatives; Annual Rockfish Cooperative Report, 2 hours for the catch/processor report and 25 hours for the catcher vessel report; Annual Amendment 80 Cooperative Report, 10 hours; Amendment 80 Bycatch Avoidance Report to the Council, 2 hours; American Fisheries Act Annual Catcher Vessel Inter-cooperative Report, 40 hours; American Fisheries Act Cooperative Annual Report, 16 hours; Pacific Cod Trawl Cooperative Annual Report, 18 hrs.

Total Annual Burden Hours: 623.

Needs and Uses: This is a request for revision and extension of an approved information collection. The National Marine Fisheries Service (NMFS), Alaska Regional Office (AKR), is the sponsor of this information collection. The Amendment 80 Halibut Prohibited

Species Catch (PSC) Management Plan is being removed from this collection as it is no longer provided to the Council. The Council receives only one report annually. All voluntary information has been consolidated into the Amendment 80 Bycatch Report to the Council.

The North Pacific Fishery Management Council (Council) has developed cooperative programs as options in several fishery catch share programs. As part of cooperative programs, the Council and the National Marine Fisheries Service (NMFS) have required or requested that the cooperatives submit annual reports detailing various fishery activities. These reports are intended to be a resource for the Council to track the effectiveness of cooperatives and their ability to meet the Council's goals, and as way for NMFS to monitor the internal fishery management practices of cooperatives. Additionally, they are a tool for the cooperatives to provide feedback on the programs. This collection covers the following required and voluntary cooperative and inter-cooperative reports, agreements, and plans:

- The Alaska Crab Rationalization Program Cooperative Annual Report is voluntary and provides information about measures taken by cooperatives to increase the availability of crab quota share (QS) for transfer to active participants and crew members in the fishery, as well as actions to decrease high QS lease rates and improve low crew compensation.

- The Rockfish Program Cooperative Annual Report is a voluntary summary of cooperative harvests, retention, discards, monitoring methods, and disciplinary actions made within each Rockfish Program cooperative. Additionally, it contains voluntary reporting requirements including monthly chinook bycatch by origin, and intertemporal harvest information.

- The Amendment 80 Cooperative Annual Report is a required summary of cooperative harvests, discards, monitoring methods, disciplinary actions taken against non-compliant members, groundfish retention calculations, and a third-party audit. Voluntary elements of the report include catch from the Northern Bristol Bay Trawl Area, fleet catch capacity over time, and intertemporal harvest information. An additional voluntary element was added to this report in 2019 requesting information on cooperatives or other measures implemented to reduced bycatch in the Bering Sea and Aleutian Islands (BSAI) yellowfin sole Trawl Limited Access Sector fishery by A80 participants.

- The Amendment 80 Bycatch Avoidance Report to the Council is a voluntary collection providing information to the Council about fishery cooperative halibut avoidance practices, communication between participating harvesters, use of halibut excluders, deck sorting, bycatch performance assessment of individual boats, incentives to reduce bycatch, and consequences for substandard performance.

- The American Fisheries Act (AFA) Catcher Vessel Inter-cooperative Agreement is voluntary and includes fishery allocations of cooperative members, penalties to members that exceed them, monitoring methods, limits on the amount of cod harvested by certain vessels, procedures for inter-cooperative sideboard transfers, and incentives for prohibited species catch reduction.

- The American Fisheries Act Cooperative Annual Report is required and must report the cooperative's pollock and sideboard allocations, sub-allocations made to individual vessels, retained and discarded catch, monitoring methods, actions taken against non-compliant members, any pollock landed outside the State of Alaska, and chinook bycatch including a list of vessels with the highest bycatch rates. An additional voluntary element was added to this report in 2019 requesting information on cooperatives or other measures implemented to reduce bycatch in the BSAI yellowfin sole Trawl Limited Access Sector fishery by AFA participants.

- The Pacific Cod Trawl Cooperative (PCTC) Annual Report is voluntary and provides information on the structure, function and operation of the cooperatives, including information on cooperative quota (CQ) leasing activities, and any penalties issued, harvest of CQ resulting from processor-held quota share (QS), cooperative membership, cooperative management, and performance (including implementation of the Aleutian Islands set-aside when in effect).

Affected Public: Businesses or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Voluntary; Mandatory.

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 0648–0678.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–15593 Filed 7–30–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Elkhorn Slough 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 will hold a hybrid-format public meeting to solicit input on the performance evaluation of the Elkhorn Slough National Estuarine Research Reserve (ESNERR). 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. Pacific Daylight Time (PDT) on Tuesday, September 15, 2026, at Monterey County Library, Castroville Branch, 11160 Speegle Street, Castroville, California 95012. 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 Friday, September 25, 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 Tuesday, September 15, 2026, at Monterey County Library, Castroville Branch, 11160 Speegle Street, Castroville, California 95012 by

registering as a speaker at <https://forms.gle/dbXzQD4xBUbgd1649>. Please register by Monday, September 14, 2026, at 6 p.m. PDT. 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 15, 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: Monterey County Library, Castroville Branch, 11160 Speegle Street, Castroville, California 95012. The virtual meeting link will be posted in the registration form 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 Pam Kylstra, NOAA Office for Coastal Management, at czma.evaluations@noaa.gov by Friday, September 25, 2026. Include "Elkhorn Slough National Estuarine Research Reserve—Performance Evaluation Comments" 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 ESNERR or that contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

FOR FURTHER INFORMATION CONTACT: Pam Kylstra, NOAA Office for Coastal Management, by email at Pam.Kylstra@noaa.gov. 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 Pam Kylstra.

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, local agencies, and members of the public. During the evaluation, NOAA will consider the extent to which the state 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, NOAA's Office for Coastal Management 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. 2026–15518 Filed 7–30–26; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2026–0199; OMB Control Number 0704–0232]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement, Contract Pricing

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 31, 2026.

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 30-day Review—Open for Public Comments” or by using the search function.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald T. Lucas, 571–372–7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 215.4, Contract Pricing, and Related Clause at DFARS 252.215; OMB Control Number 0704–0232.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On Occasion.

Number of Respondents: 124.

Responses per Respondent: 1.2, approximately.

Annual Responses: 147.

Average Burden per Response: 42.2 hours, approximately.

Annual Burden Hours: 6,200.

Needs and Uses: The clause at DFARS 252.215–7002, Cost Estimating System Requirements, requires that certain large business contractors—

- Establish an acceptable cost estimating system and disclose the estimating system to the administrative contracting officer in writing;
- Maintain the estimating system and disclose significant changes in the system to the administrative contracting officer on a timely basis; and
- Respond in writing to written reports from the Government that identify material weaknesses in the estimating system.

DoD contracting officers use this information to determine if the contractor has an adequate system for generating cost estimates, which forecasts costs based on appropriate source information available at the time, and has the ability to monitor the correction of material weaknesses. The need for information collection decreases as contractor estimating systems improve and gain contracting officer approval. Due to the use of current data, the burden calculation for this information collection has been reduced.

DoD Clearance Officer: Mr. Reginald T. Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at [whs.mc-](mailto:whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil)

alex.esd.mbx.dd-dod-information-collections@mail.mil.

Kimberly R. Ziegler,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2026–15545 Filed 7–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2026–0166; OMB Control Number 0704–0225]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS) Part 204, Administrative Matters, and Related Clause at 252.204; OMB Control Number 0704–0225

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 31, 2026.

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 30-day Review—Open for Public Comments” or by using the search function.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald T. Lucas, 571–372–7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 204, Administrative Matters, and Related Clause at 252.204; OMB Control Number 0704–0225.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On Occasion.

Number of Respondents: 280.

Responses per Respondent:

Approximately 1.48.

Annual Responses: 415.

Average Burden per Response: 3 hours.

Annual Burden Hours: 1,245.

Needs and Uses: DFARS 204.404–70(a) prescribes use of the clause at DFARS 252.204–7000, Disclosure of Information, in contracts that require the contractor to access or generate unclassified information that may be sensitive and inappropriate for release to the public. The clause requires the contractor to obtain approval from the contracting officer before release of any unclassified contract-related information outside the contractor's organization, unless the information is already in the public domain. In requesting this approval, the contractor must identify the specific information to be released, the medium to be used, and the purpose for the release. Upon receipt of a contractor's request, the Government reviews the information provided by the contractor to determine if it is sensitive or otherwise inappropriate for release for the stated purpose.

DoD Clearance Officer: Mr. Reginald T. Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Kimberly R. Ziegler,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2026–15544 Filed 7–30–26; 8:45 am]

BILLING CODE 6820–FR–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2026–0203; OMB Control Number 0704–0359]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS), Contract Financing

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance the following proposal for collection of information

under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 31, 2026.

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 30-day Review—Open for Public Comments” or by using the search function.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald T. Lucas, 571–372–7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 232, Contract Financing, and Associated Clauses; OMB Control Number 0704–0359.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On Occasion.

Number of Respondents: 915.

Responses per Respondent: 2.69, approximately.

Annual Responses: 2,463.

Average Burden per Response: 1.13 hours, approximately.

Annual Burden Hours: 2,790.

Needs and Uses:

DFARS 252.232–7007, *Limitation of Government's Obligation*. The data submitted by contractors enables contracting officers to calculate improved financing opportunities that will provide benefit to both industry (prime contractor and subcontractor level) and the taxpayer. DFARS 252.232–7007 is prescribed for use in solicitations and resulting incrementally-funded fixed-price contracts. Paragraph (c) of the clause requires a written notification from the contractor that: (1) states the estimated date when the total amount payable by the Government, including any cost for termination for convenience, will approximate 85 percent of the total amount then allotted to the contract for performance of the applicable items; (2) states an estimate of additional funding, if any, needed to continue performance of applicable line items up to the next

scheduled date for allotment of funds, or to a mutually agreed upon substitute date; and (3) advises the contracting officer of the estimated amount of additional funds that will be required for the timely performance of the items funded pursuant to the clause, for a subsequent period as may be specified in the allotment schedule or otherwise agreed to by the parties to the contract.

DFARS 252.232–7012, *Performance Based Payments—Whole Contract Basis*. Contracting officers use the information provided by contractors to create a cash-flow model for use in evaluating alternative financing arrangements. The analysis tool calculates improved financing opportunities that will provide benefit to both industry (prime contractor and subcontractor level) and the taxpayer.

DFARS 252.232–7012 requires contractors to report the negotiated value of all previously completed performance-based payments; negotiated value of current performance-based payment(s) event(s); cumulative negotiated value of performance-based payment(s) events completed to date; total costs incurred to date; cumulative amount of payments previously requested; and the payment amount requested for the current performance-based payment.

DFARS 252.232–7013, *Performance Based Payments—Deliverable-Item Basis*. DFARS 252.232–7013 requires contractors to report the negotiated value of current performance-based payment(s) event(s); cumulative negotiated value of performance-based payment(s) events completed to date; total costs incurred to date; cumulative amount of payments previously requested; and the payment amount requested for the current performance-based payment.

Due to the use of current data, the burden calculation for OMB Control Number 0704–0359 has been reduced.

DoD Clearance Officer: Mr. Reginald T. Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Kimberly R. Ziegler,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2026–15548 Filed 7–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System**

[Docket Number DARS–2026–0200; OMB Control Number 0704–0286]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Publicizing Contract Actions

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 31, 2026.

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 30-day Review—Open for Public Comments” or by using the search function.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald T. Lucas, 571–372–7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 205, Publicizing Contract Actions, and DFARS 252.205–7000; OMB Control Number 0704–0286.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On Occasion.

Number of Respondents: 10,655.

Responses per Respondent: 1.

Annual Responses: 10,655.

Average Burden per Response: 1.1 hours.

Annual Burden Hours: 11,720.

Needs and Uses: DFARS 205.470 prescribes the use of the clause at DFARS 252.205–7000, Provision of

Information to Cooperative Agreement Holders, in solicitations and contracts, including solicitations and contracts using Federal Acquisition Regulation (FAR) part 12 procedures for the acquisition of commercial products and commercial services, which are expected to exceed \$1.5 million. This clause implements 10 U.S.C. 4957 by requiring contractors to provide cooperative agreement holders, upon request, with a list of the contractor's employees or offices responsible for entering into subcontracts under DoD contracts. The contractor need not provide the listing to a particular cooperative agreement holder more frequently than once a year. Upon receipt of a contractor's list, the cooperative agreement holder utilizes the information to identify and pursue contracting opportunities with DoD and expand the number of businesses capable of participating in Government contracts. Due to the use of current data, the burden calculation for this information collection has been reduced.

DoD Clearance Officer: Mr. Reginald T. Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Kimberly R. Ziegler,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2026–15547 Filed 7–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System**

[Docket Number DARS–2026–0201; OMB Control Number 0704–0229]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS) Part 225, Foreign Acquisition and Related Clauses

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 31, 2026.

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 30-day Review—Open for Public Comments” or by using the search function.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald T. Lucas, 571–372–7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 225, Foreign Acquisition, and Related Clauses; OMB Control Number 0704–0229.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On Occasion.

Number of Respondents: 38,546.

Responses per Respondent: 10, approximately.

Annual Responses: 377,597.

Average Burden per Response: 0.28 hour.

Annual Burden Hours: 104,490.

Needs and Uses: DoD needs this information to ensure compliance with restrictions on the acquisition of foreign products imposed by statute or policy to protect the industrial base; to ensure compliance with U.S. trade agreements and memoranda of understanding that promote reciprocal trade with U.S. allies; and to prepare reports for submission to the Department of Commerce on the Balance of Payments Program. This information collection includes requirements related to foreign acquisition in DFARS part 225, Foreign Acquisition, and the related clauses at DFARS 252.225 as follows:

DFARS 252.225–7000, Buy American—Balance of Payments Program Certificate, as prescribed in DFARS 225.1101(1)(i), requires the offeror to identify in its proposal supplies that do not meet the definition of domestic end product, separately listing qualifying country and other foreign end products. The Buy American statute does not apply to acquisitions of commercial information technology.

DFARS 252.225–7003, Report of Intended Performance Outside the United States and Canada—Submission with Offer, and 252.225–7004, Report of Intended Performance Outside the United States and Canada—Submission after Award, as prescribed in DFARS 225.7204(a) and (b) respectively, require offerors and contractors to submit a Report of Contract Performance Outside the United States for subcontracts to be performed outside the United States. The reporting threshold is \$750,000 for contracts that exceed \$15 million. The contractor may submit the report on DD Form 2139, Report of Contract Performance Outside the United States, or a computer-generated report that contains all information required by DD Form 2139.

DFARS 252.225–7005, Identification of Expenditures in the United States, as prescribed in DFARS 225.1103(1), requires contractors incorporated or located in the United States to identify, on each request for payment under contracts for supplies to be used or for construction or services to be performed outside the United States, that part of the requested payment representing estimated expenditures in the United States.

DFARS 252.225–7010, Commercial Derivative Military Article—Specialty Metals Compliance Certificate, as prescribed at DFARS 225.7003–5(b), requires the offeror to certify that it will take certain actions with regard to specialty metals if the offeror chooses to use the alternative compliance approach when providing commercial derivative military articles to the Government.

DFARS 252.225–7013, Duty-Free Entry, prescribed at DFARS 225.1101(4), requires the contractor or an authorized agent to provide information on shipping documents and customs forms regarding those items that are eligible for duty-free entry.

DFARS 252.225–7018, Photovoltaic Devices—Certificate, as prescribed at DFARS 225.7017–4(b), requires offerors to certify that no photovoltaic devices with an estimated value exceeding the micro-purchase threshold will be utilized in performance of the contract or to specify the country of origin.

DFARS 252.225–7020, Trade Agreements Certificate, as prescribed in DFARS 225.1101(5)(i), only requires listing of nondesignated country end products. This provision is used in solicitations for all acquisitions subject to the World Trade Organization Government Procurement Agreement.

DFARS 252.225–7025, Restriction on Acquisition of Forgings, as prescribed in DFARS 225.7102–4, also requires contractor retention of records showing

compliance with the restrictions until 3 years after final payment. The contractor agrees to make the records available to the contracting officer upon request. The contractor may request a waiver in accordance with DFARS 225.7102–3.

DFARS 252.225–7032, Waiver of United Kingdom Levies—Evaluation of Offers, and 252.225–7033, Waiver of United Kingdom Levies, as prescribed in DFARS 225.1101(7) and (8) respectively, require United Kingdom offerors and prime contractors, and offerors and prime contractors with subcontracts of a dollar value exceeding \$1 million with United Kingdom firms, to provide certain information necessary for DoD to obtain a waiver of United Kingdom levies.

DFARS 252.225–7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate, as prescribed in DFARS 225.1101(9)(i) and (9)(v), requires separate listing of qualifying country (except Canada), Free Trade Agreement (FTA) country, or other foreign end products. Alternate I, as prescribed in 225.1101(9)(ii), requires listing of qualifying country or other foreign end products. The Buy American statute does not apply to acquisitions of commercial information technology.

DFARS 252.225–7046, Exports of Approved Community Members in Response to the Solicitation, as prescribed at DFARS 225.7902–5(a), requires a representation whether exports or transfers of qualifying defense articles were made in preparing the response to the solicitation. If yes, the offeror represents that such exports or transfers complied with the requirements of the provision.

DoD Clearance Officer: Mr. Reginald T. Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Kimberly R. Ziegler,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2026–15549 Filed 7–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2026–0202; OMB Control Number 0704–0253]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Subcontracting Policies and Procedures

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 31, 2026.

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 30-day Review—Open for Public Comments” or by using the search function.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald T. Lucas, 571–372–7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 244, Subcontracting Policies and Procedures; OMB Control Number 0704–0253.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On Occasion.

Number of Respondents: 10.

Responses per Respondent: 2.

Annual Responses: 20.

Average Burden per Response: 8 hours.

Annual Burden Hours: 160.

Needs and Uses: Administrative contracting officers use the information in making decisions to approve or

disapprove a contractor's purchasing system. The disapproval of a contractor's purchasing system would necessitate Government consent to individual subcontracts and possibly prompt a financial withhold or other Government rights and remedies. DFARS 244.305, Granting, Withholding, or Withdrawing Approval, provides policy guidance for administrative contracting officers to determine the acceptability of the contractor's purchasing system and approve or disapprove the system, at the completion of the in-plant portion of a contractor purchasing system review, and to pursue correction of any material weaknesses with the contractor. The clause at DFARS 252.244-7001, Contractor Purchasing System Administration, requires the contractor to respond within 30 days to a written initial determination from the contracting officer that identifies material weaknesses in the contractor's purchasing system. The contracting officer will evaluate the contractor's response to this initial determination and notify the contractor in writing of any remaining material weaknesses, the adequacy of any proposed or completed corrective action, and system disapproval if the contracting officer determines that one or more material weaknesses remain. If the contractor receives the contracting officer's final determination of material weaknesses, the contractor has 45 days to either correct the material weaknesses or submit an acceptable corrective action plan. Due to a change in the Government's process, the burden calculation for this information collection has been reduced.

DoD Clearance Officer: Mr. Reginald T. Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Kimberly R. Ziegler,
Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2026-15546 Filed 7-30-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Record of Decision for the Island of Tinian in the Commonwealth of the Northern Mariana Islands (CNMI) Final Environmental Impact Statement (EIS)

AGENCY: Department of the Navy (DoN), Department of Defense (DoD).

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act, the Department of the Navy (DoN) announces its decision to conduct land-based training for ongoing and evolving joint expeditionary warfare tactics, specifically, distributed operations on the island of Tinian in the Commonwealth of the Northern Mariana Islands (CNMI), as identified in Alternative 1 of the CNMI Joint Military Training (CJMT) Final Environmental Impact Statement (EIS).

SUPPLEMENTARY INFORMATION:

Alternative 1 is the DoN's preferred alternative and enables the U.S. Armed Forces to meet their individual mandates in Title 10 to be trained and equipped to protect U.S. national security by being ready to effectively prosecute war and defend the nation (e.g., 10 U.S.C. 167, 7013, 7062, 8013, 8062, 8063, 9013, 9062).

The complete text of the Record of Decision (ROD) and the CJMT Final EIS is available on the project website at www.cnmijointmilitarytrainingeis.com along with supporting documents. Single copies of the ROD are available upon request by contacting: Naval Facilities Engineering Systems Command Pacific, Attention: CJMT EIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860-3134.

Dated: July 29, 2026.

J.R. Epstein,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2026-15526 Filed 7-30-26; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2026-SCC-1915]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Public Service Loan Forgiveness Reconsideration Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before August 31, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this information collection request (ICR) by selecting "Department of Education" under "Currently Under Review," then check the "Only Show ICR for Public Comment" checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the "View Information Collection (IC) List" link. Supporting statements and other supporting documentation may be found by clicking on the "View Supporting Statement and Other Documents" link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carolyn Rose, (202) 453-5967.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Public Service Loan Forgiveness Reconsideration Request.

OMB Control Number: 1845-0164.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 36,000.

Total Estimated Number of Annual Burden Hours: 9,000.

Abstract: The Department of Education (Department) is requesting an extension without change of this information collection. This collection is used to obtain information from Federal student loan borrowers to determine eligibility for reconsideration of their Public Service Loan Forgiveness (PSLF) or Temporary Expanded Public Service Loan Forgiveness (TEPSLF) denial.

The Department is currently making several changes to the Direct Loan

program resulting from the One Big Beautiful Bill Act (OBBBA) signed by President Trump on July 4, 2025. This form, the PSLF reconsideration form, however, does not require any updates because of the OBBBA.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–15587 Filed 7–30–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1883]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; RSA–227, Annual Client Assistance Program Performance Report

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before August 31, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this information collection request (ICR) by selecting “Department of Education” under “Currently Under Review,” then check the “Only Show ICR for Public Comment” checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the “View Information Collection (IC) List” link. Supporting statements and other supporting documentation may be found by clicking on the “View Supporting Statement and Other Documents” link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact April Trice, April.Trice@ed.gov.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the

Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: RSA–227, Annual Client Assistance Program Performance Report.

OMB Control Number: 1820–0528.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 912.

Abstract: The Annual Client Assistance Program Performance Report (RSA–227) is used to analyze and evaluate the CAP Program administered by eligible grantees throughout the States. The Rehabilitation Act of 1973 (Rehabilitation Act), as amended by Title IV of the Workforce Innovation and Opportunity Act (WIOA), requires each State to have a CAP in effect to receive payments under the Rehabilitation Act. Section 112 of the Rehabilitation Act authorizes CAP grantees to provide information to individuals with disabilities regarding the services and benefits available under the Rehabilitation Act and the rights afforded them under Title I of the Americans with Disabilities Act. In addition, CAP grantees are authorized to provide advocacy and legal representation to individuals seeking or receiving services under the Rehabilitation Act to resolve disputes with programs providing such services, including vocational rehabilitation services. RSA uses the form to meet specific data collection requirements of Section 112 of the Rehabilitation Act and its implementing Federal regulations at 35 CFR part 370. CAP grantees must report annually using the RSA–227, which is due on or before January 29 of each year.

The collection of information through Form RSA–227 has enabled RSA to furnish the President and Congress with data on the provision of client assistance. Data is used to indicate trends in provision of services from year-to-year, as well as evaluate the effectiveness of eligible grantees in meeting annual priorities.

The respondents to the RSA–227 are the client assistance programs in each state/territory. RSA received recommendations on the initial development of the RSA–227, including frequency of reporting from CAP grantees to ensure that the information requested could be provided with minimal burden to the respondents.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–15457 Filed 7–30–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Closed Meetings To Implement Voluntary Agreements and Related Plans of Action Under the Defense Production Act

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Notice of meetings.

SUMMARY: This notice announces a series of closed meetings held (or to be held) pursuant to the Defense Production Act to discuss the implementation of a Voluntary Agreement and potential accompanying Plans of Action with entities involved in the nuclear fuel industry.

DATES: See **SUPPLEMENTARY INFORMATION** section for further details.

ADDRESSES: The committee meetings were held (or will be held) virtually (via Teams).

FOR FURTHER INFORMATION CONTACT: Ms. Sarah McPhee-Charrez, Chief of Staff, Nuclear Fuel Cycle, Office of Nuclear Energy, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, Telephone: (202) 587–1092. Email: sarah.mcphee@nuclear.energy.gov.

SUPPLEMENTARY INFORMATION: In accordance with section 708 of the Defense Production Act (“DPA”) (50 U.S.C. 4558) and consistent with the regulations set out at 10 CFR part 821, the Department of Energy (“DOE”) hereby gives notice that a series of closed meetings were held (or will be held) to discuss the implementation of a Voluntary Agreement and any subsequent Plans of Action regarding each of the listed topics. DOE determined that these meetings were (or are) likely to disclose information treated as trade secrets and commercial or financial information obtained from a person and privileged or confidential. As a result, DOE determined that the matters discussed in these meetings fall

within the scope of 5 U.S.C. 552b(c), thereby necessitating their closure to the public.

Meeting 1: Committee 3 Meeting

June 1, 2026, June 8, 2026, June 15, 2026, June 22, 2026; and June 29, 2026.

10:00 a.m.–10:30 a.m. Virtual (Teams)

Meeting 2: Reactors Subcommittee Meeting

June 2, 2026, June 9, 2026, June 16, 2026, June 23, 2026, and June 30, 2026.

11:00 a.m.–12:45 p.m. Virtual (Teams)

Meeting 3: Recycling & Reprocessing Subcommittee Working Group Meeting

June 2, 2026, June 9, 2026, June 16, 2026, June 23, 2026, and June 30, 2026.

4:00 p.m.–5:00 p.m. Virtual (Teams)

Meeting 4: Committee 3 Workforce Subcommittee Working Group Meeting

June 3, 2026, June 10, 2026, June 17, 2026, and June 24, 2026.

1:00 p.m.–2:15 p.m. Virtual (Teams)

Meeting 5: Committee 3 Human Mobilization Workforce Subcommittee Meeting

June 4, 2026.

3:00 p.m.–4:00 p.m. Virtual (Teams)

Signing Authority

This document of the Department of Energy was signed on July 27, 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, July 29, 2026.

Treena V. Garrett,

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

[FR Doc. 2026–15527 Filed 7–30–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF26–3–000]

Western Area Power Administration; Notice of Filing

Take notice that on July 23, 2026, Western Area Power Administration submitted a tariff filing per 10 CFR 903.23: DSW_WALCBA_WAPA222–20260723 to be effective October 1, 2026.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Comment Date: 5:00 p.m. Eastern Time on August 24, 2026.

Dated: July 28, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–15540 Filed 7–30–26; 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 rate filings:

Docket Numbers: ER12–979–017; ER12–2542–009; ER14–2858–011; ER15–2615–007; ER16–2577–007.

Applicants: Lindahl Wind Project, LLC, Goodwell Wind Project, LLC, Origin Wind Energy, LLC, Prairie Rose Wind, LLC, Rocky Ridge Wind Project, LLC.

Description: Response to 01/30/2026, Deficiency Letter of Rocky Ridge Wind Project, LLC, et al.

Filed Date: 7/24/26.

Accession Number: 20260724–5408.

Comment Date: 5 p.m. ET 8/14/26.

Docket Numbers: ER15–1332–009; ER17–1314–004; ER10–2397–004; ER10–2398–011; ER10–2399–011; ER10–2400–016; ER10–2401–010; ER10–2402–009; ER11–3414–010; ER19–1280–004; ER10–2403–010; ER20–2717–002; ER17–2541–002; ER10–2423–010; ER10–2404–010; ER14–1933–011; ER20–2714–002; ER10–2405–012; ER10–2406–012; ER17–2087–007; ER21–714–005; ER16–1152–005; ER19–1281–004; ER14–1594–004; ER14–1596–004; ER10–2407–009; ER10–2408–007; ER22–399–001; ER10–2409–011; ER10–2410–011; ER10–2411–012; ER10–2412–012; ER17–1315–009; ER18–1189–006; ER10–2414–015; ER11–2935–013; ER16–1724–008; ER19–1282–004; ER10–2425–011; ER18–1188–005; ER17–1316–007; ER10–2424–009; ER17–1318–006; ER14–1934–005; ER14–1935–005; ER15–1020–003; ER20–2746–003; ER19–2626–004; ER10–2426–003; ER20–245–002; ER20–242–002; ER13–1816–016; ER19–1044–005; ER18–1186–006; ER15–1333–009; ER10–2428–004; ER20–246–002.

Applicants: Windhub Solar A, LLC, Wheat Field Wind Power Project LLC, Waverly Wind Farm LLC, Turtle Creek Wind Farm LLC, Telocaset Wind Power Partners, LLC, Sustaining Power Solutions LLC, Sunshine Valley Solar, LLC, Sun Streams, LLC, Sagebrush Power Partners, LLC, Rosewater Wind Farm LLC, Riverstart Solar Park LLC, Rising Tree Wind Farm III LLC, Rising Tree Wind Farm II LLC, Rising Tree Wind Farm LLC, Redbed Plains Wind Farm LLC, Rail Splitter Wind Farm, LLC, Quilt Block Wind Farm LLC, Prairie Queen Wind Farm LLC, Pioneer Prairie Wind Farm I, LLC, Paulding Wind Farm IV LLC, Paulding Wind

Farm III LLC, Paulding Wind Farm II LLC, Old Trail Wind Farm, LLC, Meadow Lake Wind Farm VI LLC, Meadow Lake Wind Farm V LLC, Meadow Lake Wind Farm IV LLC, Meadow Lake Wind Farm III LLC, Meadow Lake Wind Farm II LLC, Meadow Lake Wind Farm LLC, Meadow Lake Solar Park LLC, Marble River, LLC, Lost Lakes Wind Farm LLC, Lone Valley Solar Park II LLC, Lone Valley Solar Park I LLC, Lexington Chenoa Wind Farm LLC, Jericho Rise Wind Farm LLC, Indiana Crossroads Wind Farm LLC, Hog Creek Wind Project, LLC, High Trail Wind Farm, LLC, High Prairie Wind Farm II, LLC, Headwaters Wind Farm II LLC, Headwaters Wind Farm LLC, Flat Rock Windpower II LLC, Flat Rock Windpower LLC, Estill Solar I, LLC, Crossing Trails Wind Power Project LLC, Cloud County Wind Farm, LLC, Broadlands Wind Farm LLC, Blue Canyon Windpower VI LLC, Blue Canyon Windpower V LLC, Blue Canyon Windpower II LLC, Blue Canyon Windpower LLC, Blackstone Wind Farm II LLC, Blackstone Wind Farm, LLC, Arlington Wind Power Project LLC, Arkwright Summit Wind Farm LLC, Arbuckle Mountain Wind Farm LLC.

Description: Response to 05/02/2022, Deficiency Letter of Arbuckle Mountain Wind Farm LLC, et al.

Filed Date: 7/23/26.

Accession Number: 20260723–5228.

Comment Date: 5 p.m. ET 8/13/26.

Docket Numbers: ER19–391–005.

Applicants: Panda Hummel Station LLC.

Description: Refund Report: Hummel Station, LLC submits tariff filing per 35.19a(b): Refund Report to be effective N/A.

Filed Date: 7/28/26.

Accession Number: 20260728–5022.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER19–391–006.

Applicants: Panda Hummel Station LLC.

Description: Compliance filing: Hummel Station, LLC submits tariff filing per 35: Settlement Compliance Filing to be effective 1/13/2021.

Filed Date: 7/28/26.

Accession Number: 20260728–5021.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER22–2176–003.

Applicants: Rolling Hills Generating, L.L.C.

Description: Refund Report: Refund Report to be effective N/A.

Filed Date: 7/28/26.

Accession Number: 20260728–5024.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER22–2176–005.

Applicants: Rolling Hills Generating, L.L.C.

Description: Compliance filing: Settlement Compliance Filing to be effective 6/6/2025.

Filed Date: 7/28/26.

Accession Number: 20260728–5023.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–3289–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of ISA, Service Agreement No. 6436; AE2–224 to be effective 1/26/2026.

Filed Date: 7/27/26.

Accession Number: 20260727–5156.

Comment Date: 5 p.m. ET 8/17/26.

Docket Numbers: ER26–3290–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: Rollover Firm Point-to-Point Transmission Service Agreement No. 297 to be effective 10/1/2026.

Filed Date: 7/27/26.

Accession Number: 20260727–5157.

Comment Date: 5 p.m. ET 8/17/26.

Docket Numbers: ER26–3291–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: Rollover Firm Point-to-Point Transmission Service Agreement with LES to be effective 10/1/2026.

Filed Date: 7/27/26.

Accession Number: 20260727–5159.

Comment Date: 5 p.m. ET 8/17/26.

Docket Numbers: ER26–3292–000.

Applicants: San Diego Gas & Electric.
Description: § 205(d) Rate Filing: SDGE CWIP and Abandonment Incentives GPP to be effective 9/25/2026.

Filed Date: 7/27/26.

Accession Number: 20260727–5163.

Comment Date: 5 p.m. ET 8/17/26.

Docket Numbers: ER26–3293–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of ISA, Service Agreement No. 6206; AE1–196 to be effective 1/8/2026.

Filed Date: 7/27/26.

Accession Number: 20260727–5161.

Comment Date: 5 p.m. ET 8/17/26.

Docket Numbers: ER26–3294–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revised Service Agreement No. 6258 re: NITSA among PJM and Wabash Valley to be effective 7/1/2026.

Filed Date: 7/28/26.

Accession Number: 20260728–5017.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–3295–000.

Applicants: Duke Energy Indiana, LLC, Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Duke Energy Indiana, LLC submits tariff filing per 35.13(a)(2)(iii): 2026–07–28 SA 4811 Duke Energy Indiana-Sprout E&P (J2586) to be effective 7/29/2026.

Filed Date: 7/28/26.

Accession Number: 20260728–5020.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–3296–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: SLGIA—Elektron Storage SI–20 (RS No. 1217) to be effective 7/29/2026.

Filed Date: 7/28/26.

Accession Number: 20260728–5030.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–3297–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Amendment: Notice of Cancellation of Rate Schedule FERC No. 133 to be effective 9/27/2026.

Filed Date: 7/28/26.

Accession Number: 20260728–5034.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–3298–000.

Applicants: Midcontinent Independent System Operator, Inc., Southern Indiana Gas and Electric Company, Inc.

Description: § 205(d) Rate Filing: Southern Indiana Gas and Electric Company, Inc. submits tariff filing per 35.13(a)(2)(iii): 2026–07–28_SIGE Request for Transmission Rate Incentives to be effective 9/27/2026.

Filed Date: 7/28/26.

Accession Number: 20260728–5035.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–3299–000.

Applicants: Pleasant Prairie Solar Energy LLC.

Description: § 205(d) Rate Filing: MBR Tariff Revision to be effective 7/29/2026.

Filed Date: 7/28/26.

Accession Number: 20260728–5039.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–3300–000.

Applicants: Todd Solar LLC.

Description: § 205(d) Rate Filing: MBR Tariff Revision to be effective 7/29/2026.

Filed Date: 7/28/26.

Accession Number: 20260728–5040.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–3301–000.

Applicants: Idaho Power Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 188—Engineering & Procurement Agreement to be effective 7/28/2026.

Filed Date: 7/28/26.

Accession Number: 20260728–5041.

Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–3302–000.

Applicants: Sycamore Riverside Energy LLC.

Description: § 205(d) Rate Filing; MBR Tariff Revision to be effective 7/29/2026.

Filed Date: 7/28/26.
Accession Number: 20260728–5042.
Comment Date: 5 p.m. ET 8/18/26.
Docket Numbers: ER26–3303–000.
Applicants: Idaho Power Company.
Description: § 205(d) Rate Filing; Rate Schedule No. 189—Engineering & Procurement Agreement to be effective 7/28/2026.

Filed Date: 7/28/26.
Accession Number: 20260728–5043.
Comment Date: 5 p.m. ET 8/18/26.

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 28, 2026.
Carlos D. Clay,
Deputy Secretary.
[FR Doc. 2026–15539 Filed 7–30–26; 8:45 am]
BILLING CODE 6717–01–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.		
Exempt: 1. CP25–547–000, CP25–549–000	07–24–2026	FERC Staff. ¹

¹ Email communication dated 07/19/2026 forwarding comments of J. Reese (Landowner).

Dated: July 28, 2026.
Carlos D. Clay,
Deputy Secretary.
[FR Doc. 2026–15543 Filed 7–30–26; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5912–004]

Town of Dover-Foxcroft; Notice of Intent To Prepare an Environmental Assessment

On May 1, 2026, the Town of Dover-Foxcroft (exemptee) filed an application for surrender of exemption from licensing for the Moosehead Hydroelectric Project No. 5912. The project is located on the Piscataquis River in the Town of Dover-Foxcroft in

Piscataquis County, Maine and does not occupy federal lands.

The exemptee proposes to surrender its exemption from licensing. The project has been inoperable since 2007. The Town determined that repair and redevelopment of the hydroelectric project would be cost prohibitive and uneconomical. The Town proposes to decommission the project by entirely removing the dam and powerhouse and restoring the riverbed.

A Notice of Application for Surrender of Exemption Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests was issued on June 5, 2026. The National Marine

Fisheries Service (NMFS), U.S. Fish and Wildlife Service, Maine Department of Inland Fisheries and Wildlife (Maine DIFW), and Maine Department of Marine Resources (Maine DMR) filed notices of intervention. In addition, the following entities filed comments in support of the proposed surrender: NMFS, Maine DIFW, Maine DMR, the Atlantic Salmon Federation, The Nature Conservancy, Maine Audubon, Maine Rivers, the Penobscot River Restoration Trust, and the Natural Resources Council of Maine. No other comments were received.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) for the project.¹ Commission staff plans to issue an EA by January 8, 2027. Revisions to the schedule may be made as appropriate. The EA will be issued for a 30-day comment period. All comments filed on the EA will be reviewed by staff and considered in the Commission's final decision on the proceeding.

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.

Any questions regarding this notice may be directed to Elizabeth Moats at 202-502-6632 or Elizabeth.OsierMoats@ferc.gov.

(Authority: 18 CFR 2.1.)

Dated: July 28, 2026.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2026-15542 Filed 7-30-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1894-238]

Dominion Energy South Carolina, Inc; Notice of Intent To Prepare an Environmental Assessment

On June 4, 2026, Dominion Energy South Carolina, Inc filed a request to amend the Turbine Venting Plan for the Parr Hydroelectric Project No. 1894. The project is located on the Broad River in Newberry and Fairfield counties, South Carolina. The project occupies federal lands managed by the US Forest Service

(USFS) within the Sumter National Forest.

The licensee requests Commission approval to amend the project's Turbine Venting Plan (Plan) such that the seasonal turbine venting window specified in the Plan, currently June 15 through August 31, be modified to June 15 through October 31, to increase dissolved oxygen levels downstream of Parr Shoals Dam. The licensee also requests Commission approval to amend Article 401(b), which, in part, requires the licensee to obtain Commission approval for extensions of the current turbine venting window that exceed 30 days (*i.e.*, extensions beyond September 30). The licensee requests Article 401(b) be amended so that it is consistent with the turbine venting window described above in the amended Plan.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) for the project.¹ Commission staff plans to issue an EA by September 30, 2026. Revisions to the schedule may be made as appropriate. All comments filed on the EA will be reviewed by staff and considered in the Commission's final decision on the proceeding.

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.

Any questions regarding this notice may be directed to Joy Kurtz at 202-502-6760 or joy.kurtz@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: July 28, 2026.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2026-15541 Filed 7-30-26; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM-FAD-233]

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 20, 2026 10 a.m. EST Through July 27, 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. 20260086, Draft, USFS, UT,
Brian Head Ski Resort Expansion,
Comment Period Ends: 10/29/2026,
Contact: Matt Loscalzo 720-908-1213.

EIS No. 20260087, Final, FERC, MS,
Kosciusko Junction Pipeline Project,
Contact: Office of External Affairs
866-208-3372.

EIS No. 20260088, Final, USACE, CA,
San Francisco Waterfront Coastal
Flood Study, CA Final Integrated
Feasibility Report and Environmental
Impact Statement, Review Period
Ends: 08/31/2026, Contact: Dr. Raven
Blakeway 409-790-9058.

EIS No. 20260089, Final, BR, CO, Post-
2026 Operational Guidelines and
Strategies for Lake Powell and Lake
Mead Final Environmental Impact
Statement, Contact: KayLee Nelson
702-293-8073.

Dated: July 28, 2026.

Nancy Abrams,
Deputy Director, Federal Activities Division.
[FR Doc. 2026-15536 Filed 7-30-26; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1053; FR ID 359353]

Information Collections Being Reviewed by the Federal Communications Commission

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

¹ The unique identification number for documents relating to this environmental review is EAXX-019-20-000-1782748923.

¹ The unique identification number for documents relating to this environmental review is EAXX-019-20-000-1782995106.

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 shall be submitted on or before September 29, 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: 3060-1053.

Title: Misuse of internet Protocol Captioned Telephone Service (IP CTS); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13-24 and 03-123.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit.

Number of Respondents and Responses: 187,170 respondents; 664,775 responses. Estimated Time per Response: 0.1 hours (6 minutes) to 40 hours. Frequency of Response: Annual, every five years, one-time, and ongoing reporting requirements; Recordkeeping requirements; Third party disclosure requirements. Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements is found at section 225 [47 U.S.C. 225] Telecommunications Services for Hearing-Impaired Individuals; The Americans with Disabilities Act of 1990, (ADA), Public Law 101-336, 104 Stat. 327, 366-69, enacted on July 26, 1990.

Total Annual Burden: 341,067 hours. Total Annual Cost: \$54,000.

Needs and Uses: On August 1, 2003, the Commission released *Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling, 68 FR 55898, September 28, 2003, clarifying that one-line captioned telephone voice carry over (VCO) service is a type of telecommunications relay service (TRS) and that eligible providers of such services are eligible to recover their costs from the Interstate TRS Fund (Fund) in accordance with section 225 of the Communications Act.

On July 19, 2005, the Commission released *Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67 and CG Docket No. 03-123, Order, 70 FR 54294, September 14, 2005, clarifying that two-line captioned telephone VCO service, like one-line captioned telephone VCO service, is a type of TRS eligible for compensation from the Fund.

On January 11, 2007, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling, 72 FR 6960, February 14, 2007, granting a request for clarification that internet Protocol (IP) captioned telephone relay service (IP CTS) is a type of TRS eligible for compensation from the Fund.

On August 26, 2013, the Commission issued *Misuse of Internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Report and Order, 78 FR 53684, August 30, 2013, to regulate practices relating to the marketing of IP CTS, impose certain requirements for the provision of this service, and mandate registration and certification of IP CTS users.

On June 8, 2018, the Commission issued *Misuse of Internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Report and Order and Declaratory Ruling, 83 FR 30082, June 27, 2018 (*2018 IP CTS Modernization Order*), to facilitate the Commission's efforts to reduce waste, fraud, and abuse and improve its ability to efficiently manage the IP CTS program through regulating practices related to the marketing of IP CTS, generally

prohibiting the provision of IP CTS to consumers who do not genuinely need the service, permitting the provision of IP CTS in emergency shelters, and approving the use of automatic speech recognition to generate captions without the assistance of a communications assistant.

On February 15, 2019, the Commission issued *Misuse of Internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Report and Order, and Order, 84 FR 8457, March 8, 2019 (*2019 IP CTS Program Management Order*), requiring the submission of IP CTS user registration information to the telecommunications relay service (TRS) User Registration Database (Database) so that the Database administrator can verify IP CTS users to reduce the risk of waste, fraud, and abuse in the IP CTS program.

On June 30, 2022, the Commission issued *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program; Misuse of Internet Protocol Captioned Telephone Service*, CG Docket Nos. 03-123, 10-51, and 13-24, Report and Order, 87 FR 57645, September 21, 2022 (*Registration Grace Period Order*), allowing IP CTS and Video Relay Service (VRS) providers to provide compensable service to a new user for up to two weeks after submitting the user's information to the Database if the user's identity is verified within that period, in order to offer more efficient service to IP CTS and VRS users without risk of waste, fraud, and abuse to the Fund.

On September 30, 2022, the Commission released the *Accessible Carceral Communications Order, Rates for Interstate Inmate Calling Services*, WC Docket No.12-375, Fourth Report and Order, 87 FR 75496, December 9, 2022, (*Accessible Carceral Communications Order*), requiring inmate calling services providers to provide incarcerated TRS-eligible users the ability to access any relay service eligible for TRS Fund support. To facilitate the registration of IP CTS users in carceral facilities, the Commission amended the registration and verification requirements for individual users.

Federal Communications Commission.
Marlene Dortch,
Secretary, Office of the Secretary.
 [FR Doc. 2026–15480 Filed 7–30–26; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0249; FR ID 359475]

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 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 31, 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: 3060–0249.

Title: Sections 74.781, 74.1281 and 78.69, Station Records.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions; State, Federal or Tribal governments.

Number of Respondents and Responses: 14,052 respondents; 19,077 responses.

Estimated Time per Response: 0.375 hour–1 hour.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 12,751 hours.

Total Annual Cost: \$6,030,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in this collection are as follows: 47 CFR 74.781 information collection requirements include the following: (a) The licensee of a low power TV, TV translator, or TV booster station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this Chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light: (1) The nature of such extinguishment or improper functioning. (2) The date and time the extinguishment or improper operation was observed or otherwise noted. (3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.765(c) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

47 CFR 74.1281 information collection requirements include the following: (a) The licensee of a station authorized under this Subpart shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment of improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.1265(b) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

47 CFR 78.69 requires each licensee of a CARS station shall maintain records showing the following: (a) For all attended or remotely controlled stations, the date and time of the beginning and end of each period of transmission of each channel;

(b) For all stations, the date and time of any unscheduled interruptions to the transmissions of the station, the duration of such interruptions, and the causes thereof;

(c) For all stations, the results and dates of the frequency measurements made pursuant to § 78.113 and the name of the person or persons making the measurements;

(d) For all stations, when service or maintenance duties are performed, which may affect a station's proper operation, the responsible operator shall sign and date an entry in the station's records, giving:

(1) Pertinent details of all transmitter adjustments performed by the operator or under the operator's supervision.

(e) When a station in this service has an antenna structure which is required to be illuminated, appropriate entries shall be made as follows:

(1) The time the tower lights are turned on and off each day, if manually controlled.

(2) The time the daily check of proper operation of the tower lights was made, if an automatic alarm system is not employed.

(3) In the event of any observed or otherwise known failure of a tower light:

(i) Nature of such failure.

(ii) Date and time the failure was observed or otherwise noted.

(iii) Date, time, and nature of the adjustments, repairs, or replacements made.

(iv) Identification of Flight Service Station (Federal Aviation Administration) notified of the failure of any code or rotating beacon light not corrected within 30 minutes, and the date and time such notice was given.

(v) Date and time notice was given to the Flight Service Station (Federal Aviation Administration) that the required illumination was resumed.

(4) Upon completion of the 3-month periodic inspection required by § 78.63(c):

(i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators, and alarm systems.

(ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements, or repairs were made.

(f) For all stations, station record entries shall be made in an orderly and legible manner by the person or persons competent to do so, having actual knowledge of the facts required, who shall sign the station record when starting duty and again when going off duty.

(g) For all stations, no station record or portion thereof shall be erased, obliterated, or willfully destroyed within the period of retention required by rule. Any necessary correction may be made only by the person who made the original entry who shall strike out the erroneous portion, initial the correction made, and show the date the correction was made.

(h) For all stations, station records shall be retained for a period of not less than 2 years. The Commission reserves the right to order retention of station records for a longer period of time. In cases where the licensee or permittee has notice of any claim or complaint, the station record shall be retained until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026-15479 Filed 7-30-26; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0888; FR ID 359412]

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 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 31, 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: 3060–0888.

Title: Section 1.221, Notice of hearing; appearances; § 1.229 Motions to enlarge, change, or delete issues; § 1.248 Prehearing conferences; hearing conferences; § 76.7, Petition Procedures; § 76.9, Confidentiality of Proprietary Information; § 76.61, Dispute Concerning Carriage; § 76.914, Revocation of Certification; § 76.1001, Unfair Practices; § 76.1003, Program Access Proceedings; § 76.1302, Carriage Agreement Proceedings; § 76.1513, Open Video Dispute Resolution.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 684 respondents; 684 responses.

Estimated Time per Response: 6.4 to 95.4 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 4(i), 4(j) 303(r), 338, 340, 614, 615, 616, 623, 628, and 653 of the Communications Act of 1934, as amended.

Total Annual Burden: 34,816 hours.

Total Annual Cost: \$3,775,680.

Needs and Uses: Commission rules specify pleading and other procedural requirements for parties filing petitions or complaints under Part 76 of the Commission's rules, including petitions for special relief, cable carriage complaints, program access complaints, and program carriage complaints.

This information collection is being submitted to the Office of Management and Budget as a revision based on the following: In *Time Warner Cable Inc. v. FCC*, 729 F.3d 137 (2013) (Time Warner Cable), the Second Circuit Court of Appeals vacated the temporary standstill rule for program carriage complaint proceedings set forth in 47 CFR 76.1302(k). Subsequently, the Commission issued an order deleting § 76.1302(k) from its rules to effectuate the Second Circuit's action in *Time Warner Cable*. Section 76.1302(k) was removed from the CFR effective August 26, 2025 (90 FR 41518).

The other information collections covered under this collection are as follows:

47 CFR 1.221(f) requires that, in a program carriage complaint proceeding filed pursuant to § 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, each party, in person or by attorney, shall file a written appearance within five calendar days after the party informs the Chief Administrative Law Judge that it elects not to pursue alternative dispute resolution pursuant to § 76.7(g)(2) or, if the parties have mutually elected to pursue alternative dispute resolution pursuant to § 76.7(g)(2), within five calendar days after the parties inform the Chief Administrative Law Judge that they have failed to resolve their dispute through alternative dispute resolution. The written appearance shall state that the party will appear on the date fixed for hearing and present evidence on the issues specified in the hearing designation order.

47 CFR 1.229(b)(1) requires that, in a program carriage complaint proceeding filed pursuant to § 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, a motion to enlarge, change, or

delete issues shall be filed within 15 calendar days after the deadline for submitting written appearances pursuant to § 1.221(h), except that persons not named as parties to the proceeding in the designation order may file such motions with their petitions to intervene up to 30 days after publication of the full text or a summary of the designation order in the **Federal Register**.

47 CFR 1.229(b)(2) provides that any person desiring to file a motion to modify the issues after the expiration of periods specified in paragraphs (a) and (b)(1) of § 1.229, shall set forth the reason why it was not possible to file the motion within the prescribed period.

47 CFR 1.248(a) provides that presiding officer may direct the parties or their attorneys to appear at a specified time and place for a status conference during the course of a hearing proceeding, or to submit suggestions in writing, for the purpose of considering, among other things, the matters specified in § 1.248(c). Any party may request a status conference at any time after release of the order designating a matter for hearing. During a status conference, the presiding officer may issue rulings regarding matters relevant to the conduct of the hearing proceeding including procedural matters, discovery, and the submission of briefs or evidentiary materials.

47 CFR 1.248(b) provides that the presiding officer shall schedule an initial status conference promptly after written appearances have been submitted under § 1.91 or § 1.221. At or promptly after the initial status conference, the presiding officer shall adopt a schedule to govern the hearing proceeding. If the Commission designated a matter for hearing on a written record under §§ 1.370 through 1.376, the scheduling order shall include a deadline for filing a motion to request an oral hearing in accordance with § 1.376. If the Commission did not designate the matter for hearing on a written record, the scheduling order shall include a deadline for filing a motion to conduct the hearing on a written record.

47 CFR 76.7. Pleadings seeking to initiate FCC action must adhere to the requirements of § 76.6 (general pleading requirements) and § 76.7 (initiating pleading requirements). Section 76.7 is used for numerous types of petitions and special relief petitions, including general petitions seeking special relief, waivers, enforcement, show cause, forfeiture and declaratory ruling procedures.

47 CFR 76.7(g)(2) provides that, in a proceeding initiated pursuant to § 76.7 that is referred to an administrative law judge, the parties may elect to resolve the dispute through alternative dispute resolution procedures, or may proceed with an adjudicatory hearing, provided that the election shall be submitted in writing to the Commission and the Chief Administrative Law Judge.

47 CFR 76.9. A party that wishes to have confidentiality for proprietary information with respect to a submission it is making to the FCC must file a petition pursuant to the pleading requirements in § 76.7 and use the method described in §§ 0.459 and 76.9 to demonstrate that confidentiality is warranted. The petitions filed pursuant to this provision are contained in the existing information collection requirement and are not changed by the rule changes.

47 CFR 76.61(a) permits a local commercial television station or qualified low power television station that is denied carriage or channel positioning or repositioning in accordance with the must-carry rules by a cable operator to file a complaint with the FCC in accordance with the procedures set forth in § 76.7. Section 76.61(b) permits a qualified local noncommercial educational television station that believes a cable operator has failed to comply with the FCC's signal carriage or channel positioning requirements (§§ 76.56 through 76.57) to file a complaint with the FCC in accordance with the procedures set forth in § 76.7.

47 CFR 76.61(a)(1) states that whenever a local commercial television station or a qualified low power television station believes that a cable operator has failed to meet its carriage or channel positioning obligations, pursuant to §§ 76.56 and 76.57, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or position such signal on a particular channel.

47 CFR 76.61(a)(2) states that the cable operator shall, within 30 days of receipt of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of the must-carry rules. If a refusal for carriage is based on the station's distance from the cable system's principal headend, the operator's response shall include the

location of such headend. If a cable operator denies carriage on the basis of the failure of the station to deliver a good quality signal at the cable system's principal headend, the cable operator must provide a list of equipment used to make the measurements, the point of measurement and a list and detailed description of the reception and over-the-air signal processing equipment used, including sketches such as block diagrams and a description of the methodology used for processing the signal at issue, in its response.

47 CFR 76.914(c) permits a cable operator seeking revocation of a franchising authority's certification to file a petition with the FCC in accordance with the procedures set forth in § 76.7.

47 CFR 76.1003(a) permits any multichannel video programming distributor (MVPD) aggrieved by conduct that it believes constitute a violation of the FCC's program access rules to commence an adjudicatory proceeding at the FCC to obtain enforcement of the rules through the filing of a complaint, which must be filed and responded to in accordance with the procedures specified in § 76.7, except to the extent such procedures are modified by § 76.1003.

47 CFR 76.1001(b)(2) permits any multichannel video programming distributor to commence an adjudicatory proceeding by filing a complaint with the Commission alleging that a cable operator, a satellite cable programming vendor in which a cable operator has an attributable interest, or a satellite broadcast programming vendor, has engaged in an unfair act involving terrestrially delivered, cable-affiliated programming, which must be filed and responded to in accordance with the procedures specified in § 76.7, except to the extent such procedures are modified by §§ 76.1001(b)(2) and 76.1003. In program access cases involving terrestrially delivered, cable-affiliated programming, the defendant has 45 days from the date of service of the complaint to file an answer, unless otherwise directed by the Commission. A complainant shall have the burden of proof that the defendant's alleged conduct has the purpose or effect of hindering significantly or preventing the complainant from providing satellite cable programming or satellite broadcast programming to subscribers or consumers; an answer to such a complaint shall set forth the defendant's reasons to support a finding that the complainant has not carried this burden. In addition, a complainant alleging that a terrestrial cable programming vendor has engaged in

discrimination shall have the burden of proof that the terrestrial cable programming vendor is wholly owned by, controlled by, or under common control with a cable operator or cable operators, satellite cable programming vendor or vendors in which a cable operator has an attributable interest, or satellite broadcast programming vendor or vendors; an answer to such a complaint shall set forth the defendant's reasons to support a finding that the complainant has not carried this burden.

47 CFR 76.1003(b) requires any aggrieved MVPD intending to file a complaint under this section to first notify the potential defendant cable operator, and/or the potential defendant satellite cable programming vendor or satellite broadcast programming vendor, that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in §§ 76.1001 or 76.1002 of this part. The notice must be sufficiently detailed so that its recipient(s) can determine the nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 CFR 76.1003(c) describes the required contents of a program access complaint, in addition to the requirements of § 76.7 of this part.

47 CFR 76.1003(c)(3) requires a program access complaint to contain evidence that the complainant competes with the defendant cable operator, or with a multichannel video programming distributor that is a customer of the defendant satellite cable programming or satellite broadcast programming vendor or a terrestrial cable programming vendor alleged to have engaged in conduct described in § 76.1001(b)(1).

47 CFR 76.1003(d) states that, in a case where recovery of damages is sought, the complaint shall contain a clear and unequivocal request for damages and appropriate allegations in support of such claim.

47 CFR 76.1003(e)(1) requires cable operators, satellite cable programming vendors, or satellite broadcast programming vendors which expressly reference and rely upon a document in asserting a defense to a program access complaint or in responding to a material allegation in a program access complaint filed pursuant to § 76.1003, to include such document or documents, such as contracts for carriage of programming referenced and relied on, as part of the answer. Except as otherwise provided or directed by the

Commission, any cable operator, satellite cable programming vendor or satellite broadcast programming vendor upon which a program access complaint is served under this section shall answer within twenty (20) days of service of the complaint, provided that the answer shall be filed within forty-five (45) days of service of the complaint if the complaint alleges a violation of section 628(b) of the Communications Act of 1934, as amended, or § 76.1001(a).

47 CFR 76.1003(e)(2) requires an answer to an exclusivity complaint to provide the defendant's reasons for refusing to sell the subject programming to the complainant. In addition, the defendant may submit its programming contracts covering the area specified in the complaint with its answer to refute allegations concerning the existence of an impermissible exclusive contract. If there are no contracts governing the specified area, the defendant shall so certify in its answer. Any contracts submitted pursuant to this provision may be protected as proprietary pursuant to § 76.9 of this part.

47 CFR 76.1003(e)(3) requires an answer to a discrimination complaint to state the reasons for any differential in prices, terms, or conditions between the complainant and its competitor, and to specify the particular justification set forth in § 76.1002(b) of this part relied upon in support of the differential.

47 CFR 76.1003(e)(4) requires an answer to a complaint alleging an unreasonable refusal to sell programming to state the defendant's reasons for refusing to sell to the complainant, or for refusing to sell to the complainant on the same terms and conditions as complainant's competitor, and to specify why the defendant's actions are not discriminatory.

47 CFR 76.1003(f) provides that, within fifteen (15) days after service of an answer, unless otherwise directed by the Commission, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

47 CFR 76.1003(g) states that any complaint filed pursuant to this subsection must be filed within one year of the date on which one of three specified events occurs.

47 CFR 76.1003(h) sets forth the remedies that are available for violations of the program access rules, which include the imposition of damages, and/or the establishment of prices, terms, and conditions for the sale of programming to the aggrieved multichannel video programming distributor, as well as sanctions

available under title V or any other provision of the Communications Act.

47 CFR 76.1003(j) states in addition to the general pleading and discovery rules contained in § 76.7 of this part, parties to a program access complaint may serve requests for discovery directly on opposing parties, and file a copy of the request with the Commission. The respondent shall have the opportunity to object to any request for documents that are not in its control or relevant to the dispute. Such request shall be heard, and determination made, by the Commission. Until the objection is ruled upon, the obligation to produce the disputed material is suspended. Any party who fails to timely provide discovery requested by the opposing party to which it has not raised an objection as described above, or who fails to respond to a Commission order for discovery material, may be deemed in default and an order may be entered in accordance with the allegations contained in the complaint, or the complaint may be dismissed with prejudice.

47 CFR 76.1003(l) permits a program access complainant seeking renewal of an existing programming contract to file a petition along with its complaint requesting a temporary standstill of the price, terms, and other conditions of the existing programming contract pending resolution of the complaint, to which the defendant will have the opportunity to respond within 10 days of service of the petition, unless otherwise directed by the Commission.

47 CFR 76.1302(a) states that any video programming vendor or multichannel video programming distributor aggrieved by conduct that it believes constitute a violation of the program carriage rules may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in § 76.7, except to the extent such procedures are modified by § 76.1302.

47 CFR 76.1302(b) states that any aggrieved video programming vendor or multichannel video programming distributor intending to file a program carriage complaint must first notify the potential defendant multichannel video programming distributor that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in § 76.1301 of this part. The notice must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a

minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 CFR 76.1302(c) specifies the content of carriage agreement complaints, in addition to the requirements of § 76.7 of this part.

47 CFR 76.1302(c)(1) provides that a program carriage complaint filed pursuant to § 76.1302 must contain the following: whether the complainant is a multichannel video programming distributor or video programming vendor, and, in the case of a multichannel video programming distributor, identify the type of multichannel video programming distributor, the address and telephone number of the complainant, what type of multichannel video programming distributor the defendant is, and the address and telephone number of each defendant.

47 CFR 76.1302(d) sets forth the evidence that a program carriage complaint filed pursuant to § 76.1302 must contain in order to establish a prima facie case of a violation of § 76.1301.

47 CFR 76.1302(e)(1) provides that a multichannel video programming distributor upon whom a program carriage complaint filed pursuant to § 76.1302 is served shall answer within sixty (60) days of service of the complaint, unless otherwise directed by the Commission.

47 CFR 76.1302(e)(2) states that an answer to a program carriage complaint shall address the relief requested in the complaint, including legal and documentary support, for such response, and may include an alternative relief proposal without any prejudice to any denials or defenses raised.

47 CFR 76.1302(f) states that within twenty (20) days after service of an answer, unless otherwise directed by the Commission, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

47 CFR 76.1302(h) states that any complaint filed pursuant to this subsection must be filed within one year of the date on which one of three events occurs.

47 CFR 76.1302(j)(1) states that upon completion of such adjudicatory proceeding, the Commission shall order appropriate remedies, including, if necessary, mandatory carriage of a video programming vendor's programming on defendant's video distribution system, or the establishment of prices, terms, and conditions for the carriage of a

video programming vendor’s programming.

47 CFR 76.1513(a) permits any party aggrieved by conduct that it believes constitute a violation of the FCC’s regulations governing open video systems or in section 653 of the Communications Act (47 U.S.C. 573) to commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint, which must be filed and responded to in accordance with the procedures specified in § 76.7, except to the extent such procedures are modified by § 76.1513.

47 CFR 76.1513(b) provides that an open video system operator may not provide in its carriage contracts with programming providers that any dispute must be submitted to arbitration, mediation, or any other alternative method for dispute resolution prior to submission of a complaint to the Commission.

47 CFR 76.1513(c) requires that any aggrieved party intending to file a complaint under this section must first notify the potential defendant open video system operator that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in this part or in section 653 of the Communications Act. The notice must be in writing and must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 CFR 76.1513(d) describes the contents of an open video system complaint.

47 CFR 76.1513(e) states that an open video system operator upon which a complaint is served under this section shall answer within thirty (30) days of

service of the complaint and specifies the requirements for such answers.

47 CFR 76.1513(f) states within twenty (20) days after service of an answer, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

47 CFR 76.1513(g) requires that any complaint filed pursuant to this subsection must be filed within one year of the date on which one of three events occurs.

47 CFR 76.1513(h) states that upon completion of the adjudicatory proceeding, the Commission shall order appropriate remedies, including, if necessary, requiring carriage, awarding damages to any person denied carriage, or any combination of such sanctions. Such order shall set forth a timetable for compliance, and shall become effective upon release.

Federal Communications Commission.
Marlene Dortch,
Secretary, Office of the Secretary.
[FR Doc. 2026–15478 Filed 7–30–26; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064–0184]

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on the renewal, without change, of the existing information collection described below (OMB Control No. 3064–0184).

DATES: Comments must be submitted on or before September 29, 2026.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency Website:* <https://www.fdic.gov/resources/regulations/federal-register-publications/>.
- *Email:* comments@fdic.gov. Include the name and number of the collection in the subject line of the message.
- *Mail:* Robert Meiers, Regulatory Counsel, MB–3013, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street NW), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert Meiers, Regulatory Attorney, Romeiers@fdic.gov, MB–3013, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collection of information:

1. *Title:* Volcker Rule Restrictions on Proprietary Trading and Relationships with Hedge Funds and Private Equity Funds.
OMB Number: 3064–0184.
Form Number: None.
Affected Public: Private Sector; Insured state nonmember banks and state savings associations.
Burden Estimate:

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN
[OMB No. 3064–0184]

Information Collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
Implementation/Initial Set-up					
1. Section 351.4(c)(3)(i)—Limit Breaches and Increases Initial Set-up (Mandatory).	Reporting (On occasion).	P 1	1	00:15	0
2. Section 351.20(d)—Requirements under Appendix A for Covered Banks with Significant Trading Assets & Liabilities Initial Set-up (Mandatory).	Reporting (Quarterly)	P 1	1	125:00	125
3. Section 351.20(i)—Notice and Response Initial Set-up (Voluntary).	Reporting (On occasion).	P 1	1	20:00	20

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN—Continued
[OMB No. 3064–0184]

Information Collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
4. Section 351.3(d)(3)—Purchase and Sale of Securities in Accordance with Liquidity Management Plans Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	3:00	3
5. Section 351.4(b)(3)(i)(A)—Trading Desk Documentation Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	2:00	2
6. Section 351.4(c)(3)(i)—Limit Breaches and Increases Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	00:15	0
7. Section 351.5(c)—Hedging Instruments Documentation Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	80:00	80
8. Section 351.10(c)(18)(ii)(C)(1)—Customer Facilitation Vehicles Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	10:00	10
9. Section 351.11(a)(2)—Documentation on Advisory or Related Services to Customers Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	10:00	10
10. Section 351.20(b)—Compliance Program for Covered Banks with Significant Trading Assets & Liabilities Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	795:00	795
11. Section 351.20(c)—CEO Attestation for Covered Banks with Significant Trading Assets & Liabilities Initial Set-up (Mandatory).	Recordkeeping (Annual)	P 1	1	300:00	300
12. Section 351.20(d)—Requirements under Appendix A for Covered Banks with Significant Trading Assets & Liabilities Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	10:00	10
13. Section 351.20(e)—Additional Documentation for Covered Funds for Covered Banks with Significant Trading Assets & Liabilities Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	200:00	200
14. Section 351.20(f)(1)—Simplified Compliance Program for Covered Banks with No Trading Assets or Liabilities Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	8:00	8
15. Section 351.20(f)(2)—Simplified Compliance program for Covered Banks with Moderate Trading Assets and Liabilities Initial Set-up (Mandatory).	Recordkeeping (On occasion).	P 1	1	100:00	100
16. Section 351.11(a)(8)(i)—Offerings Disclosures Initial Set-up (Mandatory).	Third-party Disclosure (On Occasion).	P 1	1	00:30	1
Ongoing Compliance					
1. Section 351.4(c)(3)(i)—Limit Breaches and Increases Ongoing (Mandatory).	Reporting (On occasion).	5	20	00:15	25
2. Section 351.20(d)—Requirements under Appendix A for Covered Banks with Significant Trading Assets & Liabilities Ongoing (Mandatory).	Reporting (Quarterly)	2	4	41:00	328
3. Section 351.20(i)—Notice and Response Ongoing (Voluntary).	Reporting (On occasion).	5	1	20:00	100
4. Section 351.3(d)(3)—Purchase and Sale of Securities in Accordance with Liquidity Management Plans Ongoing (Mandatory).	Recordkeeping (On occasion).	5	1	1:00	5
5. Section 351.4(b)(3)(i)(A)—Trading Desk Documentation Ongoing (Mandatory).	Recordkeeping (On occasion).	5	4	2:00	40
6. Section 351.4(c)(3)(i)—Limit Breaches and Increases Ongoing (Mandatory).	Recordkeeping (On occasion).	5	40	00:15	50
7. Section 351.5(c)—Hedging Instruments Documentation Ongoing (Mandatory).	Recordkeeping (On occasion).	2	1	80:00	160
8. Section 351.10(c)(18)(ii)(C)(1)—Customer Facilitation Vehicles Ongoing (Mandatory).	Recordkeeping (On occasion).	5	1	10:00	50
9. Section 351.11(a)(2)—Documentation on Advisory or Related Services to Customers Ongoing (Mandatory).	Recordkeeping (On occasion).	5	1	10:00	50
10. Section 351.20(b)—Compliance Program for Covered Banks with Significant Trading Assets & Liabilities Ongoing (Mandatory).	Recordkeeping (On occasion).	2	1	265:00	530
11. Section 351.20(c)—CEO Attestation for Covered Banks with Significant Trading Assets & Liabilities Ongoing (Mandatory).	Recordkeeping (Annual)	2	1	100:00	200

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN—Continued
[OMB No. 3064–0184]

Information Collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
12. Section 351.20(d)—Requirements under Appendix A for Covered Banks with Significant Trading Assets & Liabilities Ongoing (Mandatory).	Recordkeeping (On occasion).	2	1	10:00	20
13. Section 351.20(e)—Additional Documentation for Covered Funds for Covered Banks with Significant Trading Assets & Liabilities Ongoing (Mandatory).	Recordkeeping (On occasion).	2	1	200:00	400
14. Section 351.20(f)(1)—Simplified Compliance Program for Covered Banks with No Trading Assets or Liabilities Ongoing (Mandatory).	Recordkeeping (On occasion).	1	1	8:00	8
15. Section 351.20(f)(2)—Simplified Compliance Program for Covered Banks with Moderate Trading assets and Liabilities Ongoing (Mandatory).	Recordkeeping (On occasion).	3	1	40:00	120
16. Section 351.11(a)(8)(i)—Offerings Disclosures Ongoing (Mandatory).	Third-party Disclosure (On Occasion).	5	26	00:30	65
Total Annual Burden (Hours) .....	.....	.....	.....	.....	3,815

Source: FDIC.

^P The FDIC anticipates zero respondents in the upcoming cycle and uses a placeholder respondent count of 1 to preserve the potential burden.

Note: The estimated annual IC time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB's consolidated information system.

General Description of Collection: Section 13 of the Bank Holding Company Act of 1956 (section 13) contains certain restrictions on the ability of a banking entity to engage in proprietary trading and to have certain interests in, or relationships with, a hedge fund or private equity fund. The FDIC's regulations at 12 CFR part 351 (part 351) implement section 13 with respect to FDIC-supervised insured depository institutions (IDIs). The requirements in part 351 do not apply to FDIC-supervised IDIs that have, and if every company that controls it has, total consolidated assets of \$10 billion or less and total trading assets and trading liabilities, that are five percent or less of total consolidated assets.¹

Part 351 contains provisions that constitute information collections (ICs) under the Paperwork Reduction Act corresponding to policies, rules, and regulations regarding periodic reporting requirements, documentation of trading activities and compliance programs, and various other recordkeeping and disclosure requirements for FDIC-supervised IDIs that are subject to the requirements of part 351 (covered bank).

There is no change in the substance or methodology of this information collection. The estimated annual burden for this information collection is 3,815 hours, a decrease of 234 hours from the

previous renewal. This decrease is attributed to a decrease in the estimated number of respondents.

Request for Comment

Comments are invited on: (a) whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on July 29, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–15537 Filed 7–30–26; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business

¹ 12 CFR 351.2(r)(2).

information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than August 17, 2026.

A. *Federal Reserve Bank of St. Louis* (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166-2034. Comments can also be sent electronically to

Comments.applications@stls.frb.org:

1. *Du Quoin State Bank Employee Stock Ownership Plan, Daniel Ray Fulk, individually and as trustee, both of Du Quoin, Illinois*; to acquire voting shares of Perry County Bancorp Inc. and thereby indirectly acquire voting shares of Du Quoin State Bank, both of Du Quoin, Illinois.

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2026-15538 Filed 7-30-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10704]

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 31, 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:* Extension of a currently approved collection; *Title of*

Information Collection: Health Reimbursement Arrangements and Other Account-Based Group Health Plans; *Use:* On June 20, 2019, the Department of the Treasury, the Department of Labor, and the Department of Health and Human Services (HHS) (collectively, the Departments) issued final regulations, titled "Health Reimbursement Arrangements and Other Account-Based Group Health Plans" (84 FR 28888) (2019 final regulations) under section 2711 of the PHS Act and the health nondiscrimination provisions of HIPAA, Public Law 104-191 (HIPAA nondiscrimination provisions). The 2019 final regulations expanded the use of health reimbursement arrangements and other account-based group health plans (collectively referred to as HRAs) and recognized certain HRAs as limited excepted benefits (the excepted benefit HRA), for plan years beginning on or after January 1, 2020. In general, the 2019 final regulations expanded the use of HRAs by eliminating the prohibition on integrating HRAs with individual health insurance coverage, thereby permitting employers to offer individual coverage HRAs to employees that can be integrated with individual health insurance coverage or Medicare Parts A and B, or Part C. Under the 2019 final regulations, employees are permitted to use amounts in an individual coverage HRA to pay expenses for medical care (including premiums for individual health insurance coverage and Medicare), subject to certain requirements.

The information collections associated with the 2019 final regulations are related to the substantiation requirements for individual coverage HRAs (45 CFR 146.123(c)(5)), the notice requirement for individual coverage HRAs (45 CFR 146.123(c)(6)), and notification of termination of coverage (45 CFR 146.123(c)(1)(iii)). Under final regulations issued by HHS on May 14, 2020, titled "Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2021; Notice Requirement for Non-federal Governmental Plans" (85 FR 29164), under 45 CFR 146.145(b)(3)(viii)(E), excepted benefit HRAs offered by non-Federal governmental plan sponsors are required to provide a notice that describes conditions pertaining to eligibility to receive benefits, annual or lifetime caps or other limits on benefits under the excepted benefit HRA, and a description or summary of the benefits. This notice must be provided no later

than 90 days after the employee becomes a participant in the excepted benefit HRA and annually thereafter. *Form Number:* CMS-10704 (OMB Control Number 0938-1361); *Frequency:* Annually; *Affected Public:* State, Local or Tribal governments; *Number of Respondents:* 6,354; *Total Annual Responses:* 1,347,048; *Total Annual Hours:* 3,136. (For policy questions regarding this collection contact Adam Pellillo at (667) 290-9621.)

Evell J. Barco Holland,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2026-15550 Filed 7-30-26; 8:45 am]

BILLING CODE 4169-69-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Integrative Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Council for Complementary and Integrative Health, September 11, 2026, 10:00 a.m. to September 11, 2026, 05:00 p.m., National Center for Complementary and Integrative Health, National Institutes of Health, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892 which was published in the **Federal Register** on July 17, 2026, 91 FR 44867.

Amendment to change start time of the open session from 1 p.m. to 12:45 p.m. due to changes in the agenda. The meeting is partially Closed to the public.

Dated: July 29, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-15551 Filed 7-30-26; 8:45 am]

BILLING CODE 4140-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Secretary; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Muscular Dystrophy Coordinating Committee.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Individuals who plan to view the virtual meeting and

need special assistance or other reasonable accommodation to view the meeting should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: <https://videocast.nih.gov>. Registration is not required to access the videocast.

Name of Committee: Muscular Dystrophy Coordinating Committee.

Date: August 26, 2026.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: The purpose of this meeting is to bring together committee members, representing government agencies, patient advocacy groups and people with lived experience to discuss topics of interest to the muscular dystrophy communities. Furthermore, the upcoming solicitation for public comment on the final draft of the 2026 MDCC Action Plan for the Muscular Dystrophies will be detailed.

Address: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Meeting Format: Virtual Meeting.

Contact Person: Emily F. Carifi, Ph.D., Program Director, NINDS, 6001 Executive Blvd., Bethesda, MD 20892, (301) 496-0665, MDCC@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 include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: July 28, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-15475 Filed 7-30-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request, Data Use Certification for the NIH Brain Development Cohorts (NBDC) Data Hub, (National Institute on Drug Abuse)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institute on Drug Abuse (NIDA) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget

(OMB) for review and approval. The purpose of this revision is to update instructions for the Research Data Use Statement and the Progress Report, and to add new instructions for attesting to National Institute of Standards & Technology (NIST) security compliance, and for a Project Close-out at the time of project completion. Burden levels remain unchanged.

DATES: Comments regarding this information collection are best assured of having their full effect if received by August 31, 2026.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Elizabeth A. Hoffman, Associate Director, Division of Extramural Research, National Institute on Drug Abuse, 3WFN Room 09C75 MSC 6021, Gaithersburg, MD 20877, or call non-toll-free number (301) 594-2265 or email your request, including your address to: elizabeth.hoffman@nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Data Use Certification for the NIH Brain Development Cohorts (NBDC) Data Hub, (NIDA) 0925-0780, exp., date 10/31/2028 REVISION, National Institute on Drug Abuse (NIDA), National Institutes of Health (NIH).

Need and Use of Information

Collection: The purpose of this proposal is to inform data requestors about data use statements, project reports, NIST attestation, and project close-outs

associated with using data generated by the Adolescent Brain Cognitive Development^(SM) (ABCD) Study and the Healthy Brain and Child Development (HBCD) Study, collectively known as the NIH Brain Development Cohorts (NBDC), and to obtain signed agreements from requestors and their institutional officials attesting to their commitment to abide by NBDC data use

terms and conditions. These include using data for research purposes; not distributing the data to non-authorized users; minimizing risk of participant identifiability; and keeping the data secure. Recipients must include a brief description of their research project and submit their signed data use agreements to the data repository to gain access to NBDC Study data. Recipients who plan

to conduct research studies specifically on American Indian/Alaska Native (AI/AN) populations must submit an additional signed data use certification.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 2,000.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Individuals (standard DUC form)	1,800	1	1	1,800
Individuals (additional AI/AN DUC form when needed)	200	1	1	200
Total	2,000	2,000	.....	2,000

Dated: July 28, 2026.

Elizabeth A. Hoffman,

Associate Director, ABCD Project, National Institute on Drug Abuse, National Institutes of Health.

[FR Doc. 2026-15565 Filed 7-30-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review, Special Emphasis Panel; Collaborative Program Grant for Multidisciplinary Teams.

Date: August 21, 2026.

Time: 10:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Bruce Sundstrom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435-5000, jay.sundstrom@nih.gov.

Name of Committee: Center for Scientific Review, Special Emphasis Panel; Contracts: Development and Maintenance of an Aged Rodent Tissue Bank.

Date: September 2, 2026.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate contract proposals.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Kaitlyn N Hardell, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867-5309, kaitlyn.hardell@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 28, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-15476 Filed 7-30-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review, Special Emphasis Panel; Topics in Population-based Research in Infectious Disease.

Date: August 18, 2026.

Time: 11:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: James T. Snyder, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-443-7414 snyderji@csr.nih.gov. (Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 28, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-15477 Filed 7-30-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. 26–14]

Customs User Fees To Be Adjusted for Inflation in Fiscal Year 2027

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) is adjusting certain customs user fees and corresponding limitations established by the Consolidated Omnibus Budget Reconciliation Act (COBRA) for Fiscal Year 2027 in accordance with the Fixing America's Surface Transportation Act (FAST Act) as implemented by the CBP regulations.

DATES: The adjusted amounts of customs COBRA user fees and their corresponding limitations set forth in this notice for Fiscal Year 2027 are required as of October 1, 2026.

FOR FURTHER INFORMATION CONTACT: Kari Deppe, Assistant Director—User Fee and Reimbursable Controls Branch, Office of Finance, 317–294–2144, UserFeeNotices@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Adjustments of Customs COBRA User Fees and Corresponding Limitations for Inflation

On December 4, 2015, the Fixing America's Surface Transportation Act (FAST Act, Pub. L. 114–94) was signed into law. Section 32201 of the FAST Act amended section 13031 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (19 U.S.C. 58c) by requiring the Secretary of the Treasury (Secretary) to adjust certain customs COBRA user fees and corresponding limitations to reflect certain increases in inflation.

Sections 24.22 and 24.23 of title 19 of the Code of Federal Regulations (19 CFR 24.22 and 24.23) describe the procedures that implement the requirements of the FAST Act. Specifically, paragraph (k) in section 24.22 (19 CFR 24.22(k)) sets forth the methodology to determine the change in

inflation as well as the factor by which the fees and limitations will be adjusted, if necessary. The fees and limitations subject to adjustment, which are set forth in Appendix A and Appendix B of part 24, include the commercial vessel arrival fees, commercial truck arrival fees, railroad car arrival fees, private vessel arrival fees, private aircraft arrival fees, commercial aircraft and vessel passenger arrival fees, dutiable mail fees, customs broker permit user fees, barges and other bulk carriers arrival fees, and merchandise processing fees, as well as the corresponding limitations.

B. Determination of Whether an Adjustment Is Necessary for Fiscal Year 2027

In accordance with 19 CFR 24.22, U.S. Customs and Border Protection (CBP) must determine annually whether the fees and limitations must be adjusted to reflect inflation. For Fiscal Year 2027, CBP is making this determination by comparing the average of the Consumer Price Index—All Urban Consumers, U.S. All items, 1982–1984 (CPI-U) for the current year (June 2025–May 2026) with the average of the CPI-U for the comparison year (June 2024–May 2025) to determine the change in inflation, if any. If there is an increase in the CPI-U of greater than one (1) percent, CBP must adjust the customs COBRA user fees and corresponding limitations using the methodology set forth in 19 CFR 24.22(k). Following the steps provided in paragraph (k)(2) of section 24.22, CBP has determined that the increase in the CPI-U between the most recent June to May twelve-month period (June 2025–May 2026) and the comparison year (June 2024–May 2025) is 2.84¹ percent. As the increase in the CPI-U is greater than one (1) percent, the customs COBRA user fees and corresponding limitations must be adjusted for Fiscal Year 2027.

C. Determination of the Adjusted Fees and Limitations

Using the methodology set forth in section 24.22(k)(2) of the CBP

¹ The figures provided in this notice may be rounded for publication purposes only. The calculations for the adjusted fees and limitations were made using unrounded figures, unless otherwise noted.

regulations (19 CFR 24.22(k)), CBP has determined that the factor by which the base fees and limitations will be adjusted is 38.222 percent (base fees and limitations can be found in Appendices A and B to part 24 of title 19). In reaching this determination, CBP calculated the values for each variable found in paragraph (k) of 19 CFR 24.22 as follows:

- The arithmetic average of the CPI-U for June 2025–May 2026, referred to as (A) in the CBP regulations, is 326.451;
- The arithmetic average of the CPI-U for Fiscal Year 2014, referred to as (B), is 236.009;
- The arithmetic average of the CPI-U for the comparison year (June 2024–May 2025), referred to as (C), is 317.032;
- The difference between the arithmetic averages of the CPI-U of the comparison year (June 2024–May 2025) and the current year (June 2025–May 2026), referred to as (D), is 9.419;
- This difference rounded to the nearest whole number, referred to as (E), is 9;
- The percentage change in the arithmetic averages of the CPI-U of the comparison year (June 2024–May 2025) and the current year (June 2025–May 2026), referred to as (F), is 2.84 percent;
- The difference in the arithmetic average of the CPI-U between the current year (June 2025–May 2026) and the base year (Fiscal Year 2014), referred to as (G), is 90.443; and
- Lastly, the percentage change in the CPI-U from the base year (Fiscal Year 2014) to the current year (June 2025–May 2026), referred to as (H), is 38.322 percent.

D. Announcement of New Fees and Limitations

The adjusted amounts of customs COBRA user fees and their corresponding limitations for Fiscal Year 2027, as adjusted by 38.322 percent, and set forth below, are required as of October 1, 2026. Table 1 provides the fees and limitations found in 19 CFR 24.22 as adjusted for Fiscal Year 2027, and Table 2 provides the fees and limitations found in 19 CFR 24.23 as adjusted for Fiscal Year 2027.

TABLE 1—CUSTOMS COBRA USER FEES AND LIMITATIONS FOUND IN 19 CFR 24.22 AS ADJUSTED FOR FISCAL YEAR 2027

19 U.S.C. 58c	19 CFR 24.22	Customs COBRA user fee/limitation	New fee/limitation adjusted in accordance with the FAST Act
(a)(1)	(b)(1)(i)	Fee: Commercial Vessel Arrival Fee	\$604.47
(b)(5)(A)	(b)(1)(ii)	Limitation: Calendar Year Maximum for Commercial Vessel Arrival Fees	8,237.06
(a)(8)	(b)(2)(i)	Fee: Barges and Other Bulk Carriers Arrival Fee	152.15
(b)(6)	(b)(2)(ii)	Limitation: Calendar Year Maximum for Barges and Other Bulk Carriers Arrival Fees.	2,074.83
(a)(2)	(c)(1)	Fee: Commercial Truck Arrival Fee ^{2,3}	7.60
(b)(2)	(c)(2) and (3)	Limitation: Commercial Truck Calendar Year Prepayment Fee ⁴	138.32
(a)(3)	(d)(1)	Fee: Railroad Car Arrival Fee	11.41
(b)(3)	(d)(2) and (3)	Limitation: Railroad Car Calendar Year Prepayment Fee	138.32
(a)(4)	(e)(1) and (2)	Fee and Limitation: Private Vessel or Private Aircraft First Arrival/Calendar Year Prepayment Fee.	38.04
(a)(6)	(f)	Fee: Dutiable Mail Fee	7.61
(a)(5)(A)	(g)(1)(i)	Fee: Commercial Vessel or Commercial Aircraft Passenger Arrival Fee	7.61
(a)(5)(B)	(g)(1)(ii)	Fee: Commercial Vessel Passenger Arrival Fee (from one of the territories and possessions of the United States).	2.67
(a)(7)	(h)	Fee: Customs Broker Permit User Fee	190.88

² The \$7.60 Commercial Truck Arrival Fee is the CBP fee only; it does not include the fiscal year 2027 United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Agricultural and Quarantine Inspection (AQI) User Fee (\$14.50) that is collected by CBP on behalf of USDA to make a total Single Crossing Fee of \$22.10. See 7 CFR 354.3(c) and 19 CFR 24.22(c)(1). Once eighteen Single Crossing Fees have been paid and used for a vehicle identification number (VIN)/vehicle in a Decal and Transponder Online Procurement System (DTOPS) account within a calendar year, the payment required for the nineteenth (and subsequent) single-crossing is only the \$14.50 AQI fee and no longer includes CBP's \$7.60 Commercial Truck Arrival Fee (for the remainder of that calendar year). For APHIS AQI User Fee information, see: <https://www.aphis.usda.gov/aqi/fees>.

³ The Commercial Truck Arrival Fee is adjusted down from \$7.61 to the nearest lower nickel. See 82 FR 50523 (November 1, 2017).

⁴ The \$138.32 Commercial Truck Calendar Year Prepayment Fee is the CBP fee only; it does not include the fiscal year 2027 AQI Commercial Truck with Transponder Fee (\$870.60) that is collected by CBP on behalf of APHIS to make the total Commercial Vehicle Transponder Annual User Fee of \$1,008.92.

TABLE 2—CUSTOMS COBRA USER FEES AND LIMITATIONS FOUND IN 19 CFR 24.23 AS ADJUSTED FOR FISCAL YEAR 2027

19 U.S.C. 58c	19 CFR 24.23	Customs COBRA user fee/limitation	New fee/ limitation adjusted in accordance with the FAST Act
(b)(9)(A)(ii)	(b)(1)(i)(A)	Fee: Express Consignment Carrier/Centralized Hub Facility Fee, Per Individual Waybill/Bill of Lading Fee.	\$1.38
(b)(9)(B)(i)	(b)(4)(ii) ⁵	Limitation: Minimum Express Consignment Carrier/Centralized Hub Facility Fee ⁶ .	0.48
(b)(9)(B)(i)	(b)(4)(ii) ⁷	Limitation: Maximum Express Consignment Carrier/Centralized Hub Facility Fee.	1.38
(a)(9)(B)(i);	(b)(1)(i)(B) ⁸	Limitation: Minimum Merchandise Processing Fee ⁹	34.58
(b)(8)(A)(i)	(b)(1)(i)(B) ¹⁰	Limitation: Maximum Merchandise Processing Fee ^{11 12}	670.86
(a)(9)(B)(i);	(b)(1)(ii)	Fee: Surcharge for Manual Entry or Release	4.15
(b)(8)(A)(i)	(b)(2)(i)	Fee: Informal Entry or Release; Automated and Not Prepared by CBP Personnel.	2.77
(a)(10)(C)(i)	(b)(2)(ii)	Fee: Informal Entry or Release; Manual and Not Prepared by CBP Personnel.	8.30
(a)(10)(C)(ii)	(b)(2)(iii)	Fee: Informal Entry or Release; Manual; Prepared by CBP Personnel.	12.45
(b)(9)(A)(ii)	(b)(4)	Fee: Express Consignment Carrier/Centralized Hub Facility Fee, Per Individual Waybill/Bill of Lading Fee.	1.38

⁵ Appendix B of part 24 inadvertently included a reference to paragraph (b)(1)(i)(B)(2) of section 24.23. However, the reference should have been to paragraph (b)(4)(ii). CBP intends to publish a future document in the **Federal Register** to make several technical corrections to part 24 of title 19 of the CFR, including corrections to Appendix B of part 24. The technical corrections will also address the inadvertent errors specified in footnotes 7, 8, and 10 below.

⁶ Although the minimum limitation is published, the fee charged is the fee required by 19 U.S.C. 58c(b)(9)(A)(ii).

⁷ Appendix B of part 24 inadvertently included a reference to paragraph (b)(1)(i)(B)(2) of section 24.23. However, the reference should have been to paragraph (b)(4)(ii).

⁸ Appendix B of part 24 inadvertently included a reference to paragraph (b)(1)(i)(B)(1) of section 24.23. However, the reference should have been to paragraph (b)(1)(i)(B).

⁹ Only the limitation is increasing; the *ad valorem* rate of 0.3464 percent remains the same. See 82 FR 50523 (November 1, 2017).

¹⁰ Appendix B of part 24 inadvertently included a reference to paragraph (b)(1)(i)(B)(1) of section 24.23. However, the reference should have been to paragraph (b)(1)(i)(B).

¹¹ Only the limitation is increasing; the *ad valorem* rate of 0.3464 percent remains the same. See 82 FR 50523 (November 1, 2017).

¹² For monthly pipeline entries, see <https://www.cbp.gov/trade/entry-summary/pipeline-monthly-entry-processing/pipeline-line-qa>.

Tables 1 and 2, setting forth the adjusted fees and limitations for Fiscal Year 2027, will also be maintained for the public's convenience on the CBP website at www.cbp.gov.

Rodney S. Scott, Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign the document to Susan S. Thomas, the Executive Assistant Commissioner, Office of Trade, for purposes of publication in the **Federal Register**.

Susan S. Thomas,

Executive Assistant Commissioner, Office of Trade, U.S. Customs and Border Protection.

[FR Doc. 2026-15530 Filed 7-30-26; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA-2026-0232; OMB No. 1660-0004]

Agency Information Collection Activities: Proposed Collection; Comment Request; Application for Participation in the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of extension and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the collection of information under which communities submit information to FEMA for application and continued participation in the National Flood Insurance Program (NFIP).

DATES: Comments must be submitted on or before September 29, 2026.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at www.regulations.gov under Docket ID

FEMA-2026-0232. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Charles Baker, Program Analyst, Floodplain Management Division at charles.baker@fema.dhs.gov or (202) 600-1885. You may contact the Information Management Division for copies of the proposed collection of information at email address: FEMA-Information-Collections-Management@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: The NFIP, codified at 42 U.S.C. 4001 et seq., requires all flood prone communities throughout the country to apply for participation in the NFIP one year after their flood-prone status is identified or submit to the prohibition of certain types of federal and federally related financial assistance for use in their floodplains. 44 CFR 59.2 authorizes previously unavailable flood insurance protection to property owners in flood-prone areas and identifies the information that communities are required to submit to FEMA for application into the NFIP. 44 CFR 59.22 and 59.24 identify the information a community is required to submit to FEMA for continued participation in the program. This collection also accounts for the burden hours associated with the applicant's time to collect information as part of the community development permit process. To qualify for the NFIP, a participating community must adopt certain minimum standards in accordance with FEMA's regulations at 44 CFR 60.3, 60.4, and 60.5. To verify whether communities maintain such standards, the NFIP requires participating communities to retain documentation on development taking place in the flood hazard areas within the community. See 44 CFR 59.22. Such information will be made available to FEMA upon request. This information assists FEMA in evaluating the

effectiveness of a community's floodplain management program and participating property owners' eligibility for flood insurance. The "Application for Participation in the NFIP" and the "NFIP and the Community Development Permit Process" are separate actions documented under the same collection.

Collection of Information

Title: Application for Participation in the National Flood Insurance Program.

Type of Information Collection:

Extension, without change, of a currently approved information collection.

OMB Number: 1660-0004.

FEMA Forms: FEMA Form FF-206-FY-22-160 (formerly 086-0-30), Application for Participation in the National Flood Insurance Program.

Abstract: The NFIP provides flood insurance to communities that apply for participation and make a commitment to protect against future flood damages. The application form and supporting documentation will enable FEMA to continue to rapidly process new community applications and to thereby more quickly provide flood insurance protection to the residents in communities.

Affected Public: State, Local and Tribal Governments.

Estimated Number of Respondents: 22,792.

Estimated Number of Responses: 91,033.

Estimated Total Annual Burden Hours: 273,144.

Estimated Total Annual Respondent Cost: \$28,704,703.

Estimated Respondents' Operation and Maintenance Costs: \$0.

Estimated Respondents' Capital and Start-Up Costs: \$0.

Estimated Total Annual Cost to the Federal Government: \$120,081.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and

clarity of the information to be collected; and (d) 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.

Russell R. Bard,

Acting Senior Director for Information Management, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2026–15560 Filed 7–30–26; 8:45 am]

BILLING CODE 9111–47–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7107–N–15; OMB Control No.: 2529–0011]

30-Day Notice of Proposed Information Collection: Housing Discrimination Complaint Form HUD 903

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* August 31, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: John L. Murphy, PRA Compliance Officer, Paperwork Reduction Act Division, PRAD, Department of Housing and Urban Development, 451 7th Street SW, Room 8220, Washington, DC 20410; email at PaperworkReductionActOffice@hud.gov, ATTN: John L. Murphy telephone (202) 402–8084. This is not a toll-free number. HUD welcomes and is

prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from John L. Murphy.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 9, 2026 at 91 FR 17979.

A. Overview of Information Collection

Title of Information Collection: Housing Discrimination Complaint Form HUD 903.

OMB Approval Number: 2529–0011.
Type of Request: Reinstatement with Change of an Approved Collection.

Form Number: Form HUD 903.

Description of the need for the information and proposed use: FHEO uses the “Housing Discrimination Complaint”, formerly the “Report Housing Discrimination” Form HUD–903, to collect pertinent information from persons wishing to file housing discrimination complaints with HUD under the Fair Housing Act. The Fair Housing Act makes it unlawful to discriminate in the sale, rental, occupancy, advertising, or insuring of residential dwellings; or to discriminate in residential real estate-related transactions; or in the provision of brokerage services, based on race, color, religion, sex, handicap [disability], familial status, or national origin. The Fair Housing Act also makes it unlawful to coerce, intimidate, threaten, or interfere with any person who has (1) exercised their fair housing rights; or (2) aided or encouraged another person to exercise their fair housing rights.

The “Housing Discrimination Complaint” Form HUD–903 facilitates the collection of pertinent information from persons or entities who wish to file housing discrimination complaints with HUD under § 810(a) of the Fair Housing Act of 1968 (Act), as amended [42 U.S.C. 3601 *et seq.* and 24 CFR part 103, subparts A and B]. Any person who claims to have been injured by a discriminatory housing practice, or any person who believes that they will be injured by a discriminatory housing practice that is about to occur, may file a complaint with HUD not later than one (1) year after the alleged

discriminatory housing practice occurs or terminates. FHEO staff uses the information to verify that the person or entity has standing as an aggrieved person to file a complaint under the Act; that the respondent is covered by the requirements of the Act; that the subject dwelling and/or transaction is covered by the requirements of the Act; that the alleged discriminatory activity is prohibited under the Act (subject matter jurisdiction); and that the alleged discriminatory activity occurred within the Act’s one-year statute of limitations for filing a complaint with HUD. This information is subsequently used to notify persons or entities that have been accused of engaging in discriminatory housing practices [“respondents”], as required under 42 U.S.C. 3610(1)(B)(ii) of the Act, and under 24 CFR§ 103.202(a) of HUD’s Fair Housing Act regulation. FHEO also uses this Form to establish HUD’s authority to conduct investigations under other Federal civil rights authorities, including, but not limited to, Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d–2000d–7]; Architectural Barriers Act of 1968 (42 U.S.C. 4151–4153); Section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794]; Title II of the Americans with Disabilities Act of 1990 [42 U.S.C. 12101–12103; 12131–12134]; Section 109 of Title I of the Housing & Community Development Act of 1974 [42 U.S.C. 5309]; the Age Discrimination Act of 1975 [42 U.S.C. 6101–6107]; Title IX of the Education Amendments Act of 1972 [20 U.S.C. 1681–83, 85–88]; and under the 2022 reauthorization of the Violence Against Women Act (VAWA) [34 U.S.C. 12491–12495].

To further public education about unlawful housing discrimination, the Form also contains a non-exhaustive list of activities that are prohibited under the Fair Housing Act and under VAWA. Electronic versions of the Form are currently available on FHEO’s web page in English at: <https://www.hud.gov/helping-americans>.

The Form may be submitted to HUD by mail, electronically via the internet, or presented in person to HUD’s Regional and/or Field FHEO Offices. HUD/FHEO staff uses this information collection as a source of pertinent data for the HUD Enforcement Management System [“HEMS”], HUD’s electronic Fair Housing Act complaint processing database. FHEO uses the HEMS database to conduct intake/assessment of housing discrimination claims; to perfect and generate jurisdictional complaints; to develop investigative plans; to store factual evidence obtained during complaint investigations; to document conciliation efforts under

§ 810(b) of the Act and voluntary compliance efforts under other Federal civil rights authorities; to generate Final Investigative Reports and Determinations of Reasonable Cause and

Determinations of No Reasonable Cause under §§ 810(b) and 810(g) of the Act; and to generate digital case files for administrative enforcement actions.

Status of the proposed information collection: Proposed extension of a

currently approved information collection of pertinent information from aggrieved persons wishing to file housing discrimination complaints with HUD.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
903	51,442	1	1	0.75	38,581.50	\$24.51	\$945,632.57

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency’s estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

John Murphy,
Compliance Officer, Department PRA
Compliance Officer, Office of Policy
Development and Research.
[FR Doc. 2026–15487 Filed 7–30–26; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[Docket No. USGS–ECO–2026–0003; OMB
Control Number 1028–0138;
GX26MR00G6ZW800]

Agency Information Collection
Activities; Turtle Distribution Database

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.

DATES: Interested persons are invited to submit comments on or before August 31, 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–2026–0003.
- *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 Margaret Lamont by email at mlamont@usgs.gov, or by telephone at 352–209–4306. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or Tele Braille) 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. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the public and other Federal agencies with an opportunity 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.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 14, 2026 (91 FR 27361). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comments addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether 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 using 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. 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 order Testudines, which encompasses tortoises and freshwater and marine turtles, is among the most threatened group of vertebrates in the world. However, turtles are frequently observed during everyday activities, such as walking through a park, driving along a roadway, or kayaking in a river or pond. Local citizen-science projects focused on single species (such as box turtles) have provided valuable demographic information for turtle populations, but these projects are isolated both spatially

and specifically (*i.e.*, focused on one species). This project would use sighting information supplied by citizens to fill gaps in our knowledge of turtle distributions throughout Northern Florida. When a citizen observes a turtle, they document the species (if possible), location (latitude/longitude collected via cell phone), date, and time, as well as photograph the animal. We would also ask each contributor to provide their initials and a way to contact them if questions about the entry arise (*e.g.*, phone number or email address). The sighting information will be mapped and used to develop species-distribution maps.

Title of Collection: Turtle Distribution Database.

OMB Control Number: 1028–0138.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 50.

Total Estimated Number of Annual Responses: 250.

Estimated Completion Time per Response: 5 minutes on average.

Total Estimated Number of Annual Burden Hours: 21.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: None.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Brian D. Kimbrell,

*Information Collection Clearance Officer,
Federal Register Liaison | USGS.*

[FR Doc. 2026–15474 Filed 7–30–26; 8:45 am]

BILLING CODE 4388–11–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[Docket No. USGS–2026–0232; OMB Control Number 1028–0136; GX26MR00UTCWD00]

Agency Information Collection Activities; Nonindigenous Aquatic Species eDNA Data Submission Forms

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995

(PRA), the U.S. Geological Survey (USGS) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 31, 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–2026–0232.

- *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 ICR, contact Matthew Neilson by email at mneilson@usgs.gov, or by telephone at +1 352–517–4091.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or Tele Braille) 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. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the public and other Federal agencies with an opportunity 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.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 19, 2026 (91 FR 29153). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comments addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of

information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including using 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. 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: America is under siege by many harmful non-native species of plants, animals, and microorganisms. More than 6,500 nonindigenous species are now established in the United States, posing risks to native species, valued ecosystems, and human and wildlife health. These invaders extract a huge cost, an estimated \$120 billion per year, to mitigate their harmful impacts. The current annual environmental, economic, and health-related costs of invasive species exceed those of all other natural disasters combined.

Through its Invasive Species Program (http://www.usgs.gov/ecosystems/invasive_species/), the USGS plays an important role in federal efforts to combat invasive species in natural and semi-natural areas through early detection and assessment of newly established invaders; monitoring of invading populations; and improving understanding of the ecology of invaders and factors in the resistance of habitats to invasion. The USGS provides the tools, technology, and information supporting efforts to prevent, contain, control, and manage invasive species nationwide. To meet user needs, the USGS also develops methods for compiling and synthesizing accurate and reliable data and information on invasive species for inclusion in a distributed and integrated web-based information system.

As part of the USGS Invasive Species Program, the Nonindigenous Aquatic Species (NAS) database (<http://nas.er.usgs.gov/>) functions as a repository and clearinghouse for occurrence information on

nonindigenous aquatic species from across the United States. It contains locality information on approximately 1,480 species of vertebrates, invertebrates, and vascular plants introduced since 1850. Taxa include foreign species as well as those native to North America that have been transported outside of their natural range. The NAS website provides immediate access to new occurrence records through a real-time interface with the NAS database. Visitors to the website can use a set of predefined queries to obtain lists of species according to state or hydrologic basin of interest. Fact sheets, distribution maps, and information on new occurrences are continually posted and updated. Dynamically generated species distribution maps show the spatial accuracy of the locations reported, population status, and links to more information about each report.

Environmental DNA (eDNA) comprises genetic material that has been sloughed, excreted, or otherwise released into the environment and can be detected in water, soil, and air. For aquatic organisms, this includes skin, excrement, mucus, saliva, blood, and gametes. Collection of environmental samples can be screened for the presence of eDNA, allowing for the detection of low-density organisms before detectability by traditional sampling methods. The combination of traditional specimen sightings and eDNA detections can provide more complete species distribution records and significantly improve the ability to respond quickly to new invasions as part of an early detection rapid response (EDRR) system. Working with interagency eDNA experts, the NAS database has used a consensus method to identify and develop community data standards for integrating eDNA detection data.

Title of Collection: Nonindigenous Aquatic Species eDNA Data and Metadata Submission Forms.

OMB Control Number: 1028–0136.

Form Number: None.

Type of Review: Renewal of a currently approved collection.

Respondents/Affected Public: Federal, State, and local government employees, and university personnel.

Total Estimated Number of Annual Respondents: We estimate approximately 25 total respondents annually.

Total Estimated Number of Annual Responses: We estimate a total of 35 responses annually.

Estimated Completion Time per Response: We estimate up to 90 minutes (1.5 hours) per response.

Total Estimated Number of Annual Burden Hours: We estimate a total of 53 annual burden hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour

Burden Cost: None.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Lynn Copeland,

Center Director.

[FR Doc. 2026–15447 Filed 7–30–26; 8:45 am]

BILLING CODE 4388–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7353; NPS–WASO–NAGPRA–NPS0043323; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: University of Texas at San Antonio Center for Archaeological Research, San Antonio, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Texas at San Antonio Center for Archaeological Research (UTSA–CAR) has completed an inventory of human remains and has determined that there is no lineal descendant and no Indian Tribe or Native Hawaiian organization with cultural affiliation.

DATES: Upon request, repatriation of the human remains in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Emily Moes, Center for Archaeological Research, One UTSA Circle, San Antonio, TX 78249, email emily.moes@utsa.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the UTSA–CAR, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified. No associated funerary objects are present. A box of ancestral remains was brought to UTSA–CAR by C.K. Chandler at an unknown time, then formally accessioned in 1995. The origin and provenience information of this ancestor is unknown. There are no records or documentation with this individual, so the curation history prior to arriving at UTSA–CAR is also unknown. C.K. Chandler was an amateur archaeologist with a primary focus on southern and south-central Texas, who served on the Texas Historical Commission, so the ancestor was likely found in Texas.

Consultation

Invitations to consult were sent to the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas; Alabama-Quassarte Tribal Town; Apache Tribe of Oklahoma; Caddo Nation of Oklahoma; Cherokee Nation; Cheyenne and Arapaho Tribes, Oklahoma; Comanche Nation, Oklahoma; Coushatta Tribe of Louisiana; Delaware Nation, Oklahoma; Fort Sill-Chiricahua-Warm Springs-Apache Tribe (previously listed as Fort Sill Apache Tribe of Oklahoma); Jicarilla Apache Nation, New Mexico; Kialegee Tribal Town; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Oklahoma; Kiowa Tribe (previously listed as Kiowa Indian Tribe of Oklahoma); Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Shawnee Tribe; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Osage Nation; The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; Tonkawa Tribe of Indians of Oklahoma; Tunica-Biloxi Indian Tribe; United Keetoowah Band of Cherokee Indians in Oklahoma; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma; and the Ysleta del Sur Pueblo.

The following Tribes responded to the invitation and participated in consultation: the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas; Caddo Nation of Oklahoma; Cherokee Nation; Cheyenne and Arapaho Tribes, Oklahoma; Comanche Nation of Oklahoma; Delaware Nation, Oklahoma; Kickapoo Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Shawnee Tribe; The Choctaw Nation of Oklahoma; The Muscogee (Creek)

Nation; The Osage Nation; The Seminole Nation of Oklahoma; Tonkawa Tribe of Indians of Oklahoma; Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma; and the Ysleta del Sur Pueblo.

Cultural Affiliation

The following types of information about the cultural affiliation of the human remains in this notice are available: geographical. The information, including the results of consultation, identified:

1. No earlier group connected to the human remains.
2. No Indian Tribe or Native Hawaiian organization connected to the human remains.
3. No relationship of shared group identity between the earlier group and the Indian Tribe or Native Hawaiian organization that can be reasonably traced through time.

Determinations

The UTSA-CAR has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- No known lineal descendant who can trace ancestry to the human remains in this notice has been identified.
- No Indian Tribe or Native Hawaiian organization with cultural affiliation to the human remains described in this notice has been clearly or reasonably identified.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Upon request, repatriation of the human remains described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the UTSA-CAR must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The UTSA-CAR is responsible for sending a copy of this notice to the Indian Tribes or Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15497 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7379; NPS-WASO-NAGPRA-NPS0043379; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology, Baton Rouge, LA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Louisiana Division of Archaeology (LDOA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Karla Oesch, Collections Manager, Louisiana Division of Archaeology, P.O. Box 44247, Baton Rouge, LA 70804, email koesch@crt.la.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Louisiana Division of Archaeology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least two individuals have been identified from site 16MO103, Book Shepard, in Morehouse Parish, LA. At minimum, one lot of potentially associated

funerary objects are present including ceramics, lithics, animal bone, and shell. Project fieldwork was conducted in February and March 1987 by Brockington and Associates; the project was curated with LDOA in 1990.

Human remains representing at least one individual have been identified from site 16WC13/16WC14, Hill Bayou/Hilton Mound, in West Carroll Parish, LA. A minimum, one lot of potentially associated funerary objects are present including ceramics and lithics. According to paperwork, this collection was made prior to August 1975 by the nearby landowner, Mr. Harper. The collections were made from both sites and therefore cataloged together. This project was stored at LSU until 1995 when it was transferred to LDOA for long term curation.

Human remains representing at least one individual have been identified from an unspecified location in northeast LA. No associated funerary objects were present. During the 1950s to 1960s, Guy J. Ragusa collected the human remains from a non-mound site in northeast Louisiana; the remains were in Guy Ragusa's possession until his death. On October 11, 2017, his son, Paul Ragusa, donated the remains to LDOA.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Louisiana Division of Archaeology has determined that:

- The human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- The two lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; Quapaw Nation; The Choctaw Nation of Oklahoma; and the Tunica-Biloxi Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary

objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Louisiana Division of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Louisiana Division of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15520 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7367; NPS–WASO–NAGPRA–NPS0043338; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Disposition: U.S. Department of the Interior, National Park Service, Petersburg National Battlefield, Petersburg, VA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, National Park Service, Petersburg National Battlefield intends to carry out the disposition of human remains and associated funerary objects removed from Federal or Tribal lands to the lineal descendants, Indian Tribe, or

Native Hawaiian organization with priority for disposition in this notice.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026. If no claim for disposition is received by August 2, 2027, the human remains and associated funerary objects in this notice will become unclaimed human remains and associated funerary objects.

ADDRESSES: Send written claims for disposition of the human remains and associated funerary objects in this notice to Andrea Dekoter, Superintendent, Petersburg National Battlefield, 1539 Hickory Hill Road, Petersburg, VA 23803, email Andrea_dekoter@nps.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Petersburg National Battlefield, and additional information on the human remains and associated funerary objects in this notice, including the results of consultation, can be found in the related records.

Abstract of Information Available

Based on the information available, human remains representing at least one individual have been reasonably identified. The one lot of associated funerary objects include lithic flakes. The human remains and funerary objects were recovered during archeological excavations within the Grant's Headquarters unit at Petersburg National Battlefield in Hopewell, VA. The human remains and associated funerary objects were recovered from two separate discoveries at the same park unit. The March 2024 discovery is represented by at least one individual and no associated funerary objects, sacred objects, or objects of cultural patrimony are present. The July 2024 discovery is represented by one lot of lithic associated funerary objects, no sacred objects or objects of cultural patrimony present.

Determinations

The Petersburg National Battlefield has determined that:

- The March 2024 human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The one lot of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- The Catawba Indian Nation; Chickahominy Indian Tribe; Chickahominy Indian Tribe-Eastern Division; Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; and the Pamunkey Indian Tribe have priority for disposition of the human remains and associated funerary objects described in this notice.

Claims for Disposition

Written claims for disposition of the human remains and associated funerary objects in this notice must be sent to the appropriate official identified in this notice under **ADDRESSES**. If no claim for disposition is received by August 2, 2027, the human remains and associated funerary objects in this notice will become unclaimed human remains and associated funerary objects. Claims for disposition may be submitted by:

1. Any lineal descendant, Indian Tribe, or Native Hawaiian organization identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows that they have priority for disposition.

Disposition of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026. If competing claims for disposition are received, the Petersburg National Battlefield must determine the most appropriate claimant prior to disposition. Claims for joint disposition of the human remains and associated funerary objects are considered a single claim and not competing claims. The Petersburg National Battlefield is responsible for sending a copy of this notice to the lineal descendants, Indian Tribes, and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3002, and the implementing regulations, 43 CFR 10.7.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15515 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7358; NPS–WASO–NAGPRA–NPS0043328; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Missouri, Museum of Anthropology, Columbia, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Missouri, Museum of Anthropology has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Dr. Candace Sall, University of Missouri, Museum of Anthropology, 1020 Lowry Street, Columbia, MO 65211, email nagpra@missouri.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Missouri, Museum of Anthropology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least four individuals have been identified. The 25 lots of associated funerary objects are four lots of ceramic fragments, two lots of faunal fragments, two lots of debitage, two lots of fired clay fragments, two lots of unmodified rocks, and one lot each of: projectile points, bullets, ceramic vessels, stone plummets, hafted bifaces, unifaces, bifaces, drills, hematite, ochre, shell fragments, gun flints, and worked faunal bones. The individuals were removed from site 11MS2, Cahokia Mounds, and surrounding areas by George B. Higgins between 1908 and 1921, and W. L. Waters at an unknown date. Most of the funerary objects were removed by John Bryan, John Cottier, Jerry W. Daniels, William Philyaw, Alan J. Neely, James Neely, and Joe Walta, between 1948 and 1974 and donated to the University of Missouri, Museum of Anthropology between 1974 and 2018. The remainder of the funerary objects were collected at unknown dates by people unknown. No known hazardous substances were used to treat the human remains or associated funerary objects.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The University of Missouri, Museum of Anthropology has determined that:

- The human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- The 25 lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Eastern Shawnee Tribe of Oklahoma; Kaw Nation, Oklahoma; (previously listed as Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians of Michigan); Miami Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Ponca Tribe of Nebraska; Quapaw Nation; Sac & Fox Nation, Oklahoma; Shawnee Tribe; and The Osage Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the University of Missouri, Museum of Anthropology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of Missouri, Museum of Anthropology is responsible for sending a copy of this

notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15507 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR**National Park Service**

[N7380; NPS-WASO-NAGPRA-NPS0043380; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology, Baton Rouge, LA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Louisiana Division of Archaeology (LDOA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Karla Oesch, Collections Manager, Louisiana Division of Archaeology, P.O. Box 44247, Baton Rouge, LA 70804, email koesch@crt.la.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Louisiana Division of Archaeology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least nine individuals have been identified

from site 16JA21, Quarles Lake, in Jackson Parish, LA. At minimum, one lot of potentially associated funerary objects are present including ceramics and lithics. In 1971, Richard Franz, Allen Tuten, and several other avocational archaeologists began excavating 16JA21, making several trips to the site over the year. Franz moved out of the state soon after and took all site materials with him. In 2022, the family of Richard Franz reached out to the LDOA about Richard's collections, now stored in Wyoming. In late 2022, LDOA staff travelled to Wyoming to pick up Louisiana collections, including 16JA21, and brought them back to Baton Rouge. In 2024, the family donated the collections to LDOA. The same year, LSU began analysis to determine MNI, completed in late 2025. In 2025, Allen Tuten donated his collection from 16JA21.

Human remains representing at least 15 individuals have been identified from unknown archaeological sites from northern Louisiana and southern Arkansas including Lincoln, Union, Madison, Tensas, Union, and West Carroll Parishes in Louisiana. At minimum, five lots of potentially associated funerary objects are present including ceramics and lithics. From the 1950s to 1970s, Richard Franz visited and excavated numerous sites around southern Arkansas and northern Louisiana. Franz moved out of the state soon after and took all site materials with him. In 2022, the family of Richard Franz reached out to the LDOA about Richard's collections, now stored in Wyoming. In late 2022, LDOA staff travelled to Wyoming to pick up these collections, including 16JA21, and brought them back to Baton Rouge. In 2024, the family donated the collections to LDOA.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The Louisiana Division of Archaeology has determined that:

- The human remains described in this notice represent the physical remains of 24 individuals of Native American ancestry.
- The six lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- There is a connection between the human remains and associated funerary objects described in this notice and the Caddo Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Louisiana Division of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Louisiana Division of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15501 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7363; NPS-WASO-NAGPRA-NPS0043334; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: California Department of Transportation, San Diego, CA

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California Department of Transportation

(Caltrans) has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the associated funerary objects in this notice to Natalia Galeana, California Department of Transportation District 11, 4050 Taylor Street, San Diego, CA 92110 email natalia.galeana@dot.ca.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Caltrans, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Associated funerary objects have been identified totaling of 16 lots from the three San Diego County archaeological sites listed below and representing three lots of shell, two lots of chipped stone, three lots of non-human faunal remains, three lots of soil samples, two historic items, one carbon sample and two lot of lithics. This shall also include any objects currently listed as missing but found at a later date; or uncatalogued objects found at a later date belonging to the collections. All three collections were recovered as a result of a 1985 excavation report for a highway project in San Diego, California, and are currently housed at San Diego State University (SDSU).

A total of six lots consisting of 210 cultural items were removed from CA-SDI-16653, which is located immediately west of I-5 and north of Carmel Valley Road. The collection was accessioned at SDSU under Caltrans control as SDSU-0188.

A total of five lots consisting of 162 cultural items were removed from CA-SDI-8121, which is located in and adjacent to an access road running south from the top of the mesa toward Interstate-5. The collection was accessioned at SDSU under Caltrans control as SDSU-0189. Four items in this notice have been identified as missing, and Caltrans and SDSU continue to look for them.

A total of five lots consisting of 34 cultural items were removed from CA–SDI–10143, which is located southwest of Interstate-5, east of Sorrento Valley Road. The collection was accessioned at SDSU under Caltrans control as SDSU–0191.

There are no known/documented potentially hazardous substances used to treat any of the cultural items.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the associated funerary objects described in this notice.

Determinations

Caltrans has determined that:

- The 16 lots described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between associated funerary objects described in this notice and the Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California); Ewiiapaayp Band of Kumeyaay Indians (previously listed as Ewiiapaayp Band of Kumeyaay Indians, California); Iipay Nation of Santa Ysabel, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; and the Sycuan Band of the Kumeyaay Nation.

Requests for Repatriation

Written requests for repatriation of the associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, Caltrans must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the associated funerary objects are considered a single request and not competing requests. Caltrans is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15513 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7372; NPS–WASO–NAGPRA–NPS0043373; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology, Baton Rouge, LA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Louisiana Division of Archaeology (LDOA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Karla Oesch, Collections Manager, Louisiana Division of Archaeology, P.O.

Box 44247, Baton Rouge, LA 70804, email koesch@crt.la.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Louisiana Division of Archaeology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified from 16IB3, Morton Shell Mound/Weeks Island in Iberia Parish, LA. The remains were collected by George Castile in May 1975. In 1995, the collection was accessioned into LDOA possession. In 2022, the unsorted bone from the collection was transferred to J. Delahoussaye at the University of Louisiana Lafayette to identify any potential human remains. The collection was returned to LDOA in late 2022 after human remains were noted. Ceramic and lithics were recovered during the same project; it is unknown if they are associated.

Human remains representing, at least, 18 individuals have been identified from 16IV128, St. Gabriel Mound in Iberville Parish, LA. Project fieldwork was conducted in 1977 and 1978 for the Louisiana Department of Corrections. The collection was curated with the LDOA in 1981. In 1995, LDOA submitted this collection to the National Park Service as culturally unaffiliated, though no notice of inventory completion was submitted and the collection was reassessed. At least one lot of associated funerary objects were noted including a perforated bear tooth.

Human remains representing at least three individuals have been identified from 16JE60, Isle Bonne in Jefferson Parish, LA. According to the site forms, the fieldwork was conducted ca. 1980 by the University of New Orleans. In 2006, the collection was reanalyzed and reorganized after hurricane Katrina and transferred to LDOA for long term storage in 2007. At least one lot of potentially associated funerary objects were noted including ceramics, shell, stone tools, and metal.

Human remains representing, at least, one individual has been identified from 16LF4, Temple Mound, in Lafourche Parish, LA. Project fieldwork was conducted June 22, 1979, by F. Travirca. The project was stored at LSU until 1995 when it was transferred to LDOA

for long term curation. In January 2026, the University of Georgia returned an ash sample to LDOA that was unaccounted for on the original site inventory. At least one lot of potentially associated funerary objects were noted including other non-human bone and ash samples.

Human remains representing at least one individual has been identified from 16LF5, Bayou Des Allemands, in Lafourche Parish, LA. Project fieldwork was conducted on August 22, 1979, by F. Travirca. The project was stored at LSU until 1995 when it was transferred to LDOA for long term curation. No associated funerary objects are present.

Human remains representing, at least two individuals have been identified from 16SB41, Kenilworth Canal, St. Bernard Parish, LA. Project fieldwork was conducted in February 1988 by R. Christopher Goodwin and Associates, Inc. and curated with LDOA in 1989. At least one lot of potentially associated funerary objects were noted including ceramics, glass, and other non-human bone.

Human remains representing, at least one individual has been identified from 16SB41, Kenilworth Canal, St. Bernard Parish, LA. Project fieldwork was conducted March 31, 1984, by Louisiana Archaeological Society Delta Chapter; the collection was curated with LDOA in 1991. The LSU FACES lab identified human remains in February 2001. At least one lot of potentially associated funerary objects were noted including ceramics, lithic tools, and other non-human bone.

Human remains representing, at least one individual has been identified from 16SB48, East Bayou, in St. Bernard Parish, LA. Project fieldwork was conducted February 19, 1983, by Louisiana Archaeological Society Delta Chapter; the collection was curated with LDOA in 1991. The LSU FACES lab identified human remains in February 2001. At least one lot of potentially associated funerary objects were noted including ceramics.

Human remains representing, at least one individual has been identified from 16SB52, Shotgun Shell, in St. Bernard Parish, LA. Project fieldwork was conducted February 18, 1983, by Louisiana Archaeological Society Delta Chapter; the collection was curated with LDOA in 1991. The LSU FACES lab identified human remains in February 2001. At least one lot of potentially associated funerary objects were noted including ceramics, shell, metal, and other non-human bone.

Human remains representing, at least one individual has been identified from 16SB143, Delta 16, in St. Bernard

Parish, LA. Project fieldwork was conducted October 1, 1983 by Louisiana Archaeological Society Delta Chapter; the collection was curated with LDOA in 1991. The LSU FACES lab identified human remains in February 2001. At least one lot of potentially associated funerary objects were noted including ceramics, lithics, metal, and other non-human bone.

Human remains representing, at least one individual has been identified from 16SB144, Linda, in St. Bernard Parish, LA. Project fieldwork was conducted April 14, 1983, by Louisiana Archaeological Society Delta Chapter; the collection was curated with LDOA in 1991. The LSU FACES lab identified human remains in February 2001. At least one lot of potentially associated funerary objects were noted including ceramics and other non-human bone.

Human remains representing, at least one individual has been identified from 16SC10, Bayou Trepagnier, in St. Charles Parish, LA. The fieldwork for the proposed Interstate 410 route (now referred to as I-310) was conducted in 1976 by Coastal Environments, Inc. The collection was transferred to LDOA for long term curation and reacquisition in 2005. At least one lot of potentially associated funerary objects were noted including ceramics and other non-human bone.

Human remains representing, at least one individual has been identified from 16SC11, Bayou LaBranche Mouth, in St. Charles Parish, LA. The fieldwork for the proposed Interstate 410 route (now referred to as I-310) was conducted in 1976 by Coastal Environments, Inc. The collection was transferred to LDOA for long term curation and reacquisition in 2005. At least one lot of potentially associated funerary objects were noted including lithics, glass, and ceramics.

Human remains representing, at least one individual has been identified from 16SL27, Current Bayou Mound, in St. Landry Parish, LA. Project fieldwork was conducted in December 19, 1990, by Dennis Jones and Malcolm Shuman of the LSU Museum of Geoscience. The collection was curated with LDOA in 1993. At least one lot of potentially associated funerary objects were noted including ceramics and lithics.

Human remains representing at least five individuals have been identified from 16TR5, Gibson Mounds, in Terrebonne Parish, LA. Fieldwork was conducted in December 1976 and January 1977 by Coastal Environments, Inc. for the proposed relocation of U.S. 90. This project was stored at LSU until 1995 when it was transferred to LDOA for long term curation. At least one lot of potentially associated funerary

objects were noted including ceramics and shell.

Human remains representing at least one individual have been identified from 16WBR2/16WBR4, Pitcher Place/Bueche Mounds om West Baton Rouge Parish, LA. Project fieldwork was conducted February 26, 1976, by Weinstein and Burdon. This project was stored at LSU until 1995 when it was transferred to LDOA for long term curation. At least one lot of potentially associated funerary objects were noted including ceramics.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Louisiana Division of Archaeology has determined that:

- The human remains described in this notice represent the physical remains of 40 individuals of Native American ancestry.
- The 14 lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Chitimacha Tribe of Louisiana.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Louisiana Division of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and

associated funerary objects are considered a single request and not competing requests. The Louisiana Division of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15500 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7357; NPS-WASO-NAGPRA-NPS0043327; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: San Diego State University, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Diego State University (SDSU) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Jaime Lennox, San Diego State University, 5500 Campanile Drive, San Diego, CA 92182, email jlennox@sdsu.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of SDSU, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

No human remains are present. The one lot of associated funerary objects (representing approximately 400+ objects) are one lot lithics. At an unknown date, by unknown individuals, cultural items were removed from site CA-SDI-8070 located in San Diego County, CA; SDSU subsequently received the collection and assigned accession number SDSU-0002 (CMP-SDSU-0002) at an unknown date prior to 1993. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

No human remains are present. The three lots of associated funerary objects (representing approximately 450+ objects) are one lot lithics, one lot ceramics, and one lot non-human faunal. At an unknown date, by unknown individuals, cultural items were removed from site CA-SDI-8307 (Southwest Powerlink) located in San Diego County, CA; SDSU subsequently received the collection in 1984 from cultural resource management firm Regional Environmental Consultants (RECON). The collection was given accession number SDSU-0080 (CMP-SDSU-0080) at an unknown date prior to 1997. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

No human remains are present. The one lot of associated funerary objects (representing approximately 20+ objects) are one lot of lithics. Cultural items were removed from site SDM-C-125 (CAL# ZZ:5:1; Coyote Wells), located in Imperial County, CA, first by Paul Ezell (then affiliated with SDSU) and later by Michael Polk, Tim Kearns, Anne Polk, and Mark Ryndunski (likely also then affiliated with SDSU) in December 1971 and January 1972 respectively. The resulting collection was received by SDSU later in 1972 and given accession number 1972-3; the collection was subsequently given accession number SDSU-0085 (CMP-SDSU-0085) at an unknown date prior to 1993. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

No human remains are present. The one lot of associated funerary objects (representing approximately 5+ objects) are one lot lithics. At an unknown date, by unknown individuals, cultural items were removed from site CA-SDI-9277 located in San Diego County, CA; SDSU subsequently received the collection and assigned accession number SDSU-0091 (CMP-SDSU-0091) at an unknown

date prior to 2001. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

Human remains representing, at least, one individual have been identified. The one lot of associated funerary objects (representing approximately 10+ objects) are one lot of non-human faunal. At an unknown date, by unknown individuals, cultural items and a human remain were removed from site CA-SDI-5217 (W-1333) located in San Diego County, CA; SDSU subsequently received the collection and assigned accession number SDSU-0114 (CMP-SDSU-0114) at an unknown date prior to 2000. A human remain within the collection was identified in May 2026. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

No human remains are present. The 10 lots of associated funerary objects (representing approximately 8200+ objects) are one lot lithics, one lot ground stone, one lot post-contact items, one lot non-human faunal, one lot vegetal items, one lot shell, one lot flora items, one lot noncultural items, one lot charcoal, and one lot soil samples. At an unknown date, by unknown individuals, cultural items were removed from site CA-SDI-4360 (W-192; New Horizons) located in San Diego County, CA; SDSU subsequently received the collection and assigned accession number SDSU-0130 (CMP-SDSU-0130) at an unknown date prior to 2018. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

No human remains are present. The one lot of associated funerary objects (representing approximately 10+ objects) are one lot ceramics. At an unknown date, by unknown individuals, cultural items were removed from an unnamed and unnumbered site located in Imperial County, CA; the resulting collection was referred to as the "Imp-East Hi-Line Surface Collections W.H.W." collection. SDSU received the collection in 1959 and assigned accession number 1959-11; the collection was subsequently given accession number SDSU-0175 (CMP-SDSU-0175) at an unknown date prior to 1993. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

No human remains are present. The two lots of associated funerary objects (representing approximately two+ objects) are one lot lithics and one lot ground stone. At an unknown date, by

unknown individuals, cultural items were removed from site CA-SDI-4648 (W-348; CAL# F:1:1; San Diego State College Site; Chase and Avocado Site) located in San Diego County, CA. The resulting collection was donated to SDSU in 1961 by Joe Beaver and accessioned as 1961-3; the collection was subsequently given accession number SDSU-0177 (CMP-SDSU-0177) at an unknown date prior to 1993. At an unknown date, cultural items were removed from the collection and subsequently returned to SDSU in 2016; these items were reunited with the collection in August 2024. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

No human remains are present. The two lots of associated funerary objects (representing approximately 50+ objects) are one lot ceramics and one lot lithics. In 1963, cultural items were removed from site CA-SDI-4753 (Imp. 5-1, Cal:F:8:10), located in San Diego County, CA, by A. Tolbert. SDSU received the collection in 1963 and assigned accession number 1963-8; the collection was subsequently given accession number SDSU-0179 (CMP-SDSU-0179) at an unknown date prior to 1993. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

No human remains are present. The four lots of associated funerary objects (representing approximately 400+ objects) are one lot lithics, one lot shell, one lot charcoal, and one lot non-human faunal. At an unknown date, by unknown individuals, cultural items were removed from site CA-SDI-5931 (W-1627; Barrio Logan) located in San Diego County, CA; SDSU subsequently received the collection in 1984 from cultural resource management firm Regional Environmental Consultants (RECON). The collection was given accession number SDSU-0226 (CMP-SDSU-0226) at an unknown date prior to 1993. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

Human remains representing, at least, one individual have been identified. The five lots of associated funerary objects (representing approximately 70+ objects) are one lot lithics, one lot non-human faunal, one lot ceramics, one lot shell, and one lot ground stone. In 1968, cultural items and a human remain were removed from site CA-SDI-4607 (W-1711; CAL# E:4:16), located in San Diego County, CA, by individuals documented as "Panek and Wylie"; SDSU received the resulting collection

from Panek and Wiley in 1970 and assigned accession number 1970-6. The collection was subsequently given accession number SDSU-0281 (CMP-SDSU-0281) prior to 1998. A human remain within the collection was identified in May 2026. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

Human remains representing, at least, one individual have been identified. The eight lots of associated funerary objects (representing approximately 1950+ objects) are one lot soil samples, one lot post-contact items, one lot lithics, one lot ceramics, one lot non-human faunal, one lot charcoal, one lot shell, and one lot noncultural items. At an unknown date, by unknown individuals, cultural items and human remains were removed from site CA-SDI-4518 (W-616; Singing Hills; Dehesa Mountain Village) located in San Diego County, CA; SDSU subsequently received the collection and assigned accession number SDSU-0529 (CMP-SDSU-0529) at an unknown date prior to 1999. While not directly documented in accession records, it is likely the collection resulted from field work conducted in the late 1960s or early 1970s by Ron May. In the mid-1970s, items from the collection were removed from SDSU, which were later returned in November 2025. Human remains within the collection were identified in May 2026. It is unknown whether any potentially hazardous substances were used to treat the associated funerary objects.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

SDSU has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- The 39 lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande

Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California); Ewiiapaayp Band of Kumeyaay Indians (previously listed as Ewiiapaayp Band of Kumeyaay Indians, California); Iipay Nation of Santa Ysabel, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; and the Sycuan Band of the Kumeyaay Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, SDSU must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. SDSU is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15506 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7364; NPS–WASO–NAGPRA–
NPS0043335; PPWOCRADN0–
PCU00RP14.R50000]

Notice of Inventory Completion: Denver Art Museum, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Denver Art Museum (DAM) has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the associated funerary objects in this notice to Jennie Trujillo, Denver Art Museum, 100 W 14th Avenue Parkway, Denver, CO 80203, email jtrujillo@denverartmuseum.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Denver Art Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

The 10 associated funerary objects are sherds. These 10 sherds were gifted to the Denver Art Museum (DAM) in 1934. Prior to DAM, the sherds were donated to the University of Michigan from Fain King, property owner and amateur collector, who excavated on his property on multiple occasions. According to records at the Denver Art Museum, these sherds came from the Wickliffe site in Ballard County, Kentucky. There is little additional information at the Denver Art Museum, however, information provided by the University of Michigan Museum of

Anthropological Archaeology Research Museums Center (UMMAA) indicated the set of sherds at DAM was split from an original collection of associated funerary objects and human remains housed at UMMAA (see 84 FR 50066). UMMAA archaeologists' research concluded that the Wickliffe Mounds site (15BA4) is culturally affiliated to Dhegians based on linguistic, archaeological, and ethnohistorical evidence. There are no known hazardous substances used to treat the associated funerary objects.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the associated funerary objects described in this notice.

Determinations

The Denver Art Museum has determined that:

- The 10 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the associated funerary objects described in this notice and the Quapaw Nation.

Requests for Repatriation

Written requests for repatriation of the associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Denver Art Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the associated funerary objects are considered a single request and not competing requests. The Denver Art Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15514 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7362; NPS–WASO–NAGPRA–
NPS0043333; PPWOCRADN0–
PCU00RP14.R50000]

Notice of Intended Repatriation: California Department of Transportation, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California Department of Transportation (Caltrans) intends to repatriate certain cultural items that meet the definition of sacred objects/objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after August 31, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Natalia Galeana, California Department of Transportation District 11, 4050 Taylor Street, San Diego, CA 92110 email natalia.galeana@dot.ca.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Caltrans, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of seven lots of cultural items have been requested for repatriation. The seven lots are represented by 22 catalog entries consisting of sacred objects/objects of cultural patrimony: one lots of shell, one lots of chipped stone, two lots of soil samples, one lot of tools, one lot of lithics, and one lot

of post-contact items. This shall also include any objects currently listed as missing but found at a later date or uncatalogued objects found at a later date belonging to the collections, which are housed at San Diego State University (SDSU).

A total of three lots consisting of 13 catalog entries were removed from CA-SDI-4627, which is located on the Northwest side of Soledad Valley, 2.5 km of Pacific Ocean, San Diego County, California. The collection is a result of a 1985 excavation in support of a highway widening project and was accessioned at SDSU under Caltrans control as SDSU-0187.

A total of four lots consisting of nine catalog entries were removed from CA-SDI-4783, which is located east of intersection of State Route 94 and Avocado Street, San Diego County, California. The collection is a result of a 1979 excavation in support of a highway intersection project and was accessioned at SDSU under Caltrans control as SDSU-0190.

There are no known/documented potentially hazardous substances used to treat any of the cultural items.

Determinations

Caltrans has determined that:

- The seven lots sacred objects/objects of cultural patrimony described in this notice are, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).

- There is a connection between the cultural items described in this notice and the Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California); Ewiiapaayp Band of Kumeyaay Indians (previously listed as Ewiiapaayp Band of Kumeyaay Indians, California); Iipay Nation of Santa Ysabel, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno

Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; and the Sycuan Band of the Kumeyaay Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, Caltrans must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. Caltrans is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15512 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7360; NPS-WASO-NAGPRA-NPS0043330; PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Repatriation: Portland Art Museum, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Portland Art Museum intends to repatriate certain cultural items that

meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after August 31, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Kathleen Ash-Milby, Senior Curator of Native American Art, Portland Art Museum, 1219 SW Park Ave., Portland, OR 97205, email kathleen.ash-milby@pam.org, and Donald Urquhart, Director of Collections and Exhibitions, Portland Art Museum, 1219 SW Park Ave., Portland, OR 97205, email donald.urquhart@pam.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Portland Art Museum and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

In a letter dated February 5, 2026, the Tejon Indian Tribe submitted a claim for repatriation to the Portland Art Museum for two baskets (#91.95.26 and #2014.89.3) as "objects of cultural patrimony" under NAGPRA. The claimed cultural items are two Kawaiisu baskets with no known artist affiliation. According to museum records, both baskets were acquired by the Museum from private collector Elizabeth Cole Butler. Basket #91.95.26 was donated in 1991; basket #2014.89.3 was loaned to the museum in 1986, became a donation by bequest in 2004, and was accessioned into the permanent collection in 2014. No provenance information prior to Butler's donations has been located. They are described in museum records as follows:

- Basket #91.95.26, dated ca. 1850, is constructed with sumac, devil's claw, and yucca root. The basket was originally attributed to an unidentified Chumash maker until 2013, when it was updated to "Kawaiisu or from the Tejon Pass area (central California)." According to information provided by the claimant tribe, this basket is a visual representation of their ancestral land and traditional knowledge. It was created for communal and ceremonial purposes.

- Basket #2014.89.3, dated ca. 1880, was created with willow, redbud, and bracken fern root on a grass foundation. Original paperwork listed the basket with the affiliation “Kern River,” and in 2014 the cultural term was updated to “Kawaiisu.” According to information provided by the claimant tribe, this basket illustrates lightning and thunder corresponding to their creation stories and ceremonial rain-making practices.

On June 2, 2026, baskets #91.95.26 and #2014.89.3 were tested for arsenic contamination and the results were negative for both items.

Determinations

The Portland Art Museum has determined that:

- The two objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Tejon Indian Tribe.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Portland Art Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Portland Art Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15509 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7369; NPS–WASO–NAGPRA–NPS0043370; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Mesa Verde National Park, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), U.S. Department of the Interior, National Park Service, Mesa Verde National Park has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Mesa Verde National Park, Montezuma County, CO; Montezuma Valley, Montezuma County, CO; near Blanding, San Juan County, UT; near Mancos, Montezuma County, CO; Rock Canyon, Montezuma County, CO or Cheese Box Canyon, San Juan County, UT; and possibly the Canyon de Chelly area, Apache County, AZ.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Kathryn Cook Collins, Mesa Verde National Park, P.O. Box 8, Mesa Verde National Park, CO 81330, email kayci_cook@nps.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Superintendent of Mesa Verde National Park, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records.

Abstract of Information Available

Human remains representing, at least, two individuals were removed from site 5MV34 (Soda Canyon Pueblo) in Mesa Verde National Park, Montezuma County, CO. The 19 associated funerary objects are five ceramic bowls, two ceramic jars, one ceramic mug, one bone awl, one bone scraper, one bighorn sheep bone, three stone blades, and five stone flakes. Gila Pueblo exhumed the individuals and associated funerary objects in 1949. There is no record or evidence of treatment with a hazardous substance.

A total of two associated funerary objects were removed from site 5MV41 at the junction of Square Tower House and the dumping grounds road, Mesa Verde National Park, Montezuma County, Colorado. The associated funerary objects which include one ceramic bowl and one ceramic pitcher were found in the Mesa Verde collections at an unknown time. There is no record or evidence of treatment with a hazardous substance.

A total of seven associated funerary objects were removed from site 5MV80 in Mesa Verde National Park, Montezuma County, CO. One of these is a ceramic seed jar found in the Mesa Verde collections in 1934. The remaining are one ceramic jar, two ceramic bowls, one ceramic ladle bowl, and two bone awls removed from the site by Gila Pueblo during a salvage project in 1953. There is no record or evidence of treatment with a hazardous substance.

A total of one associated funerary object was removed from site 5MV106 (Twin Trees Village) in Mesa Verde National Park, Montezuma County, CO. The single ceramic seed jar was removed by park personnel in 1950. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV117 in Mesa Verde National Park, Montezuma County, CO during a 1941 park excavation. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

A total of three associated funerary objects were removed from site 5MV145 (Derek's Pithouse) in Mesa Verde National Park, Montezuma County, CO. The one miniature ceramic bowl, one stone scraper, and one ceramic bowl fragment were excavated by Gila Pueblo in 1948. There is no record or evidence of treatment with a hazardous substance.

A total of one associated funerary object was removed from site 5MV341

in Mesa Verde National Park, Montezuma County, CO. The one ceramic jar was removed by the park in 1951. There is no record or evidence of treatment with a hazardous substance.

A total of 36 associated funerary objects were removed from site 5MV364 (Tent Salvage Area) in Mesa Verde National Park, Montezuma County, CO. The 36 ceramic sherds were removed from the park during a Four Corners pottery sherd survey between 1951 and 1964. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV499 in Mesa Verde National Park, Montezuma County, CO. The individual was removed by the University of Colorado, Boulder in 1953 and was in their custody until 2024 when transferred to the park. The four associated funerary objects are one ceramic pitcher, one ceramic bowl, and two ceramic bowl fragments. They were removed by the University of Colorado, Boulder in 1953 but remained in the custody of the park. There is no record or evidence of treatment with a hazardous substance.

A total of 30 associated funerary objects were removed from site 5MV503 (Burial Cave) in Mesa Verde National Park, Montezuma County, CO. The 24 corn kernels, two squash seeds, one bean, one piece of reed matting, one yucca sandal, and one piece of wood were removed in 1955 during a salvage project. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV519 (Buried Cave) in Mesa Verde National Park, Montezuma County, CO by an unknown person on an unknown date. The Chicago Academy of Sciences had custody of the individual until 2024 when transferred to the park. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV523 (Oak Tree House) in Mesa Verde National Park, Montezuma County, CO by the park in 1977. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

A total of one associated funerary object was removed from site 5MV625 (Cliff Palace) in Mesa Verde National Park, Montezuma County, CO. The single human hair rope was removed by the park in 1934 during stabilization. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV640 (Spruce Tree House) in Mesa Verde National Park, Montezuma County, CO. The 148 associated funerary objects are 91 human-chewed fiber quids, one bag of human feces, and 56 animal bones. The human remains were collected by a private individual in the 1930s, donated to the Antelope Valley Museum in Lancaster, California, and then were in the custody of the Natural History Museum of Los Angeles County until 2025 when they were transferred to the park. A total of two of the animal bones were found in the Mesa Verde collections in 1934. The other 146 associated funerary objects were collected in 1924 during a park Spruce Tree House expedition. There is no record or evidence of treatment with a hazardous substance.

A total of five associated funerary objects were removed from site 5MV650 (Square Tower House) in Mesa Verde National Park, Montezuma County, CO. A total of four human-chewed fiber quids and one bag of human feces were collected in 1942 during stabilization. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, two individuals were removed from site 5MV808 (Far View) in Mesa Verde National Park, Montezuma County, CO. The 110 associated funerary objects are one ceramic ladle, one ceramic duck effigy jar, 105 ceramic sherds, one ceramic corrugated bowl, one ceramic bell-shaped jar, and one ceramic pitcher. One of the individuals was collected during a park stabilization project in 1948. The other individual was removed by the University of Colorado, Boulder in 1976. The ceramic ladle, corrugated bowl, bell-shaped jar, and pitcher were collected by a ranger in 1915. The duck effigy jar was found in the Mesa Verde collections in 1934. The ceramic sherds were collected in 1934 during stabilization. There is no record or evidence of treatment with a hazardous substance.

A total of one associated funerary object was removed from site 5MV809 (Pipe Shrine House) in Mesa Verde National Park, Montezuma County, CO. The one ceramic jar was collected by a ranger in 1915. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, 13 individuals were removed from site 5MV820 (Coyote Village) in Mesa Verde National Park, Montezuma County, CO. The 315 associated funerary objects are one projectile point, two hammerstones, five animal bones, five bird bones, 287 ceramic sherds, one piece burned clay,

five worked sherds, eight bags of soil samples, and one wood specimen. The 13 individuals and most of the associated funerary objects were removed during a 1977 and 1978 University of Colorado, Boulder excavation. The soil samples were collected by the park in 1968, analyzed by the Midwest Archeological Center, and returned to the park in 1990. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV833 (Far View Reservoir/Mummy Lake) in Mesa Verde National Park, Montezuma County, CO by the University of Colorado, Boulder in 1983. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, two individuals were removed from site 5MV866 in Mesa Verde National Park, Montezuma County, CO. The four associated funerary objects are four ceramic sherds. The two individuals were removed from the site in the 1950s by the University of Colorado, Boulder and remained in their custody until they were transferred to the park in 2024. The associated funerary objects were removed from the site in 1978 by the University of Colorado, Boulder. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, three individuals were removed from site 5MV875 (Lister Site No. 1) in Mesa Verde National Park, Montezuma County, CO. A total of two of the individuals were removed by the University of Colorado, Boulder, in the 1950s and remained in their custody until they were transferred to the park in 2024. The other individual was removed from the site in 1976. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, nine individuals were removed from site 5MV1067 (Morefield Great Kiva, also known as site 5MV1930) in Mesa Verde National Park, Montezuma County, CO. The 461 associated funerary objects are two bags of charcoal, 21 animal bones, 390 ceramic sherds, 13 stone flakes, two wood samples, one bone awl, nine pieces of building material, one mano fragment, one stone artifact, one stone core, four geologic specimens, three ground stone artifacts, seven hammerstones (three currently missing), four stone manos, one stone chopper, and one ceramic pitcher fragment. The individuals and associated funerary objects were

removed in 1976 by the University of Colorado, Boulder. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, three individuals were removed from site 5MV1088 (Gila Pueblo 81) in Mesa Verde National Park, Montezuma County, CO. The one associated funerary object is a painted and corrugated ceramic bowl. The associated funerary object was removed from the site by the University of Colorado, Boulder in 1965. The individuals were removed in 1978 by the University of Colorado, Boulder. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, five individuals were removed from site 5MV1104 in Mesa Verde National Park, Montezuma County, CO. The two associated funerary objects are a soil sample and one stone core. All were removed from the site by the University of Colorado, Boulder in 1965. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, three individuals were removed from site 5MV1200 (Long House) in Mesa Verde National Park, Montezuma County, CO. The 686 associated funerary objects are 412 human-chewed fiber quids, 46 lots of human feces, 14 bundles and strands of human hair, two pieces of human hair cordage, one human hair adhering to a sandstone piece, four pieces of dried clay with human hair, one textile made with human hair yarn, three clay samples, 18 seeds, one bag insects, one burnt stone, two turkey bones, three wood samples, nine bags of seeds, four miscellaneous plants, four bags miscellaneous plant material, 94 insects, 59 animal bones, three bags of animal bones, three boxes of insects, and two pieces of fiber. All were removed from the site by the park in the 1950s during the Wetherill Mesa Archaeological Project. There is no record or evidence of treatment with a hazardous substance.

A total of 12 associated funerary objects were removed from site 5MV1205 in Mesa Verde National Park, Montezuma County, CO. One bag of charcoal and 11 animal bones were removed from the site in the 1950s and early 1960s as part of the Wetherill Mesa Archaeology Project. There is no record or evidence of treatment with a hazardous substance.

A total of one associated funerary object was removed from site 5MV1228 (Adobe Cave) in Mesa Verde National Park, Montezuma County, CO. The single bag of seeds was removed from the site in the 1950s and early 1960s as

part of the Wetherill Mesa Archaeology Project. There is no record or evidence of treatment with a hazardous substance.

A total of 1,071 associated funerary objects were removed from site 5MV1229 (Mug House) in Mesa Verde National Park, Montezuma County, CO. These include 770 human-chewed fiber quids, 35 human fecal samples, nine pieces of human hair cordage, 23 human hair bundles, 125 animal bones, 23 bags of seeds, 15 bags of miscellaneous plant material, 15 pollen samples, 28 insects, one bag of charcoal, two bags of corn, 17 miscellaneous plants, seven seeds (two are missing), and one egg shell. A total of three pieces of human hair cordage were removed during site stabilization in 1935. The remainder of the associated funerary objects were removed in the late 1950s and early 1960s as part of the Wetherill Mesa Archaeology Project. There is no record or evidence of treatment with a hazardous substance.

A total of one associated funerary object was removed from site 5MV1230 in Mesa Verde National Park, Montezuma County, CO. The single stone concretion was removed from the site in the 1950s and early 1960s as part of the Wetherill Mesa Archaeology Project. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV1241 (Nordenskiöld 16) in Mesa Verde National Park, Montezuma County, CO. The six associated funerary objects are human-chewed fiber quids. All were removed from the site by the park in the 1950s during the Wetherill Mesa Archaeological Project. There is no record or evidence of treatment with a hazardous substance.

A total of 990 associated funerary objects were removed from site 5MV1285 (Step House) in Mesa Verde National Park, Montezuma County, CO. These include 549 human-chewed fiber quids, 104 human fecal samples, one piece of human hair cordage, 88 human hair samples, one box pollen sample, two slides of insect remains, one bag soil sample, three pieces of worked wood, nine pieces of charcoal, 31 bags miscellaneous plant material, one animal fecal sample, two boxes of animal bones, 25 bags of seeds, 90 seeds, one bag animal bone, one piece cotton cordage, two bags miscellaneous fiber, five animal teeth, one box of seeds, 33 animal bones, one bag squash seeds, three miscellaneous plant specimens, one bag of corn, seven pieces of yucca cordage, two egg shell fragments, one piece shredded wood,

two hide fragments, two feather fragments, and 21 insects. A total of four of the quids were removed from the site in 1926. The remainder of the objects were removed in the late 1950s and early 1960s as part of the Wetherill Mesa Archaeology Project. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV1320 (Nordenskiöld 13) in Mesa Verde National Park, Montezuma County, CO. The individual was removed from the site by the park in the 1950s and early 1960s during the Wetherill Mesa Archaeological Project. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

A total of two associated funerary objects were removed from site 5MV1322 in Mesa Verde National Park, Montezuma County, CO. The two pieces of human hair and yucca cordage were removed from the site during a 1928 West Side Expedition excavation. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV1325 (Nordenskiöld 11) in Mesa Verde National Park, Montezuma County, CO. The individual was removed from the site during stabilization prior to 1984. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

A total of one associated funerary object was removed from site 5MV1337 in Mesa Verde National Park, Montezuma County, CO. The single ceramic bowl was removed from the site in the late 1950s and early 1960s as part of the Wetherill Mesa Archaeology Project. There is no record or evidence of treatment with a hazardous substance.

A total of two associated funerary objects were removed from site 5MV1344 in Mesa Verde National Park, Montezuma County, CO. The one ceramic pitcher and one ceramic sherd were removed from the site in the late 1950s and early 1960s as part of the Wetherill Mesa Archaeology Project. There is no record or evidence of treatment with a hazardous substance.

A total of four associated funerary objects were removed from site 5MV1433 in Mesa Verde National Park, Montezuma County, CO. The two ceramic jars and two corn cobs were removed from the site in the late 1950s and early 1960s as part of the Wetherill Mesa Archaeology Project. There is no

record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV1445 (Fuller Brush House) in Mesa Verde National Park, Montezuma County, CO. The individual was collected by the park in 1983 during site stabilization. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV1452 (Badger House) in Mesa Verde National Park, Montezuma County, CO. The 32 associated funerary objects are two bone awls, one animal bone, two corrugated ceramic sherds, one bag human feces, one worked ceramic sherd, one stone core, and 24 stone flakes. All were removed from the site by the park in the 1950s during the Wetherill Mesa Archaeological Project. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV1595 (Big Juniper House) in Mesa Verde National Park, Montezuma County, CO. The 39 associated funerary objects are one stone disk, two stone choppers, one mano fragment, one cobblestone, one hammerstone, 14 stone flakes, one animal bone, and 18 ceramic sherds. All were removed from the site by the park in the 1950s during the Wetherill Mesa Archaeological Project. There is no record or evidence of treatment with a hazardous substance.

A total of one associated funerary object was removed from site 5MV1645 (Two Raven House) in Mesa Verde National Park, Montezuma County, CO. The single animal bone was removed from the site in the late 1950s and early 1960s as part of the Wetherill Mesa Archaeology Project. There is no record or evidence of treatment with a hazardous substance.

A total of eight associated funerary objects were removed from site 5MV1676 (Dog House) in Mesa Verde National Park, Montezuma County, CO. The seven bone awls and one bone needle were removed from the site in the late 1950s and early 1960s as part of the Wetherill Mesa Archaeology Project. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, two individuals were removed from site 5MV1927 in Mesa Verde National Park, Montezuma County, CO. The individuals were removed by the University of Colorado, Boulder in 1976. No associated funerary objects are present. There is no record or evidence

of treatment with a hazardous substance.

Human remains representing, at least, two individuals were removed from site 5MV1928 in Mesa Verde National Park, Montezuma County, CO. The six associated funerary objects are ceramic sherds. All were removed by the University of Colorado, Boulder in 1976. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, three individuals were removed from site 5MV1929 in Mesa Verde National Park, Montezuma County, CO. The 53 associated funerary objects are 52 animal bones and one antler artifact. All were removed by the University of Colorado, Boulder in 1976. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV2113 in Mesa Verde National Park, Montezuma County, CO. The individual was found on the surface of the site in 1984 and removed by the University of Colorado, Boulder. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

A total of two associated funerary objects were removed from site 5MV2282 in Mesa Verde National Park, Montezuma County, CO. The single ceramic corrugated jar and one soil sample were removed from the site in 1978 by the University of Colorado, Boulder. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV2421 (Round Tower Cave) in Mesa Verde National Park, Montezuma County, CO. The individual was removed from the site by the park in 1942 and 1983. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV2455 in Mesa Verde National Park, Montezuma County, CO. The individual was found on the surface of the site in 1984 and removed by the University of Colorado, Boulder. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV2470 in Mesa Verde National Park, Montezuma County, CO. The individual was found on the surface of the site in 1984 and removed by the University of Colorado, Boulder. No associated funerary objects are present. There is no

record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from site 5MV2534 in Mesa Verde National Park, Montezuma County, CO. The individual was found on the surface of the site in 1984 and removed by the University of Colorado, Boulder. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

A total of five associated funerary objects were removed from site 5MV3808 in Mesa Verde National Park, Montezuma County, CO. The five ceramic sherds were found on the surface of the site in 1984 and removed by the University of Colorado, Boulder. There is no record or evidence of treatment with a hazardous substance.

A total of one associated funerary object was removed from a small cave 150 yards south of Site 20½ in Mesa Verde National Park, Montezuma County, CO. The one large ceramic sherd was removed from the site by the park during stabilization of Site 20½ in 1935. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from north of Site Nordenskiöld 16 in Mesa Verde National Park, Montezuma County, CO. The individual was removed from the surface by the park in 1948. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from an unknown location within Mesa Verde National Park, Montezuma County, CO. The individual was collected prior to 1916 by an unknown person and donated to the Heye Foundation in 1916, and then to the New York University College of Dentistry in 1956. The individual was transferred to the park in 2025. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, two individuals were removed from an unknown location within Mesa Verde National Park, Montezuma County, CO. The individuals were removed prior to 1943 by non-park personnel and donated by a family member to the University of California, Berkeley in 1945. The individuals were transferred to the park in 2025. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from an unknown location within Mesa Verde

National Park, Montezuma County, CO. The individual was removed from the surface of the site in 1984 by the University of Colorado, Boulder. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from an unknown location. The individual was found in the park collections having been donated by non-park personnel between 1937 and 1948. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from an unknown location. The three associated funerary objects are human hair twine, a prayer plume with human hair, and a bird snare with human hair. All were found in the Mesa Verde museum collections in 1934. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from an unknown location within Montezuma Valley, Montezuma County, CO. The individual was collected in the 1890s and donated to the park in 1935. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from a Pueblo site on a pecan ranch near Mancos, Montezuma County, CO. The individual was donated to the park in 1936. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was possibly removed from the Canyon de Chelly area, Apache County, AZ prior to 1900. The provenience is anecdotal only. A former Mesa Verde superintendent purchased the individual from a private collection. The owner of the private collection supposedly purchased the individual from the original collector. The Mesa Verde Museum Association, in turn, purchased the individual from the former superintendent and donated the individual to the park in 1949. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from near Blanding, San Juan County, UT prior to 1956. The individual was donated to Mesa Verde in 1956. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from an unknown location, but possibly the Rock Canyon area in Montezuma County, CO or the Cheese Box Canyon area, San Juan County, UT. The 108 associated funerary objects are one wooden feather box, 10 leather wrappers, five galena crystals, two small quartz crystals, 11 pieces of turquoise, two stone drills, 10 obsidian flakes, two hide artifacts with feathers, 11 shell and stone beads, one abalone shell disc, one dried animal skin, one buckskin bag, three garnets, one leather wrapper with black metallic powder, one weasel leather wrapping, six projectile points, one small white leather bag, one dark green and black serpentine pipe, one grey stone disc, one porcupine maxilla and teeth, three pieces woody root, one piece heavy ore, one yucca fiber bundle, one set of yucca fibers in skeins, three pieces of sinew, one hank of nettle or apocynum fibers, four circular pads of fine yucca fiber, one piece of cotton thread, one hank of fine yucca fibers, four pieces of yucca twine, one piece of deer buckskin, one tanned hide of entire small animal, 10 pieces of tanned leather, one small bundle of wooden splints, one piece of yucca cordage wrapped in hide, and two pieces of feather wrapped yucca cord. All were collected by a private individual at an unknown date and donated to the park in 1945. There is no record or evidence of treatment with a hazardous substance.

A total of three associated funerary objects were removed from an unknown location at an unknown time. The three animal bones were found in the Mesa Verde museum collections in 1934. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from an unknown location at Mesa Verde National Park, Montezuma County, CO in the 1920s or 1930s. The individual was returned to the park by a family member of the collector in 2022. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, three individuals were removed from an unknown location at Mesa Verde National Park, Montezuma County, CO. The individuals were removed from within the park in 1943–1944 by a student during an NPS sponsored excavation. They were in turn donated to the Denver Museum of Nature and Science and transferred to the park in 2007. No associated funerary objects are present. There is no record or evidence

of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from a shallow grave near the cliff's edge above Balcony House in Mesa Verde National Park, Montezuma County, CO. The 111 associated funerary objects are 97 ceramic sherds, eight stone artifacts, four animal bones, and two corn cobs. All were removed by a private individual in 1929 and returned to the park by the family of the collector in 2006. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from an unknown location in Mesa Verde National Park, Montezuma County, CO. The five associated funerary objects are one small quartzite projectile point, one chert/chalcedony projectile point, one chert or shale arrow point, and two pieces of an unmodified pebble. All were removed by a private individual prior to 1954, donated to the Riverside Metropolitan Museum, CA, and then transferred to the park in 2007. There is no record or evidence of treatment with a hazardous substance.

Human remains representing, at least, one individual was removed from an unknown cave at Mesa Verde National Park, Montezuma County, CO in 1920. The individual was returned to the park by a family member of the collector in 2007. No associated funerary objects are present. There is no record or evidence of treatment with a hazardous substance.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

Mesa Verde National Park has determined that:

- The human remains described in this notice represent the physical remains of 85 individuals of Native American ancestry.
- The 4,304 objects, or lots of objects, described in this notice are reasonably believed to have been placed intentionally with or near individual human remains as the time of death or later as part of the death rite or ceremony.
- There is a reasonable connection between the human remains and associated funerary objects described in this notice and the Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the

Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico, & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Santo Domingo Pueblo; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe; Ysleta del Sur Pueblo; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, Mesa Verde National Park must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. Mesa Verde National Park is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15516 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7378; NPS-WASO-NAGPRA-NPS0043378; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology, Baton Rouge, LA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Louisiana Division of Archaeology (LDOA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Karla Oesch, Collections Manager, Louisiana Division of Archaeology, P.O. Box 44247, Baton Rouge, LA 70804, email koesch@crt.la.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Louisiana Division of Archaeology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual has been identified from site 16CU203, Cleared, in Calcasieu Parish, LA. No associated funerary objects are present. In June 2021, Gregory Soileau reached out to the state archaeologists about a cranium he found along the Calcasieu River in Lake Charles. Gregory had turned the cranium over to the Calcasieu Parish Coroner's office. On August 31, 2023, the coroner's office transferred custody to LDOA. In 2024, it was accessioned at LDOA's curation facility.

Human remains representing, at least one individual has been identified from site 16CM13, Gueydon Canal, in

Cameron Parish, LA. At some time before 2024, a member of the public left this collection on the doorstep of a Chitimacha Tribe of Louisiana tribal member. Cameron parish is outside of the tribe's area of interest; the collection was transferred to the Louisiana Division of Archaeology. LSU FACES lab confirmed at least three human remains were present. In 2025, the collection was accessioned at LDOA's curation facility. At least one lot of potentially associated funerary objects were noted including ceramics.

Human remains representing, at least one individual has been identified from the Joseph Harbor Beach on the Rockefeller Wildlife Refuge in Cameron Parish, LA. No associated funerary objects are present. At some point prior to 2012, a citizen contacted the Cameron Parish Sheriff's Office about remains found on Joseph Harbor Beach on Rockefeller Wildlife Refuge. On July 27, 2012, the Cameron Parish Sheriff's Office transferred the remains of one individual to LSU FACES Laboratory in Baton Rouge for identification. On January 11, 2021, the remains were escorted to LDOA.

Human remains representing, at least one individual has been identified from an unspecified location along the Tchefuncte River in St. Tammany Parish, LA. The one associated funerary object, a shell tempered bowl, is present. During the 1950s to 1960s, Guy J. Ragusa collected the human remains from along the Tchefuncte River in St. Tammany Parish. They were stored with a newspaper dated September 28, 1969, but it is unclear if this correlates to the recovery date; the remains were in Guy Ragusa's possession until his death. On October 11, 2017, his son, Paul Ragusa, donated the remains to LDOA.

Human remains representing at least, one individual has been identified from site 16ST283, in St. Tammany Parish, LA. In the 1970s, Francis Broussard of Mandeville, LA, collected from an area being developed into the present-day Golden Glen Subdivision. Broussard retained the collections until June 2022, when he donated them to LDOA. Additionally, he was able to inform staff members of the exact location from which the collection was made, and a state site number was assigned. At least one lot of potentially associated funerary objects were noted including ceramics.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and

associated funerary objects described in this notice.

Determinations

The Louisiana Division of Archaeology has determined that:

- The human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- The three lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; The Choctaw Nation of Oklahoma; and the Tunica-Biloxi Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Louisiana Division of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Louisiana Division of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.
Melanie O'Brien,
Manager, National NAGPRA Program.
 [FR Doc. 2026–15504 Filed 7–30–26; 8:45 am]
BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7351; NPS–WASO–NAGPRA–NPS0043320; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: The University of Alabama at Birmingham, Birmingham, AL

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Alabama at Birmingham (UAB) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Dr. Lauren Downs, the University of Alabama at Birmingham, Department of Anthropology, UH 3165, 1720 2nd Avenue South, Birmingham, AL 35294, email nagprastaff@uab.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Alabama at Birmingham and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Ancestor remains representing, at least, one individual have been identified. No associated funerary objects are present. The Ancestor was originally housed in the University of Alabama at Birmingham, Department of Anthropology's Osteological Collection. The label "FRC–1" is associated with the Ancestor. This label likely refers to archaeological site 1Fr1, "Little Bear Cave," Franklin County, AL. UAB has no records relating to this site or to the

removal of this Ancestor. Site 1Fr1 is a limestone cave located in western Franklin County. The site was discovered in 1936 by Mr. W.A. Barksdale while setting traps in the area. He removed the remains of 10 Ancestors in January 1936. The site was subsequently visited in February of that year by archaeologists from the University of Alabama, who removed additional Ancestors, two pottery vessels, and other artifacts. The association of the pottery and other artifacts with the Ancestor burials at the site is unknown; therefore, the age of the Ancestor is unknown. To our knowledge, no potentially hazardous substances have been used to treat the Ancestor.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the humans remains described in this notice.

Determinations

The University of Alabama at Birmingham has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Alabama-Coushatta Tribe of Texas; Cherokee Nation; Eastern Band of Cherokee Indians; Poarch Band of Creek Indians; The Chickasaw Nation; The Muscogee (Creek) Nation; and the Thlopthlocco Tribal Town.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the University of Alabama at Birmingham must determine the most appropriate requestor prior to repatriation. Requests for joint

repatriation of the human remains are considered a single request and not competing requests. The University of Alabama at Birmingham is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15495 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7365; NPS-WASO-NAGPRA-NPS0043331; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: Portland Art Museum, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Portland Art Museum intends to repatriate certain cultural items that meet the definition of sacred objects and objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after August 31, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Kathleen Ash-Milby, Senior Curator of Native American Art, Portland Art Museum, 1219 SW Park Ave, Portland, OR 97205, email kathleen.ash-milby@pam.org, and Donald Urquhart, Director of Collections and Exhibitions, Portland Art Museum, 1219 SW Park Ave, Portland, OR 97205, email donald.urquhart@pam.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Portland Art Museum and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is

not responsible for the determinations in this notice.

Abstract of Information Available

In a letter dated May 6, 2026, the Navajo Nation submitted a claim for repatriation for 14 cultural items under NAGPRA and identified them as "sacred objects/objects of cultural patrimony." The Tribe identified these as eight Navajo jish (#2003.65.14, #2003.65.15, #BL1300, #BL1409, #BL1411, #BL1582, #BL1603, #BL1710), which are bags or bundles containing sacred objects, plus two masks (#85.113.1, #BL1240), clothing (#BL629a-n) and accouterments (#89.52.40, #2003.65.9, BL1579a-c) used in ceremony, primarily for healing and restoring hózhó (a state of beauty, harmony, and balance in the universe). Navajo jish and sacred items are not owned by individuals but are cared for and utilized by hatathli (or medicine men) in ceremony on behalf of the Tribe. Several of the items are associated with specific ceremonies, including the Night Way, Enemy Way, Mountain Top Way, and Blessing Way. These ceremonies are still widely practiced by members of the Navajo Tribe. These items entered the Portland Art Museum's collection as donations from private collector Elizabeth Cole Butler. Objects #85.113.1 and #89.52.40 were donated to the museum in 1985 and 1989. The additional objects were loaned to the museum before 1998. Three of these became donations in 2003 (#2003.65.9, #2003.65.14, and #2003.65.15). The remaining nine objects became donations through bequest in 2004 but were not accessioned into the permanent collection. No additional provenance before Butler's possession has been identified.

Determinations

The Portland Art Museum has determined that:

- The 14 sacred objects/objects of cultural patrimony described in this notice are, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).
- There is a connection between the cultural items described in this notice

and the Navajo Nation, Arizona, New Mexico, & Utah.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Portland Art Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Portland Art Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15510 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7354; NPS-WASO-NAGPRA-NPS0043324; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: Missouri Department of Natural Resources, Jefferson City, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Missouri Department of Natural Resources (MoDNR) intends to repatriate a certain cultural item that meets the definition of an object of cultural patrimony and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after August 31, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural item in this notice to Caroline Crecelius, Repatriation Coordinator for the Missouri Department of Natural Resources, 1659 E Elm Street, Jefferson City, MO 65101, email caroline.crecelius@dnr.mo.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Missouri Department of Natural Resources and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one object of cultural patrimony has been requested for repatriation. The object of cultural patrimony consists of one item which is a chunk of petroglyph that was looted from Washington State Park in Missouri. According to correspondence with archaeologist, Brad Koldehoff, this petroglyph section was sawed from one of the petroglyph panels at Washington State Park near DeSoto, Missouri, likely in the 1950s. In 2002, Mr. Koldehoff was given the panel section by an Illinois amateur archaeologist who is now deceased. The Illinois archaeologist told Mr. Koldehoff that he had received the panel section from the Illinois collector who had looted the panel. Mr. Koldehoff agreed to see that the panel was returned to Washington State Park. In 2002, he enlisted the help of Carol Dias-Granados because of her interest in Missouri rock art. She agreed to return the panel to Washington State Park, suggesting that it could potentially be used in a display. The petroglyph remained in the collection of Mastadon State Park, where it was discovered in the summer of 2025 by a Missouri State Park Archaeologist.

Determinations

The Missouri Department of Natural Resources has determined that:

- The one object of cultural patrimony described in this notice is, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to

practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).

- There is a connection between the cultural item described in this notice and The Osage Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Missouri Department of Natural Resources must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The Missouri Department of Natural Resources is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15498 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7366; NPS-WASO-NAGPRA-NPS0043336; PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Repatriation: Los Angeles County Museum of Natural History, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Los Angeles County Museum of Natural History (LACMNH) intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after August 31, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Amy E. Gusick, NAGPRA Officer, Los Angeles County Museum of Natural History, 900 Exposition Boulevard, Los Angeles, CA 90007, email agusick@nhm.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the LACMNH, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of three cultural items have been requested for repatriation. The three objects of cultural patrimony are two pot sherds and one scraper. The two pot sherds were removed from Morongo Valley, San Bernardino County, California. The scraper is documented as having been "found near an Indian cave on the old Morongo Indian Reservation." The three cultural items were removed by amateur collector Carl D. Hegner at an unknown date. In 1971, the Native Daughters of the Golden West, La Tijera Parlor Chapter, donated the items to LACMNH.

Determinations

The LACMNH has determined that:

- The three objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Morongo Band of Mission Indians, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the LACMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The LACMNH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15517 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7286; NPS–WASO–NAGPRA–
NPS0043319; PPWOCRADNO–
PCU00RP14.R50000]

Notice of Inventory Completion: History Colorado, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), History Colorado has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Chance Ward, History Colorado, 1200 Broadway, Denver, CO 80203, email *Chance.Ward@state.co.us*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of History Colorado, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, 22 individuals have been identified. A total of two lots of associated funerary objects are present in case 357 and 384. The individuals were transferred to History Colorado from the offices of multiple county coroners. Provenience information is minimal or absent for all individuals. Based on available information, the individuals have been determined to be likely Native American and archaeological in age. The individuals are reported to originate from locations within the present-day boundaries of Colorado. Specifically the Four Corners and Southwest region of Colorado. Including the counties of Alamosa, Archuleta, Conejos, Costilla, Custer, Dolores, Hinsdale, La Plata, Mineral, Montezuma, Rio Grande, Saguache, San Juan, and San Miguel. No known hazardous substances were used in the treatment or preservation of the human remains.

- OAHP Case 352—From Montezuma County. One Ancestor. No funerary objects.

- OAHP Case 357—From La Plata County. Two Ancestors. The associated funerary objects are one lot of gray ware sherds.

- OAHP Case 372—From Costilla County. One Ancestor. No funerary objects.

- OAHP Case 384—From Montezuma County. 14 Ancestors. The associated funerary objects are one lot of worked faunal bone and lithics.

- OAHP Case 385—From Alamosa County. One Ancestor. No funerary objects.

- OAHP Case—From Southwest Colorado. County of origin is unknown. Potentially from the Mesa Verde area. Three Ancestors. No funerary objects.

Cultural Affiliation

Based on the information available and the results of consultation, cultural

affiliation is reasonably identified by the geographical location of the human remains and associated funerary objects described in this notice.

Determinations

History Colorado has determined that:

- The human remains described in this notice represent the physical remains of 22 individuals of Native American ancestry.

- The two lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- There is a connection between the human remains and associated funerary objects described in this notice and the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and the Ute Mountain Ute Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, History Colorado must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. History Colorado is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15494 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR**National Park Service**

[N7371; NPS-WASO-NAGPRA-
NPS0043372; PPWOCRADNO-
PCU00RP14.R50000]

**Notice of Inventory Completion:
Louisiana Department of Culture,
Recreation, and Tourism, Division of
Archaeology, Baton Rouge, LA**

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Louisiana Division of Archaeology (LDOA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Karla Oesch, Collections Manager, Louisiana Division of Archaeology, P.O. Box 44247 Baton Rouge, LA 70804, email koesch@crt.la.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Louisiana Division of Archaeology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least three individuals have been identified from site 16CO102, Woodie Davis Mound, in Concordia Parish, LA. At minimum, one lot of potentially associated funerary objects are present including ceramics. Project fieldwork was conducted in 1982 by New World Research Inc. under LDOA grant. The project was curated with LDOA in 1983.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and

associated funerary objects described in this notice.

Determinations

The Louisiana Division of Archaeology has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- The one lot of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; and the Tunica-Biloxi Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Louisiana Division of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Louisiana Division of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15519 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR**National Park Service**

[N7377; NPS-WASO-NAGPRA-
NPS0043377; PPWOCRADNO-
PCU00RP14.R50000]

**Notice of Inventory Completion:
Louisiana Department of Culture,
Recreation, and Tourism, Division of
Archaeology, Baton Rouge, LA**

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Louisiana Division of Archaeology (LDOA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Karla Oesch, Collections Manager, Louisiana Division of Archaeology, P.O. Box 44247, Baton Rouge, LA 70804, email koesch@crt.la.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Louisiana Division of Archaeology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least 10 individuals have been identified from site 16CT18, Natchez Fort, in Catahoula Parish, LA. At minimum, 1,601 associated funerary objects are present including glass beads, straight pins, buttons, iron objects, decorated ceramics, stone, and other items. The individuals and associated funerary objects were collected by Jack Shaffer in

July 1988 and were donated to the LDOA in 2016. The project was accessioned into the collection in 2017.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Louisiana Division of Archaeology has determined that:

- The human remains described in this notice represent the physical remains of 10 individuals of Native American ancestry.
- The 1,601 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; The Choctaw Nation of Oklahoma; and The Muscogee (Creek) Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Louisiana Division of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Louisiana Division of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian

organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15502 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7376; NPS-WASO-NAGPRA-NPS0043376; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology, Baton Rouge, LA

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Louisiana Division of Archaeology (LDOA) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Karla Oesch, Collections Manager, Louisiana Division of Archaeology, P.O. Box 44247, Baton Rouge, LA 70804, email koesch@cr.tla.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Louisiana Division of Archaeology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least one individual has been identified from along the Red River in Bossier Parish, LA. At some point prior to 2016, a citizen contacted the Bossier Parish

Sheriff's Office about remains found on a sandbar along the Red River. On September 16, 2016, Bossier Parish Sheriff's Office transferred the remains of one individual to LSU FACES Laboratory in Baton Rouge for identification. On August 20, 2018, the remains were escorted to LDOA. No associated funerary objects are present.

Human remains representing at least one individual has been identified from a sandbar along the Red River in Bossier Parish, LA. At some point prior to 2019, a citizen contacted the Bossier Parish Sheriff's Office about remains found on a sandbar along the Red River in Bossier Parish. On September 19, 2019, Bossier Parish Sheriff's Office transferred the remains of one individual to LSU FACES Laboratory in Baton Rouge for identification. On January 31, 2020, the remains were escorted to LDOA. No associated funerary objects are present.

Human remains representing at least one individual has been identified from a sandbar along the Red River in Bossier Parish, LA. At some point prior to 2016, a citizen contacted the Bossier Parish Sheriff's Office about remains found on a sandbar along the Red River in Bossier Parish. On October 5, 2016, Bossier Parish Coroner's Office transferred the remains of one individual to LSU FACES Laboratory in Baton Rouge for identification. On October 1, 2020, the remains were escorted to LDOA. No associated funerary objects are present.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

The Louisiana Division of Archaeology has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- There is a connection between the human remains described in this notice and the Alabama-Coushatta Tribe of Texas; Caddo Nation of Oklahoma; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; Quapaw Nation; The Choctaw Nation of Oklahoma; and the Tunica-Biloxi Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Louisiana Division of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Louisiana Division of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15523 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7361; NPS-WASO-NAGPRA-
NPS0043332; PPWOCRADNO-
PCU00RP14.R50000]

Notice of Inventory Completion: California Department of Parks and Recreation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California Department of Parks and Recreation has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Dr. Leslie L. Hartzell, NAGPRA Coordinator, California Department of Parks and Recreation, P.O. Box 942896, Sacramento, CA 94296-0001, email Leslie.Hartzell@parks.ca.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the California Department of Parks and Recreation, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Associated funerary objects have been identified. The 193 lots of associated funerary objects are ceramic artifacts, coal, flaked stone artifacts, groundstone, historic items, modified bone, organic ecofacts, red ochre, abalone pendant, rocks, and unidentified missing material. In 1981 and 1982, Philip Hines, California State Archaeologist, removed associated funerary objects (ACCN.P361) from CA-MRN-42, in the West Garrison Hospital Area, Angel Island, Angel Island State Park, Marin County, California, during a sewer line project. In 1984, a docent removed associated funerary objects (ACCN.P628) from the surface of the same location.

Human remains representing, at least, 12 individuals have been identified. The 389 lots of associated funerary objects are bird bone whistles, clay, coal, earthenware, fire-affected rocks, flaked stone artifacts, groundstone, historic items, modified antler, modified bone, modified shell, modified stone, ocher, organic ecofacts, quartzite, rocks, shell beads, sinker stones, soil samples, stones, unknown, wood, and unidentified missing material. In 1982, Philip Hines, California State Archaeologist, removed associated funerary objects (ACCN.P400 and ACCN.P408) from CA-MRN-43 (Quarry Point), on the southeastern corner of Angel Island, Angel Island State Park, Marin County, California, during the construction of a restroom and a landscaping project. In 1965 and 1966, Adan E. Treganza removed human remains and associated funerary objects from the same location (P2024). The human remains and associated funerary objects removed by Treganza were

previously in the custody of San Francisco State University.

Associated funerary objects have been identified. The 824 lots of associated funerary objects are baked clay, bone beads, carbon samples, carved wood, flaked stone artifacts, floral samples, flotation samples, glass beads, groundstone, historic items, modified bone, modified shell; net weights, ocher, organic ecofacts, rocks, shell beads, soil samples, unbaked clay, unknown, and unidentified missing material. In 1982, Philip Hines, California State Archaeologist, removed associated funerary objects (ACCN.P407) from CA-MRN-44, Angel Island Immigration Station, Angel Island State Park, Marin County, California, during the installation of a water line. In 2006 and 2007, Alex DeGeorgey, Sentinel Archaeological Research, LLC removed associated funerary objects (ACCN.P1499) from the same location during archaeological work in conjunction with an Immigration Station restoration project.

Human remains representing, at least, four individuals have been identified. The 65 lots of associated funerary objects are charcoal, flaked stone artifacts, historic items, organic ecofacts, rocks, and unidentified missing material. In 1966, Adan E. Treganza removed human remains and associated funerary objects (ACCN.P2142) from CA-MRN-45, Ayala Cove, Angel Island State Park, Marin County, California. In 1983, Philip Hines, California State Archaeologist, removed ancestors and associated funerary objects (ACCN.P505) from the same location during site testing. In 1987, Philip Hines, California State Archaeologist, removed associated funerary objects (ACCN.P777) from the same location during the installation of a sprinkler system. The human remains and associated funerary objects removed by Treganza were previously in the custody of San Francisco State University.

Human remains representing, at least, one individual have been identified. The one lot of associated funerary objects are flaked stone tools. At an unknown date, an unknown person removed the human remains and associated funerary objects (ACCN.231-X) from an unknown location, likely on Angel Island, Marin County, California. Between 1999 and 2001, staff found the human remains and associated funerary objects at the State Parks collection storage facility at Ayala Cove, Angel Island State Park, Marin County, California.

Associated funerary objects have been identified. The one lot of associated funerary objects are shell buttons. In

1982, the shell buttons (ACCN.231–44) were found during reconstruction of Quarters 11 at Camp Reynolds (West Garrison), Angel Island, Angel Island State Park, Marin County, California.

Associated funerary objects have been identified. The two lots of associated funerary objects include flaked stone artifacts and possible petroglyph or pecked stone found at the US Immigration Station (North Garrison), Angel Island, Angel Island State Park, Marin County, California. In 1981, a flaked stone artifact (ACCN.231–41) was found by a school group on the beach. At an unknown date, a possible petroglyph or pecked stone was found in the maintenance yard. The item was not catalogued.

Associated funerary objects have been identified. The one lot of associated funerary objects are stone artifacts found near Perle's Beach, Angel Island, Angel Island State Park, Marin County, California. In 1991, a projectile point (ACCN.231–26) was found at the beach. In 1994, a netweight (ACCN.231–27) was found along the road from Perle's Beach.

Associated funerary objects have been identified. The five lots of associated funerary objects are rocks, groundstone artifacts, flaked stone artifacts, beads, and unidentified missing material. stone artifacts found at multiple unknown locations on Angel Island, Angel Island State Park, Marin County, California, Angel Island. In 1999, a projectile point (ACCN.231–26) was found by students. At an unknown date, a projectile point (ACCN.231–1) was found by a park visitor. At unknown dates, unknown people found the remaining associated funerary objects. Those items were not catalogued.

Human remains representing, at least, one individual has been identified. The one lot of associated funerary objects are mammal bone. In 1963, an unknown person removed the human remains and associated funerary objects (ACCN.309–X) from site CA–MRN–1, in Sausalito, Marin County, California. At an unknown date, the California Department of Parks and Recreation acquired the human remains and associated funerary objects.

Human remains representing, at least, 12 individuals and 21 associated funerary objects have been reasonably identified in a Notice of Inventory Completion published in the **Federal Register** on September 12, 2022, by The University of California, Berkeley and the California Department of Parks and Recreation (87 FR 55841–55842). The 371 lots of associated funerary objects listed in this notice are ceramic artifacts, charcoal samples, fire-affected rocks,

flaked stone artifacts, flotation samples, glass artifacts, historic items, modified bone, modified shell, modified stone, organic ecofacts, rocks, shell beads, soil samples, unsorted residue, and unidentified missing material. On October 3, 1994, Thomas Wheeler, California State Parks archaeologist, removed the associated funerary objects (ACCN.P1110) from CA–MRN–284, along the coast of Tomales Bay at the northern end of Tomales Bay State Park, Marin County, California, during work to address erosion.

Marin County has been the ancestral territory of the Coast Miwok since time immemorial. Based on geographical, kinship, archeological, linguistic, folkloric, oral traditional, and historical information evidence, the present-day Federated Indians of Graton Rancheria are culturally affiliated with the Coast Miwok in Marin County.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The California Department of Parks and Recreation has determined that:

- The human remains described in this notice represent the physical remains of 18 individuals of Native American ancestry.
- The 1,853 lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and Federated Indians of Graton Rancheria, California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the California Department of Parks and Recreation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The California Department of Parks and Recreation is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15511 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7370; NPS–WASO–NAGPRA–NPS0043371; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology, Baton Rouge, LA

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Louisiana Division of Archaeology (LDOA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Karla Oesch, Collections Manager, Louisiana Division of Archaeology, P.O. Box 44247 Baton Rouge, LA 70804, email koesch@crt.la.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Louisiana Division of Archaeology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least, one individual has been identified from 16AV2, Greenhouse Site, in Avoyelles Parish, LA. The collection was made at some point prior to 2015 and the closure of the museum at the Marksville State Historic Site. In 2015, the collection was transferred to LDOA curation facility. During a 2021 inventory of the collection, the remains were rediscovered. In September 2021, Office of State Parks transferred ownership of the collection to LDOA. No associated funerary objects are present.

Human remains representing at least, one individual has been identified from 16AV13, Upper Saline Mound, in Avoyelles Parish, LA. The exact date for fieldwork is unclear, but the site was visited between 1988 and 1990 by Shuman and Jones. The project was stored at LSU until 1993 when it was transferred to LDOA for long term curation. At least one lot of potentially associated funerary objects was noted including ceramics, lithics, and groundstone.

Human remains representing at least, one individual has been identified from 16AV67, Indian Bayou Mounds, in Avoyelles Parish, LA. The fieldwork was conducted in January 1980 by Duke Rivet. The collection was entered into the LDOA database in 2001. At least one lot of potentially associated funerary objects were noted including ceramics and lithics.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Louisiana Division of Archaeology has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.

- The two lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- There is a connection between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; and The Choctaw Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Louisiana Division of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Louisiana Division of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15503 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7356; NPS-WASO-NAGPRA-NPS0043326; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: Montcalm County Sheriff's Office, Stanton, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Montcalm County Sheriff's Office has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Lt. Mitchell Chapin, Montcalm County Sheriff's Office, 659 N State Street, Stanton, MI 48888, email mchapin@montcalmcountymi.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Montcalm County Sheriff's Office, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least one individual have been identified. No associated funerary objects are present. Remains are currently located in the evidence room of the Montcalm County Sheriff's Office. Remains include eight skeletal bones. Skeletal bones are being kept inside of a bag, within a small briefcase. Remains were located by the homeowner at 4169 W Stanton Rd. Stanton, MI 48888. Remains were physically located at the address of 4171 W Stanton Rd. Stanton, MI 48888 in the years 1991 and 1992 while a home was being constructed. Initial remains were collected by the Sheriff's Office in 1991/1992 and analyzed by Western Michigan University (WMU). WMU determined the remains to have laid in the ground for over 100 years and were not of

forensic interest. The remains were determined to most likely belong to an aboriginal American Indian. The Sheriff's Office, and homeowner at 4169 W Stanton Rd, received a letter from WMU in February of 1992 stating as such. The remains currently at the Sheriff's Office were located by the homeowner at 4169 W Stanton Rd, at the same location (property of 4171 W Stanton Rd), in 1992 (after this February date). These remains were held onto by that homeowner until October of 2023. In October of 2023, the homeowner at 4169 W Stanton Rd turned over the skeletal remains to the homeowner at 4171 W Stanton Rd. The homeowner at 4171 W Stanton Rd then turned over the skeletal remains to the Sheriff's Office that same month. The Sheriff's Office believes the remains in our possession belong to the same individual that was identified by WMU in 1992. Lineal decedents or cultural affiliation is believed to be with the Saginaw Chippewa Indian Tribe due to geographic location. To the Office's knowledge, no presence of hazardous substance treatment exists with these remains.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

The Montcalm County Sheriff's Office has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Saginaw Chippewa Indian Tribe of Michigan.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Montcalm County Sheriff's Office must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Montcalm County Sheriff's Office is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15505 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7355; NPS-WASO-NAGPRA-NPS0043325; PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Repatriation: San Bernardino County Museum, Redlands, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Bernardino County Museum intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after August 31, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Gabrielle Carpentier, San Bernardino County Museum, 2024 Orange Tree Lane, Redlands, CA 92374, email gabrielle.carpentier@sbcn.sbcounty.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of San Bernardino County Museum, and additional

information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation.

The one lot of objects of cultural patrimony is one lot of trade beads. CA-SBR-00216 (SBCM-126), Coyote Holes Cyn, Coyote Well was recorded December 30, 1962 by P. Chace. Objects were also recorded on July 2, 1991 by Kenneth Becker and Juanita Shinn. The rest of this collection can be found on Notice of Intended Repatriation N7102.

Determinations

San Bernardino County Museum has determined that:

- The one object of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Morongo Band of Mission Indians, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, San Bernardino County Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. San Bernardino County Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15499 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7352; NPS–WASO–NAGPRA–
NPS0043321; PPWOCRADN0–
PCU00RP14.R50000]

Notice of Inventory Completion: The University of Alabama at Birmingham, Birmingham, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Alabama at Birmingham (UAB) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Dr. Lauren Downs, University of Alabama at Birmingham, Department of Anthropology, UH 3165, 1720 2nd Avenue South, Birmingham, AL 35294, email nagprastaff@uab.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Alabama at Birmingham and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Ancestor remains representing, at least, two individuals have been identified. The three associated funerary objects are one small to medium sized mammal radius fragment, one broken

quartz projectile point (either an Early Woodland Greenville or Late Archaic Savannah-Gary type), and one lot of small univalve and bivalve shells, some of which are burned. The projectile point and shells are not present in UAB's physical collection. Site 1Au28 ("The Gaines Site") is located in southern Autauga County, AL, along the Alabama River. It is a large, multi-component village site, which was inundated for construction of the Jones Bluff Dam in the 1960s–70s. Site use ranges from the Archaic to Mississippian Periods. The site was excavated by David Chase in the summer of 1967, and the collection was loaned/donated to UAB at an unknown date. The site was also excavated by the University of Alabama staff in 1967 and 1969. Site records and diagnostic artifacts indicate that the Ancestors and belongings housed at UAB are associated with the Cobbs Swamp Phase (~100 BC to A.D. 650) of the Early/Middle Woodland Period. There is no record of any potentially hazardous substances being used to treat the Ancestors or belongings.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The University of Alabama at Birmingham has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- The three objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas; Mississippi Band of Choctaw Indians; Poarch Band of Creek Indians; Seminole Tribe of Florida; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the Thlopthlocco Tribal Town.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the

authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the University of Alabama at Birmingham must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of Alabama at Birmingham is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026–15496 Filed 7–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7375; NPS–WASO–NAGPRA–
NPS0043375; PPWOCRADN0–
PCU00RP14.R50000]

Notice of Inventory Completion: Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology, Baton Rouge, LA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Louisiana Division of Archaeology (LDOA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Karla Oesch, Collections Manager, Louisiana Division of Archaeology, P.O. Box 44247, Baton Rouge, LA 70804, email koesch@crt.la.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Louisiana Division of Archaeology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least 100 individuals have been identified from site 16RI13, Gold Mine, in Richland Parish, LA. At minimum, 13 associated funerary objects are present including ceramics. Excavations took place in the summers from 1978 to 1980. Avocational archaeologists conducted 1978 session. In 1979, the volunteers were partially supervised by an osteology graduate student from the University of Arkansas. In 1980, John Belmont from Harvard University was hired with the help of an NSF grant. The Gold Mine collection remained at University of Arkansas in Fayetteville after the culmination of fieldwork. In early 2002, the human remains were loaned to Mark Murray at the University of Tennessee in Knoxville. In August of 2002, the remaining collection was transferred to University of Louisiana Lafayette. Upon completion of analysis, the collection was donated to LDOA on June 16, 2006. On August 3, 2021, the human remains were returned to the remaining collection.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Louisiana Division of Archaeology has determined that:

- The human remains described in this notice represent the physical

remains of 100 individuals of Native American ancestry.

- The 13 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- There is a connection between the human remains and associated funerary objects described in this notice and the Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; and The Choctaw Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Louisiana Division of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Louisiana Division of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15524 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7359; NPS-WASO-NAGPRA-NPS0043329; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: Portland Art Museum, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Portland Art Museum intends to repatriate a certain cultural item that meets the definition of a sacred object and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after August 31, 2026.

ADDRESSES: Send additional, written requests for repatriation of the cultural item in this notice to Kathleen Ash-Milby, Senior Curator of Native American Art, Portland Art Museum, 1219 SW Park Ave., Portland, OR 97205, email kathleen.ash-milby@pam.org, and Donald Urquhart, Director of Collections and Exhibitions, Portland Art Museum, 1219 SW Park Ave., Portland, OR 97205, email donald.urquhart@pam.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Portland Art Museum and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

In a letter dated April 23, 2026, the Nez Perce Tribe submitted a claim for repatriation to the Portland Art Museum for an item identified as a Nez Perce Medicine Bundle (#87.88.99) as a "sacred object" under NAGPRA. According to museum records this object was donated to the museum in 1987 by private collector Elizabeth Cole Butler. No additional provenance information prior to Butler's ownership has been located. According to the Nez Perce Tribe in their claim, medicine bundles or *ipéh'tes*, are one of the most sacred that Nez Perce people can possess and are a tangible representation of their life, spirit, and medicine. Their medicine bundles are

an extension of their spirit or *waqís'wit* and one of the elements that imbue Nez Perce lifeways and their connection to the earth. *Ipéh'tes* are still utilized today.

On June 2, 2026, object #87.88.99 was tested for arsenic contamination and the results were negative.

Determinations

The Portland Art Museum has determined that:

- The one sacred object described in this notice is a specific ceremonial object needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- There is a connection between the cultural item described in this notice and the Nez Perce Tribe.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representatives identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Portland Art Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The Portland Art Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15508 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7373; NPS-WASO-NAGPRA-
NPS0043374; PPWOCRADNO-
PCU00RP14.R50000]

Notice of Inventory Completion: Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology, Baton Rouge, LA

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Louisiana Division of Archaeology (LDOA) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 31, 2026.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects in this notice to Karla Oesch, Collections Manager, Louisiana Division of Archaeology, P.O. Box 44247 Baton Rouge, LA 70804, email koesch@crt.la.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Louisiana Division of Archaeology, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least one individual has been identified from site 16JE36, Fleming/Berthoud Cemetery, in Jefferson Parish, LA. At minimum, one lot of potentially associated funerary objects are present including ceramics. The fieldwork was conducted in 1975 or 1976, and the project was stored at the University of New Orleans. In 2006, the collection was reanalyzed and reorganized after hurricane Katrina and transferred to LDOA for long term storage in 2007.

Cultural Affiliation

Based on the information available and the results of consultation, cultural

affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Louisiana Division of Archaeology has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The one lot of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas; Chitimacha Tribe of Louisiana; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; The Choctaw Nation of Oklahoma; and the Tunica-Biloxi Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 31, 2026. If competing requests for repatriation are received, the Louisiana Division of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Louisiana Division of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 20, 2026.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2026-15521 Filed 7-30-26; 8:45 am]

BILLING CODE 4312-52-P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Mobile Devices with Hardware and Software for Exchanging Electronic Content and Components Thereof*, DN 3927; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of GG Technologies, Inc. d/b/a StayTouch on July 28, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile devices with hardware

and software for exchanging electronic content and components thereof. The complaint names as a respondent: Apple Inc. of Cupertino, CA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the

date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3927") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures¹). Please note the Secretary's Office will accept only electronic filings unless an exemption is granted. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) Persons with questions regarding filing should contact the Secretary at EDIS3Help@usitc.gov.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,² solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³

This action is taken under the authority of section 337 of the Tariff Act

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf.

² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: July 28, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–15481 Filed 7–30–26; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committees on Appellate, Bankruptcy, Civil, Criminal, and Evidence Rules; Hearings of the Judicial Conference

AGENCY: Advisory Committees on the Rules of Appellate Procedure, Rules of Bankruptcy Procedure, Rules of Civil Procedure, Rules of Criminal Procedure, Rules of Evidence; Judicial Conference of the United States.

ACTION: Notice of proposed amendments to the federal rules of practice and procedure.

SUMMARY: The Advisory Committees of the Judicial Conference Committee on the Rules of Practice and Procedure propose amending the federal rules of practice and procedure. The proposed amendments to Appellate Rule 25, Bankruptcy Rules 5005, 8011, 9006, 9036, Civil Rules 5 and 6, and Criminal Rules 45 and 49 relate to the ability of self-represented litigants to use a federal court's electronic filing system to file and serve documents. The proposed amendments to Bankruptcy Rule 9037, Civil Rule 5.2, and Criminal Rule 49.1 relate to enhanced protection of taxpayer identification numbers and minors' names in public court filings. Other proposed amendments include: Bankruptcy Rule 2003 (relating to meetings of creditors); Civil Rule 55 (relating to the clerk's entry of default); Criminal Rules 11 and 32 (relating to pleas and sentencing); Evidence Rule 104 (relating to deciding preliminary issues of fact); and Evidence Rule 902(1) (relating to self-authentication of public records of federally recognized Indian tribes).

DATES:

Written comments: Written comments on the proposed rule amendments may be made any time on or after August 14, 2026, but must be received by February 15, 2027.

Requests to testify at public hearings: Any request to testify at one of the public hearings set forth below must be

received by December 8, 2026, regardless of the hearing date.

Public hearings: Unless cancelled due to lack of requests for public testimony, hearings will be held virtually on the following dates:

- **Appellate Rules:** January 25, 2027; additional day on February 1, 2027, if needed.
- **Bankruptcy Rules:** January 8, 2027; additional day on February 9, 2027, if needed.
- **Civil Rules:** January 13, 2027; additional day on January 26, 2027, if needed.
- **Criminal Rules:** January 20, 2027; additional day on January 27, 2027, if needed.
- **Evidence Rules:** January 11, 2027; additional day on January 28, 2027, if needed.

Requests to observe: Individuals who wish to observe one or more of the above public hearings must register before 4 p.m. EST on the day before the hearing date.

ADDRESSES: Requests to testify or observe must be made in writing by emailing the request prior to the deadlines noted above to: RulesCommittee_Secretary@ao.uscourts.gov.

FOR FURTHER INFORMATION CONTACT:

Carolyn A. Dubay, Esq., Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, RulesCommittee_Secretary@ao.uscourts.gov.

SUPPLEMENTARY INFORMATION: The text of the proposed amendments, background information, and instructions on submitting written comments will be posted on August 14, 2026, on the Judiciary's website at: <https://www.uscourts.gov/forms-rules/proposed-amendments-published-public-comment>. Written comments must: (1) clearly identify the proposed amendment that is the subject of the comment, and (2) be filed through the *Federal eRulemaking Portal*: <https://www.regulations.gov/>.

(Authority: 28 U.S.C. 2073.)

Dated: July 29, 2026.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2026–15488 Filed 7–30–26; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0341]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection, Title—Office for Victims of Crime Training and Technical Assistance Center (OVC TTAC) Feedback Form Package

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Office of Justice Programs (OJP), 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 31, 2026.

FOR FURTHER INFORMATION CONTACT: To request additional information about this information collection request, please contact: Tom Talbot, Senior Policy Advisor, OJP, Bureau of Justice Assistance, 999 North Capitol St. NE, Washington, DC 20002, thomas.talbot@usdoj.gov, or (202) 514–9482.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** on January 31, 2026, 91 FR 7527, allowing a 60-day comment period. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and/or
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g.,

permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the information collection or the OMB Control Number 1121–0341. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB. Please provide a copy of your comments Tom Talbot, thomas.talbot@usdoj.gov, (202) 514–9482 and reference OMB #1121–0341 in the subject line of your comments.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement of a previously approved collection.

2. *Title of the Form/Collection:*

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Office for Victims of Crime, OJP, DOJ.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal agencies/organizations. Other: Federal Government; Individuals or households; Not-for-profit institutions; Businesses or other for-profit.

Abstract: The Office for Victims of Crime Training and Technical Assistance Center (OVC TTAC) Feedback Form Package is designed to collect the data necessary to continuously assess the satisfaction and outcomes of assistance provided through OVC TTAC for both monitoring and accountability purposes to continuously meet the needs of the victim services field. OVC TTAC will give these forms to recipients of training and technical assistance, scholarship applicants, users of the website and call center, consultants/instructors

providing training, agencies requesting services, and other professionals receiving assistance from OVC TTAC. The purpose of this data collection will be to capture important feedback on the respondents’ satisfaction and outcomes of the resources provided. The data will then be used to advise OVC on ways to improve the support that it provides to the victim services field at-large.

5. *Obligation to Respond:* Voluntary.
6. *Total Estimated Number of Respondents:* 32,700.

7. *Estimated Time per Respondent:* 20 minutes.

8. *Frequency:* Once.

9. *Total Estimated Annual Time Burden:* Burden Hours—6609.

10. *Total Estimated Annual Other Costs Burden:*

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Enterprise Portfolio Management, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218 Washington, DC 20530.

Dated: July 29, 2026.

Darwin Arceo,
Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–15590 Filed 7–30–26; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 26–043]

Name of Information Collection: Safety and Health Measures and Mishap Reporting (NFS 1852.226–71), Safety and Health Measures and Mishap Reporting (Formerly NFS 1852.223–70)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Revision of a currently approved information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, under the Paperwork Reduction Act (PRA), invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by August 31, 2026.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information

collection by selecting “Currently under Review—Open for Public Comments”.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email hq-ocio-pra-program@mail.nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection is a revision of the information collection previously authorized under legacy clause NFS 1852.223–70, which has been relocated and updated as NFS 1852.226–71 Safety and Health Measures and Mishap Reporting, pursuant to NASA Procurement Class Deviation (PCD) PCD 26–03B under the Revolutionary Federal Acquisition Regulation (FAR) Overhaul (RFO). The information collection under the NASA Federal Acquisition Regulation Supplement (NFS) clause, 48 CFR 1852.226–71 (currently enforced via NASA Procurement Class Deviation PCD 25–17A/26–03B), formerly entitled ‘Safety and Health Measures and Mishap Reporting’ (legacy 48 CFR 1852.223–70), consists of two distinct information collection requirements: Notification of a Type A, B, C, or D Mishap, or close call as defined in NASA Procedural Requirements (NPR) 8621.1, Mishap and Close Call Reporting, Investigating, and Recordkeeping; and Quarterly reports specifying lost-time frequency rate, number of lost-time injuries, exposure, and accident/incident dollar losses.

NASA is committed to effectively performing the Agency’s communication function in accordance with the National Aeronautics and Space Act of 1958, Section 203(a)(3), as amended states “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 aeronautics and space programs.

II. Methods of Collection

Electronically.

III. Data

Title: Safety and Health Measures and Mishap Reporting (NFS 1852.226–71, Safety and Health Measures and Mishap Reporting (Formerly NFS 1852.223–70).

OMB Number: 2700–0160.

Type of Review: Revision of a Currently Approved Collection.
Affected Public: NASA Contract Personnel.

Estimated Annual Number of Activities: 6.

Estimated Number of Respondents per Activity: 133.

Annual Responses: 798.

Estimated Time per Response: 3.

Estimated Total Annual Burden Hours: 2,394.

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. 2026-15533 Filed 7-30-26; 8:45 am]

BILLING CODE 7510-13-P

NUCLEAR REGULATORY COMMISSION

[NRC-2026-0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of August 3, 10, 17, 24, 31, and September 7, 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 August 3, 2026

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.

Week of August 31, 2026—Tentative

There are no meetings scheduled for the week of August 31, 2026.

Week of September 7, 2026—Tentative

There are no meetings scheduled for the week of September 7, 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 29, 2026.

For the Nuclear Regulatory Commission.

Yanely Malave Velez,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2026-15592 Filed 7-29-26; 4:15 pm]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026-324 and K2026-319]

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:* August 5, 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.

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).

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)*: MC2026–324 and K2026–319; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1504 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: July 28, 2026; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Kenneth Moeller; *Comments Due*: August 5, 2026.

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,
Legal Assistant.

[FR Doc. 2026–15528 Filed 7–30–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36274; File No. 812–15997]

VALIC Company I and The Variable Annuity Life Insurance Company

July 28, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from section 15(a) of the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6–07(2)(a), (b), and (c) of Regulation S–X (“Disclosure Requirements”).

SUMMARY OF APPLICATION: The requested exemption would permit Applicants to enter into and materially amend subadvisory agreements with subadvisors without shareholder approval and would grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisors.

APPLICANTS: VALIC Company I and The Variable Annuity Life Insurance Company.

FILING DATES: The application was filed on February 26, 2026, and amended on July 20, 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 24, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission:

Secretarys-Office@sec.gov. Applicants: Christopher J. Tafone, Corebridge Financial, Inc., christopher.tafone@corebridgefinancial.com; Elliot J. Gluck, Esq. Willkie Farr & Gallagher, LLP, egluck@willkie.com.

FOR FURTHER INFORMATION CONTACT: Asaf Barouk, Senior Counsel, or Matthew Cook, Branch Chief, 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 and restated application, dated July 20, 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. 2026–15469 Filed 7–30–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106002; File No. SR–NasdaqTX–2026–033]

Self-Regulatory Organizations; Nasdaq Texas, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Various NTX Options Rules

July 28, 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 July 14, 2026, Nasdaq Texas, LLC (“Nasdaq Texas” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend various NTX Options rules. Specifically, the Exchange proposes to amend rules at Options 1, Section 1, Definitions; Options 2: Section 3, Lead Market Maker Allocations, Section 4, Obligations of Market Makers and Lead Market Makers, and Section 6, Market Maker Orders; Options 3: Section 7, Types of Orders and Order and Quote Protocols; Section 8, Options Opening Process; Section 9, Trading Halts; Section 10, Order Book Allocation; Section 15, Risk Protections; Section 20, Nullification and Adjustment of Options Transactions including Obvious Errors; and Section 22, Limitations on Order Entry. The Exchange also proposes to amend Options 5, Section 4, Order Routing; Options 6, Section 1, Authorization to Give-Up; and Options 7, Section 1, General Provisions.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaqtx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NTX Options proposes to amend various rules to align its functionality to that of other Nasdaq affiliated options exchanges. The Exchange proposes various changes to harmonize the Exchange's rules where appropriate with the rules of its affiliated options exchanges. Specifically, the Exchange proposes to adopt rules similar to Nasdaq ISE, LLC ("ISE"), Nasdaq GEMX, LLC ("GEMX"), Nasdaq MRX, LLC ("MRX"), and Nasdaq Phlx LLC ("Phlx").

The Exchange proposes to add a definition for a Lead Market Maker in

Options 1, Section 1 (Definitions) and define "LMM" in Options 2, Section 3 (Lead Market Maker Allocations).

The Exchange proposes to adopt order types at Options 3, Section 7 (Types of Orders and Order and Quote Protocols) that are identical to ISE, GEMX, MRX and Phlx. The Exchange proposes to adopt a new Stop Order, Stop Limit Order, Reserve Order and Good-Till-Date Order identical to ISE, GEMX, MRX and Phlx. The Exchange would remove the Minimum Quantity Order. The Exchange would also amend Options 2, Section 6 (Market Maker Orders), Options 3, Section 8 (Opening and Halt Cross), Options 3, Section 9 (Trading Halts), Options 3, Section 10 (Order Book Allocation), Options 3, Section 20 (Nullification and Adjustment of Options Transactions including Obvious Errors), and Options 3, Section 22 (Limitations on Order Entry) to account for new order types. These proposed changes would be identical to corresponding rules on ISE, GEMX, MRX and Phlx at Options 2, Section 6, Options 3, Section 8, Options 3, Section 9, Options 3, Section 10, Options 3, Section 22 and Phlx Options 3, Section 20.

The Exchange proposes to amend its Optional Risk Protection at Options 3, Section 28 to make it identical to ISE, GEMX, MRX and Phlx. This amendment does not substantively change the functionality of the risk protections.

Options 1, Section 1 and Options 2, Section 3

The Exchange proposes to define the term "Lead Market Maker" at Options 1, Section 1(a)(25) to mean a Market Maker who is registered as an options Lead Market Maker pursuant to Options 2, Section 3. This definition will provide guidance to Members about where to locate information concerning Lead Market Makers. The remainder of the definitions will be renumbered accordingly.

The Exchange also proposes to amend current Options 1, Section 1(a)(45) which describes the term "out-of-the-money" to remove the final sentence which states, "This definition shall only apply for purposes of Market Maker quoting obligations in Options 2, Section 5." The Exchange is removing this sentence as the term applies to all Options Rules and not only Options 2, Section 5.

The Exchange proposes to amend Options 2, Section 3, Lead Market Maker Allocations, to remove "LMM" in Options 2, Section 3A and instead state "Lead Market Maker." The Exchange would define an "LMM" in Options 2, Section 3A(a).

Options 2, Section 6

Options 2, Section 6(a) currently states that Market Makers may enter all order types defined in Options 3, Section 7 in the options classes to which they are appointed and non-appointed, except for Customer Cross Orders. The Exchange proposes to adopt a new Reserve Order at proposed Options 3, Section 7(g) that is identical to ISE, GEMX, MRX and Phlx Reserve Orders at Options 3, Section 7(g). The Exchange proposes to amend Options 2, Section 6(a) to restrict Market Makers from entering Reserve Orders in both appointed and non-appointed options classes. Today, ISE, GEMX, MRX and Phlx Options 2, Section 6 restricts Market Makers from entering Reserve Orders. Unlike other order types, the Reserve Order is a limit order that contains both a displayed portion and a non-displayed portion. Both the displayed and non-displayed portions of a Reserve Order are available for potential execution against incoming marketable orders. When the displayed portion of a Reserve Order is decremented, either in full or in part, it shall be refreshed from the non-displayed portion of the resting Reserve Order. The Exchange believes that because a Reserve Order contains a non-displayed portion, Market Makers should not be permitted to enter this order type. Market Makers are required to make markets that, absent a change in market conditions, will be honored for the number of contracts entered into the Exchange's System in all series of options classes to which the market maker is appointed. The Exchange believes that Market Maker liquidity should be displayed liquidity.

Options 3, Section 7

The Exchange proposes to remove "(a)" and move the rule text of Options 3, Section 7(a) after the first sentence.

Market Orders

The Exchange proposes to amend the description of Market Orders and relocate the order type from Options 3, Section 7(a)(5) to Options 3, Section 7(a) without any substantive change to the rule. Today, Options 3, Section 7(a)(5) states,

A Market Order is an order to buy or sell at the best price available at the time of execution. Participants can designate that their Market Orders not executed after a pre-established period of time, as established by the Exchange, will be cancelled back to the Participant, once an option series has opened for trading. Market Orders on the Order Book would be immediately cancelled if an options series halted, provided the

Participant designated the cancellation of Market Orders.

The Exchange proposes to instead provide that,

A Market Order is an order to buy or sell a stated number of options contracts that is to be executed at the best price obtainable when the order reaches the Exchange. Participants can designate that their Market Orders not executed after a pre-established period of time, as established by the Exchange, will be cancelled back to the Participant, once an options series has opened for trading. Market Orders on the order book would be immediately cancelled if an options series is halted, provided the Participant designated the cancellation of Market Orders.

The Exchange's amendment to the first sentence does not substantively amend this order type, rather the text is being reworded to align with ISE, GEMX, MRX and Phlx rule text at Options 3, Section 7(a).

Limit Orders

The Exchange proposes to amend and relocate "Limit Orders" from current Options 3, Section 7(a)(3) to proposed Options 3, Section 7(b). Today, Options 3, Section 7(a)(3) states, "Limit Order" is an order to buy or sell an option at a specified price or better. A marketable Limit Order is a Limit Order to buy (sell) at or above (below) the best offer (bid) on the Exchange. The Exchange proposes to slightly modify the text in a non-substantive manner to align to ISE, GEMX, MRX and Phlx Options 3, Section 7(b) with respect to the description of a Limit Order and a Marketable Limit Order to provide at proposed Options 3, Section 7(b) that a Limit Order is an order to buy or sell a stated number of options contracts at a specified price or better. The Exchange proposes to state at Options 3, Section 7(b)(1) that a Marketable Limit Order is a limit order to buy (sell) at or above (below) the best offer (bid) on the Exchange. The Exchange proposes to define a Fill-or-Kill Order as a Limit Order that is to be executed in its entirety as soon as it is received and, if not so executed, treated as cancelled, similar to ISE, GEMX, MRX and Phlx Options 3, Section 7(b)(2).

The Exchange proposes to amend and relocate the Intermarket Sweep Order from current Options 3, Section 7(a)(6) to proposed Options 3, Section 7(b)(3) under Limit Orders. Current Options 3, Section 7(a)(6) states.

"Intermarket Sweep Order" or "ISO" is a Limit Order that meets the requirements of Options 5, Section 1(8). Orders submitted to the Exchange as ISO are not routable and will ignore the ABBO and trade at allowable prices on the Exchange. ISOs may be entered on the Order Book or into the PRISM

Mechanism pursuant to Options 3, Section 13(ii)(K). ISOs must have a time-in-force designation of Immediate-or-Cancel. ISO Orders may not be submitted during the opening.

The rule text is substantively identical, except that the Exchange is removing the sentence that states, "ISOs may be entered on the Order Book or into the PRISM Mechanism pursuant to Options 3, Section 13(ii)(K)." The PRISM rule at Options 3, Section 13(ii)(K) describes the use of an ISO in the PRISM Mechanism.

All-or-None Orders

The Exchange proposes to amend and relocate the All-or-None Orders or "AON" Orders from current Options 3, Section 7(a)(7) to proposed Options 3, Section 7(c). Current Options 3, Section 7(a)(7) provides that an

"All-or-None Order" is a Market or Limit Order which is to be executed in its entirety or not at all. All-or-None Orders are treated as having a time-in-force designation of Immediate or Cancel. All-or-None Orders received prior to the Opening Process or after market close will be rejected.

The Exchange proposes to add a new sentence which states that AON Orders will only execute against multiple, aggregated orders if the executions would occur simultaneously. This is true for NTX Options today. The handling of AONs as described in the proposed rule text in Options 3, Section 7(c) is consistent with the Exchange's allocation methodology in Options 3, Section 10. The additional detail makes clear that because of the size contingency of AON Orders, those orders must be satisfied simultaneously to avoid any priority conflict on the order book, which considers current displayed NBBO prices to avoid locked and crossed markets as well as trade-throughs. Additionally, the rule text will be harmonized to ISE, GEMX, MRX and Phlx Options 3, Section 7(c). The Exchange also proposes to amend the sentence that states, "All-or-None Orders received prior to the Opening Process or after market close will be rejected" to harmonize the rule text to ISE, GEMX, MRX and Phlx Options 3, Section 7(c). The Exchange proposes to modify this sentence to instead provide that AON Orders may not be submitted during the Opening Process.³ The current rule text similarly prohibits the submission of AON Orders before the market opens, which occurs at the end of the Opening Process.

³ NTX Options' Opening Process is described in Options 3, Section 8.

Stop Orders

The Exchange proposes to adopt a Stop Order on NTX Options at proposed Options 3, Section 7(d). The Exchange proposes to describe a Stop Order as an order that becomes a Market Order when the stop price is elected. A Stop Order to buy is elected when the option is bid or trades on the Exchange at, or above, the specified stop price. A Stop Order to sell is elected when the option is offered or trades on the Exchange at, or below, the specified stop price. A Stop Order shall be cancelled if it is immediately electable upon receipt. Stop Orders may only be entered through FIX. A Stop Order shall not be elected by a trade that is reported late or out of sequence.⁴

The Exchange also proposes to adopt a Stop Limit Order at proposed Options 3, Section 7(e). The Exchange proposes to provide that a Stop Limit Order is an order that becomes a Limit Order when the stop price is elected. A Stop Limit Order to buy is elected when the option is bid or trades on the Exchange at, or above, the specified stop price. A Stop Limit Order to sell becomes a sell limit order when the option is offered or trades on the Exchange at, or below, the specified stop price. A Stop Limit Order shall be cancelled if it is immediately electable upon receipt. Stop Limit Orders may only be entered through FIX. A Stop Limit Order shall not be elected by a trade that is reported late or out of sequence.

A Stop Order is not elected by a trade that is reported late to ensure systemically that a Stop Order would be elected on the Exchange by the execution price at the actual time of the execution, instead of at a later time. Absent this provision, it would be possible for a Stop Order to be elected by a trade that is reported late, which could result in such Stop Order being converted into a Market Order or a Limit Order and, in the case of a Stop Order executed at a significantly different price than the election price of the Stop Order.⁵

Cancel or Replace Orders

The Exchange proposes to rename a "Cancel-and Replacement Order" to a "Cancel and Replace Order" and amend

⁴ ISE and MRX Options 3, Section 7(c) also provide that a Stop Order is not elected by a Complex Order trading with another Complex Order. NTX Options does not offer complex orders, therefore it is not adding that sentence.

⁵ For example, if a Stop Order to sell at \$3.00 is elected by a trade reported late or out-of-sequence with an execution price of \$3.00 when the actual bid price at the time of the report is \$1.00, the Stop Order would be converted into a market order and executed at \$1.00.

and relocate the description from Options 3, Section 7(a)(1) to proposed Options 3, Section 7(f). Currently, Options 3, Section 7(a)(1) states, “Cancel-Replacement Order” is a single message for the immediate cancellation of a previously received order and the replacement of that order with a new order with new terms and conditions. If the previously placed order is already filled partially or in its entirety, the replacement order is automatically canceled or reduced by the number of contracts that were executed. The replacement order will retain the priority of the cancelled order, if the order posts to the Order Book, provided the price is not amended, and the size is not increased. If the replacement portion of a Cancel-Replacement Order does not satisfy the System’s price or other reasonability checks (e.g., Order Price Protection and Market Order Spread Protection within Options 3, Section 15(a)(1) and (a)(2), respectively); the existing order shall be cancelled and not replaced.

The new Cancel and Replace Order will mirror the functionality on ISE, GEMX, MRX and Phlx at Options 3, Section 7(f) by stating,

Cancel and Replace Orders shall mean a single message for the immediate cancellation of a previously received order and the replacement of that order with a new order. If the previously placed order is already filled partially or in its entirety, the replacement order is automatically canceled or reduced by the number of contracts that were executed. The replacement order will retain the priority of the cancelled order, if the order posts to the Order Book, provided the price is not amended or size is not increased. In the case of Reserve Orders, the replacement order will retain the priority of the cancelled order, if the order posts to the Order Book, provided the price is not amended or size (displayed and non-displayed) is not changed. If the replacement portion of a Cancel Replace Order does not satisfy the System’s price or other reasonability checks (e.g., Order Price Protection and Market Order Spread Protection within Options 3, Section 15(a)(1) and (a)(2), respectively); the existing order shall be cancelled and not replaced.

The Exchange is not proposing to substantively amend the description of the renamed Cancel and Replace Order, except that the Exchange proposes to introduce Reserve Orders, as explained below, and add a sentence to describe how the System would handle Reserve Orders. The Exchange proposes to state that in the case of Reserve Orders, the replacement order will retain the priority of the cancelled order, if the order posts to the Order Book, provided the price is not amended or size (displayed and non-displayed) is not changed. Because a Reserve Order has both a displayed and non-displayed portion, this additional language makes clear the System handling for this order type.

Reserve Orders

The Exchange proposes to adopt a Reserve Order at Options 3, Section 7(g) that is identical to the order type in ISE, GEMX, MRX and Phlx Options 3, Section 7(g). As proposed, a Reserve Order would be a limit order that contains both a displayed portion and a non-displayed portion. Both the displayed and non-displayed portions of a Reserve Order would be available for potential execution against incoming marketable orders. A non-marketable Reserve Order would rest on the order book. The displayed portion of a Reserve Order would be ranked at the specified limit price and the time of order entry. The displayed portion of a Reserve Order would trade in accordance with Options 3, Section 10(a)(1)(A) for Public Customer Orders, and Options 3, Section 10(a)(1)(F) for non-Public Customer Orders. Reserve Orders would be entered with an instruction for the displayed portion of the order to be refreshed: (A) upon full execution of the displayed portion or upon any partial execution; and (B) up to the initial size of the displayed portion or with a random refresh quantity within a range determined by the Participant. When the displayed portion of a Reserve Order is decremented, either in full or in part, it would be refreshed from the non-displayed portion of the resting Reserve Order. If the displayed portion is refreshed in part, the new displayed portion would include the previously displayed portion. Upon any refresh, the entire displayed portion would be ranked at the specified limit price and obtain a new time stamp, *i.e.*, the time that the new displayed portion of the order was refreshed. The new displayed portion would trade in accordance with Options 3, Section 10(a)(1)(C)(1)(a) and 10(a)(1)(C)(2)(i) for Public Customer Orders, and Options 3, Section 10(a)(1)(C)(1)(d) and 10(a)(1)(C)(2)(iv) and (v) for non-Public Customer Orders. The initial non-displayed portion of a Reserve Order rests on the order book and would be ranked based on the specified limit price and time of order entry. Thereafter, non-displayed portions, if any, always obtain the same time stamp as that of the new displayed portion as described in proposed Options 3, Section 7(g)(5). The non-displayed portion of any Reserve Order would be available for execution only after all displayed interest has been executed. The non-displayed portion of any Reserve Order would trade in accordance with Options 3, Section 10(a)(1)(C)(1)(a) and 10(a)(1)(C)(2)(i) for Public Customer Orders, and Options 3,

Section 10(a)(1)(C)(1)(d) and 10(a)(1)(C)(2)(iv) and (v) for non-Public Customer Orders. The Exchange believes that the adoption of this new order type will allow all Participants the ability to trade their orders with displayed and non-displayed portions similar to ISE, GEMX, MRX and Phlx Options 3, Section 7(g).

Customer Cross Order

NTX Options at Options 3, Section 12(a) describes a Customer Cross Order. Similar to ISE, GEMX, MRX and Phlx Options 3, Section 7(i), the Exchange proposes to note this order at NTX Options at Options 3, Section 7(i) and state that 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. Such orders will trade in accordance with Options 3, Section 12(a).

Add Liquidity Orders

The Exchange proposes to relocate the Add Liquidity Order (“ALO”) from current Options 3, Section 7(a)(12)⁶ to proposed Options 3, Section 7(n) and add the following sentence to the description, “Add Liquidity Orders may only have a time-in-force designation of Day.”

Today, Add Liquidity Orders may only have a time-in-force designation of Day,⁷ so they would rest on the order

⁶ Current NTX Options at Options 3, Section 7(a)(12) states that an “Add Liquidity Order” is a Limit Order that is to be executed in whole or in part on the Exchange (i) only after being displayed on the Exchange’s Limit Order Book; and (ii) without routing any portion of the order to another market center. Participants may specify whether an Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the national best bid price (for sell orders) or below the national best offer price (for buy orders) if, at the time of entry, the order (i) is executable on the Exchange; or (ii) the order is not executable on the Exchange but would lock or cross the national best bid or offer. If at the time of entry, an Add Liquidity Order would lock or cross one or more non-displayed orders or quotes on the Exchange, the Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the best non-displayed bid price (for sell orders) or below the best non-displayed offer price (for buy orders). Notwithstanding the aforementioned, if an Add Liquidity Order would not lock or cross an order or quote on the System but would lock or cross the NBBO, the order will be handled pursuant to Options 3, Section 5(d). An Add Liquidity Order will be ranked in the Exchange’s Limit Order Book in accordance with Options 3, Section 10. Add Liquidity Orders may only be submitted when an options series is open for trading.

⁷ A Time in Force designation of Day is described as an order to buy or sell entered with a TIF of “DAY,” which, if not executed, expires at the end of the day on which it was entered. All orders by their terms are Day orders unless otherwise specified. Day orders may be entered through FIX or OTTO. See proposed Supplementary Material .02(a) to Options 3, Section 7.

book in the event that the order could not execute. Requiring Add Liquidity Orders to be entered only as Day Orders is consistent with the Act because an Add Liquidity Order may not remove liquidity from the order book. The Add Liquidity Order is designed to encourage displayed liquidity and offer Participants greater flexibility to post liquidity on the Exchange. Therefore, limiting the time-in-force is consistent with removing impediments to and perfecting the mechanisms of a free and open market and a national market system as there would be no logical outcome for an Add Liquidity Order to have a Time-in-Force of Immediate-or-Cancel.⁸ Currently, Options 3, Section 7(n) states that Add Liquidity Orders may only be submitted when an options series is open for trading, therefore a Time-In-Force of “OPG” is not permissible.⁹ Finally, with respect to a Time-in-Force of Good-Till-Date¹⁰ or Good-Till-Canceled,¹¹ these Time-in-Force designations if permitted to be entered may persist into the next trading day if the orders did not execute and, as a result, would participate in the Opening Process. Because Add Liquidity Orders may not participate in the Opening Process as noted in Options 3, Section 7(n), the Exchange proposes not to permit an Add Liquidity Order with a Time-in-Force of GTD or GTC. The proposed text represents current System functionality. Additionally, the Exchange’s proposal would harmonize NTX Options’ Add Liquidity Order to

that of The Nasdaq Options Market LLC (“NOM”) in that NOM’s Add Liquidity Order may only have a Time-in-Force of Day.¹²

Opening Sweep

The Exchange proposes to relocate the Opening Sweep order type from current Options 3, Section 7(a)(8) to proposed Options 3, Section 7(b)(6)¹³ without change.

Block Order

The Exchange proposes to relocate Block Order from current Options 3, Section 7(a)(11)¹⁴ to proposed Options 3, Section 7(u) without any substantive change. The Exchange proposes to capitalize the term “Block Order.”

PRISM Order

The Exchange proposes to relocate the description of a PRISM Order from current Options 3, Section 7(a)(9)¹⁵ to proposed Options 3, Section 7(y) without substantive change.

The Exchange is adding an italicized header to each order type to conform the format to that of ISE, GEMX, MRX and Phlx Options 3, Section 7. Also, the Exchange proposes to reserve the section where NTX Options does not have a similar order type to those in ISE, GEMX, MRX and Phlx Options 3, Section 7. The Exchange is reserving Supplementary Material .01 to Options 3, Section 7 because NTX Options does not offer Qualified Contingent Cross Orders and ISE, GEMX, MRX and Phlx Supplementary Material .01 to Options 3, Section 7 describe a “qualified contingent trade” in that rule.

Time in Force Provisions

The Exchange proposes to relocate the rule text concerning Time in Force from current Options 3, Section 7(b)¹⁶ to

Supplementary Material .02 to Options 3, Section 7 without change.

Day Order

The Exchange proposes to relocate Day Order from current Options 3, Section 7(b)(3)¹⁷ to proposed Supplementary Material .02(a) to Options 3, Section 7 without substantive change. The minor proposed wording changes to the rule text of Day Order are intended to mirror the text in ISE, GEMX, MRX and Phlx Supplementary Material .02(a) to Options 3, Section 7. NTX Options does not have a Precise protocol.¹⁸

Good-Till-Canceled

The Exchange proposes to rename “Good Til Cancelled” to “Good-Till-Canceled” and amend and relocate the description from Options 3, Section 7(b)(4)¹⁹ to proposed Supplementary Material .02(b) to Options 3, Section 7. The Exchange is not amending the System functionality of this order type. The Exchange proposes to amend the current rule text to instead provide that an order to buy or sell entered with a TIF of “GTC” remains in force until the order is filled, canceled or the option contract expires; provided, however, that GTC orders will be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. The first sentence of the current text is simply worded differently; today GTC orders are canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. The Exchange is adding this rule text concerning a corporate action to clarify the current System behavior. The proposed GTC description is identical to the rule text in ISE, GEMX, MRX and Phlx Supplementary Material .02(b) to Options 3, Section 7.

⁸ A Time in Force designation of Immediate-or-Cancel is described as an order entered with a TIF of “IOC” that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled. See proposed Supplementary Material .02(d) to Options 3, Section 7.

⁹ An Opening Only (“OPG”) order is entered with a TIF of “OPG.” This order can only be executed in the Opening Process pursuant to Options 3, Section 8. Any portion of the order that is not executed during the Opening Process is cancelled. OPG orders may not route. This order type is not subject to any protections listed in Options 3, Section 15, except Size Limitation and Market Wide Risk Protection. See proposed Supplementary Material .02(e) to Options 3, Section 7.

¹⁰ An order to buy or sell entered with a TIF of “GTD,” which, if not executed, will be cancelled at the sooner of the end of the expiration date assigned to the order, or the expiration of the series; provided, however, that GTD orders will be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. GTD orders may be entered through FIX. See proposed Supplementary Material .02(c) to Options 3, Section 7.

¹¹ An order to buy or sell entered with a TIF of “GTC” that remains in force until the order is filled, canceled or the option contract expires; provided, however, that GTC orders will be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. GTC orders may be entered through FIX. See proposed Supplementary Material .02(b) to Options 3, Section 7.

¹² See NOM Options 3, Section 7(a)(9).

¹³ Current NTX Options at Options 3, Section 7(a)(8) provides, “Opening Sweep” is a one-sided order entered by a Market Maker through SQF for execution against eligible interest in the System during the Opening Process. This order type is not subject to any protections listed in Options 3, Section 15, except for Automated Quotation Adjustments and Market Wide Risk Protection. The Opening Sweep will only participate in the Opening Process pursuant to Options 3, Section 8 and will be cancelled upon the open if not executed.

¹⁴ Current NTX Options at Options 3, Section 7(a)(9) provides Block Order. A Block Order is an order entered into the Block Order Mechanism as described in Options 3, Section 11(a).

¹⁵ Current NTX Options at Options 3, Section 7(a)(8) provides that a “PRISM Order” is as described in Options 3, Section 13.

¹⁶ Current NTX Options at Options 3, Section 7(b) states, The term “Time in Force” or “TIF” shall mean the period of time that the System will hold an order for potential execution, and shall include:

¹⁷ Current NTX Options at Options 3, Section 7(b)(3) states, “DAY” is an order entered with a TIF of “Day” that expires at the end of the day on which it was entered, if not executed. All orders by their terms are Day Orders unless otherwise specified. Day orders may be entered through FIX.

¹⁸ NTX Options adopted an OTTO protocol. See Securities Exchange Act Release No. 101743 (November 25, 2024), 89 FR 95321 (December 2, 2024) (SR-NTX Options-2024-048) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt an OTTO Protocol). This rule change is effective but not yet operative.

¹⁹ Current NTX Options at Options 3, Section 7(b)(4) states “Good Til Cancelled” or “GTC” is an order entered with a TIF of “GTC” that, if not fully executed, will remain available for potential display and/or execution unless cancelled by the entering party, or until the option expires, whichever comes first. GTC Orders shall be available for entry from the time prior to market open specified by the Exchange until market close.

Good-Till-Date

The Exchange proposes to adopt a new TIF designation, Good-Till-Date or “GTD” at Supplementary Material .02(c) to Options 3, Section 7 which is identical to ISE, GEMX, MRX and Phlx’s Good-Till-Date TIF at Supplementary Material .02(c) to Options 3, Section 7. A Good-Till-Date TIF is an order to buy or sell entered with a TIF of “GTD,” which, if not executed, would be cancelled at the sooner of the end of the expiration date assigned to the order, or the expiration of the series; provided, however, that GTD orders would be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. GTD Orders will only be available on FIX, similar to ISE, GEMX, MRX and Phlx Supplementary Material .02(c) to Options 3, Section 7. The Exchange believes this additional TIF will provide Participants with additional opportunities when trading on NTX Options.

Immediate-or-Cancel

The Exchange proposes to relocate Immediate-or-Cancel from Options 3, Section 7(c)(2) ²⁰ to Supplementary Material .02(d) to Options 3, Section 7 with minor non-substantive wording amendments that are intended to align with rule text in ISE, GEMX, MRX and Phlx Supplementary Material .02(d) to Options 3, Section 7.

Opening Only

The Exchange proposes to relocate Opening Only from current Options 3, Section 7(b)(1) ²¹ to proposed Supplementary Material .02(e) of Options 3, Section 7 without change. ²²

²⁰ Current NTX Options at Options 3, Section 7(b)(2) states (d) “Immediate-or-Cancel” or “IOC” is a Market Order or Limit Order to be executed in whole or in part upon receipt. Any portion not so executed is cancelled. (A) Orders entered with a TIF of IOC are not eligible for routing. (B) IOC orders may be entered through FIX or SQF, provided that an IOC Order entered by a Market Maker through SQF is not subject to the Order Price Protection, the Market Order Spread Protection, or Size Limitation in Options 3, Section 15(a)(1), (a)(2), and (b)(2), respectively; (C) Block Orders, Customer Cross Orders, and PRISM Orders are considered to have a TIF of IOC. By their terms, these orders will be: (1) executed either on entry or after an exposure period, or (2) cancelled.

²¹ Current NTX Options at Options 3, Section 7(b)(1) provides that an Opening Only order (“OPG”) is entered with a TIF of “OPG”. This order can only be executed in the Opening Process pursuant to Options 3, Section 8. This order type is not subject to any protections listed in Options 3, Section 15, except Size Limitation and Market Wide Risk Protection. Any portion of the order that is not executed during the Opening Process is cancelled. OPG orders may not route.

²² The order of the text is slightly changed but not amended.

Minimum Quantity Orders

The Exchange proposes to no longer offer Minimum Quantity Orders at Options 3, Section 7(a)(4). A Minimum Quantity Order is an order that requires that a specified minimum quantity of contracts be obtained, or the order is cancelled. Minimum Quantity Orders are treated as having a time-in-force designation of Immediate or Cancel. Minimum Quantity Orders received prior to the Opening Process or after market close will be rejected. This order type is not utilized frequently on the Exchange and is not currently offered on ISE, GEMX or MRX. Due to the lack of demand for this order type, the Exchange is no longer utilizing it.

Order Entry Protocols

The Exchange proposes to relocate the order entry protocols from current Options 3, Section 7(e) to proposed Supplementary Material .03 to Options 3, Section 7. The Exchange proposes to re-letter the subsections from “A, B, and C” to “a, b, and c.” The Exchange proposes to remove the rule text that provides, “(e) Entry and Display or Orders and Quotes. Participants may enter orders and quotes into the System as specified below” to align the rule text with ISE, GEMX, MRX and Phlx Supplementary Material .03 to Options 3, Section 7.

The Exchange’s proposal to amend the FIX protocol to note that similar to ISE, GEMX, MRX and Phlx at Supplementary Material .03(a) to Options 3, Section 7, that the Exchange will commence offering post trade allocation messages is consistent with the Act as it will allow Participants the same functionality that is currently available to ISE, GEMX, MRX and Phlx market participants. A post trade allocation message allows market participants to specify how an order should be subdivided among one or more accounts. ²³ Today, ISE, GEMX, MRX and Phlx provide post trade allocation messages through FIX. ²⁴

The Exchange proposes to remove a reference to “complex instruments” in the OTTO protocol description at proposed Supplementary .03(b) to Options 3, Section 7. NTX Options does not offer complex instruments. The reference to complex instruments was inadvertent.

²³ For example, a Participant may specify the account(s) and their respective order quantities which make up the order.

²⁴ See ISE, GEMX and MRX Supplementary Material .03(a)(i) of Options 3, Section 7.

Routing

The Exchange proposes to relocate the rule text at Options 3, Section 7(c) ²⁵ to Supplementary Material .04 of Options 3, Section 7 without change.

Order Size

The Exchange is removing the sentence that provides, “The term ‘Order Size’ shall mean the number of contracts up to 999,999 associated with the Order.” This term is not used in the Exchange’s rules.

Options 3, Section 8

The Exchange proposes to amend Options 3, Section 8, Options Opening Process, at Options 3, Section 8(b) to note the eligible interest that will be included in the Opening Process. The Exchange currently provides at Options 3, Section 8(b) that, “Eligible interest during the Opening Process includes Valid Width Quotes, Opening Sweeps, and orders.” First, the Exchange proposes to state, “Eligible interest during the Opening Process includes Valid Width Quotes, Opening Sweeps and orders, including Opening Only Orders, but excluding orders with a Time in Force of Immediate-or-Cancel and Add Liquidity Orders.” The Exchange notes that today Opening Only Orders are included in eligible interest and orders with a Time in Force of “Immediate-or-Cancel” and Add Liquidity Orders are not included because there is no order book during the Opening Process and those orders are not accepted. Second, the Exchange proposes to add a sentence that states, “The displayed and non-displayed portions of the Reserve Orders are considered for execution and in determining the Opening Price throughout the Opening Process.” This sentence describes the handling of newly adopted Reserve Orders in the Opening Process.

Also, similar to ISE, GEMX, MRX and Phlx Options 3, Section 8(g), the Exchange proposes to account for the addition of Reserve Orders with respect to the Potential Opening Price ²⁶ in Options 3, Section 8(h). To calculate the Potential Opening Price, the System takes into consideration all Valid Width Quotes and orders (including Opening Sweeps and displayed and non-displayed portions of Reserve Orders) for the option series and identify the

²⁵ Current NTX Options at Options 3, Section 7(c) provides that orders may be entered on the Exchange with a routing strategy of FIND, SRCH or Do-Not-Route (“DNR”) as provided in Options 5, Section 4 through FIX only.

²⁶ The Potential Opening Price indicates a price where the System may open once all other Opening Process criteria is met.

price at which the maximum number of contracts can trade ("maximum quantity criterion"). The addition of this rule text will make clear the manner in which the System will handle a Reserve Order during the Opening Process.

Similar to other changes noted herein, the Exchange proposes to amend NTX Options at Options 3, Section 8(k)(3)(F) to note how Reserve Orders will be handled in the Opening Process for purposes of execution. The Exchange proposes to state, "The System will execute orders at the Opening Price that have contingencies (such as without limitation, Reserve Orders) and non-routable orders, such as "Do Not Route" or "DNR" Orders, to the extent possible. This rule text will add transparency to the Exchange's rule text and mirror rule text in ISE, GEMX and MRX Options 3, Section 8(j)(6) and Phlx Options 3, Section 8(k)(6). Additionally, the Exchange proposes to state, "The System will only route non-contingency orders, except Reserve Orders may route up to their full volume." With this proposal, NTX Options would have the following contingency orders that will not route: a Stop Order, an All-or-None Order and a Fill-or-Kill Order.

Finally, the Exchange proposes to amend rule text in the Opening Process Cancel Timer at NTX Options at Options 3, Section 8(l). With the retention of the "Good Til Cancelled Order," renamed "Good-Till-Canceled," and adoption of the "Good-Till-Date Order," the Exchange proposes to amend the order types in the last sentence of Options 3, Section 8(l) for consistency.

The Exchange proposes to amend Options 2, Section 4, Obligations of Market Makers and Lead Market Makers at paragraph (l)(2)(a) to change "Opening Cross" to "Opening Process" to conform to Options 3, Section 8.

Options 3, Section 9

The Exchange proposes to amend Options 3, Section 9, Trading Halts. Specifically, the Exchange proposes to amend Options 3, Section 9(d)(1) to change the word "Exchange" to "System" which more precisely describes the functionality.

The Exchange proposes to amend Options 3, Section 9(d)(2) to describe the manner in which the newly adopted Stop Order will be treated during a trading halt. The Exchange proposes to mirror the treatment of Stop Orders in ISE, GEMX, MRX and Phlx Options 3, Section 9(d)(3). The Exchange proposes to add this sentence to Options 3, Section 9(d)(2), "Provided the Exchange has opened an affected option for trading, the Exchange shall elect Stop

Orders if the condition as provided in Options 3, Section 7(d) is met, and, because they become Market Orders, shall cancel them back and notify Participants of the reason for such rejection." Stop Orders would become elected as provided for in proposed Options 3, Section 7(d).²⁷ If they elect as Market Orders, those Market Orders would be rejected. This aligns to the current treatment for Market Orders during a trading halt.

Options 3, Section 10

The Exchange proposes to amend NTX Options at Options 3, Section 10, Order Book Allocation. Similar to the ISE, GEMX and MRX applicability language in Options 3, Section 10, the Exchange proposes to clarify that the allocations specified in Options 3, Section 10 do not apply to the Price Improvement Auction ("PRISM") described within Options 3, Section 13, unless Options 3, Section 10 is specifically referenced. This sentence provides greater information as to the applicability of Options 3, Section 10.

The Exchange proposes to add a sentence at Options 3, Section 10(a)(A) with respect to Price/Time allocation that states, "Allocation of displayed interest shall occur before allocation of non-displayed interest at each price level." This additional rule text accounts for the allocation of Reserve Orders which have both displayed and non-displayed interest.

Today, ISE, GEMX and MRX Options 3, Section 10(c) provide for a Size Pro-Rata allocation. Currently Options 3, Section 10(a)(1)(B) describes Size Pro-Rata allocation as follows:

(B) Size Pro-Rata—The System shall execute trading interest within the System in price priority, meaning it will execute all trading interest at the best price level within the System before executing trading interest at the next best price. Within each price level, if there are two or more quotes or orders at the best price, trading interest will be executed based on the size of each Participant's quote or order as a percentage of the total size of all orders and quotes resting at that price. If the result is not a whole number, it will be rounded up to the nearest whole number.

The Exchange proposes to amend NTX Options at Options 3, Section 10(a)(1)(B) to provide

The System shall execute trading interest within the System in price priority, meaning

it will execute all trading interest at the best price level within the System before executing trading interest at the next best price. Within each price level, if there are two or more quotes or orders at the same price, the System allocates contracts from an incoming order or quote to resting orders and quotes beginning with the resting order or quote displaying the largest size proportionally according to displayed size, based on the total number of contracts displayed at that price. If the result is not a whole number, it will be rounded up to the nearest whole number. If there are still contracts to be allocated after the displayed size of all orders at that price has been executed, the remaining size from the incoming order will be allocated proportionally against non-displayed interest according to remaining total size of each resting order at such price, beginning with the order which has the largest total size remaining.

The Exchange is aligning the description of Size Pro-Rata to ISE, GEMX and MRX Options 3, Section 10(c) to account for the fact that it is adopting Reserve Orders which will have both a displayed size and a non-displayed size. The Size Pro-Rata allocation divides the remainder proportionally among the non-displayed interest. Both the displayed and non-displayed portions of a Reserve Order are available for potential execution against incoming marketable orders or quotes. The non-displayed portion of any Reserve Order is available for execution only after all displayed interest on the single-leg order book has been executed.

The Exchange proposes to correct references to "book" with "order book" in various places throughout Options 3, Section 10. Finally, the Exchange proposes to include the word "Process" after "Opening" in Options 3, Section 10(a)(5).

Options 3, Section 15

Acceptable Trade Range

The Exchange proposes to amend the last sentence of Acceptable Trade Range or "ATR" at Options 3, Section 15(b)(1) that states, "The Acceptable Trade Range will not be available for All-or-None Orders or Minimum Quantity Orders." The Exchange proposes to remove Minimum Quantity Orders as they will no longer be offered.

Options 3, Section 20

The Exchange proposes to add language at Options 3, Section 20(i), Nullification and Adjustment of Options Transactions including Obvious Errors, to describe the treatment of Stop and Stop-Limit Orders triggered by an erroneous trade. The Exchange proposes to note that transactions resulting from

²⁷ As proposed in NTX Options at Options 3, Section 7(d) a Stop Order becomes a Market Order when the stop price is elected. A Stop Order to buy is elected when the option is bid or trades on the Exchange at, or above, the specified stop price. A Stop Order to sell is elected when the option is offered or trades on the Exchange at, or below, the specified stop price.

the triggering of a Stop or Stop-Limit Order by an erroneous trade in an option contract shall be nullified by the Exchange, provided a party notifies an Official²⁸ in a timely manner as set forth below. If a party believes that it participated in an erroneous transaction pursuant to this paragraph it must notify an Official within the timeframes set forth in sub-paragraph (c)(2),²⁹ with the allowed notification timeframe commencing at the time of notification of the nullification of transaction(s) that triggered the Stop or Stop-Limit Order. The Exchange also proposes to re-letter current (i)–(k). This proposed rule text is identical to Phlx Options 3, Section 20(i).

Options 3, Section 22

The Exchange proposes to amend Options 3, Section 22, Limitations on Order Entry, to adopt a new Supplementary Material .01 to provide that, “With respect to the non-displayed reserve portion of a Reserve Order, the exposure requirement of paragraphs (a) and (c) are satisfied if the displayable portion of the Reserve Order is displayed at its displayable price for one second.” ISE, GEMX and MRX Supplementary Material .02 to Options 3, Section 22 contains identical rule text.

Options 3, Section 28

The Exchange proposes to amend Options 3, Section 28, “Optional Risk Protections.” The Exchange proposes to align the rule text to ISE, GEMX, MRX and Phlx Options 3, Section 28 rule text. The proposed changes do not amend the functionality of the optional risk protections.

The Exchange proposes to add the words “daily” before the aggregate notional dollar value and aggregate quantity to be more explicit about those values. Further, the Exchange proposes to make clear in amended paragraph (c) the per order and on aggregate optional protections values applicable to each order protection. The Exchange proposes to make clear in amended paragraph (c) that the System will reject

all incoming aggregated Participant orders for any of the (a)(2) and (a)(4) risk protections after the value configured by the Participant is exceeded whereas amended paragraph (d) makes clear that the System will reject all incoming Participant orders for any of the (a)(1) and (a)(3) risk protections upon arrival if the value configured by the Participant is exceeded by the incoming order. The Exchange believes that the specific language makes clear the difference in handling between aggregate and individual order protections is necessary to allow for complete processing of the final order that puts a Participant’s configured value over the aggregate values configured. While individual orders can be directly measured against the configured values for (a)(1) and (a)(3), the aggregate values must be calculated after complete processing of an order and thus the rejection of orders begins upon the arrival of the next order after the aggregate values in (a)(2) or (a)(4) have been exceeded. Finally, the Exchange proposes a new paragraph (f) that states that the proposed risk protections are only available for orders entered through FIX, as is the case today. Additionally, all of the proposed settings will be firm level, as is the case today. The Exchange is also re-lettering “d” to “e.”

Options 5, Section 4

The Exchange proposes to amend Options 5, Section 4, Order Routing, to account for new order types and align its rule to ISE Options 5, Section 4.

The Exchange proposes to amend Options 5, Section 4(a) to account for Stop Orders and Stop Limits Orders with respect to routing. The Exchange proposes to state, “For purposes of this rule, the Exchange’s best bid or offer or “BBO” does not include Stop Orders and Stop-Limit Orders which have not been triggered. The “internal BBO” shall refer to the actual better price of an order resting on the Exchange’s Order Book, which is not displayed, but available for execution, excluding Stop Orders and Stop-Limit Orders which have not been triggered.” The Exchange’s proposal adopts the Stop Order at ISE Options 3, Section 7(d) and Stop Limit Order at ISE Options 3, Section 7(e). Stop Orders and Stop-Limit Orders are not included in the BBO because they have not been triggered. The Exchange believes that this sentence will bring greater clarity to the Exchange’s rule.

The Exchange proposes some modifications to its SRCH Order in NTX Options at Options 5, Section 4(iii)(C) to conform to ISE Options 5, Section

4(iii)(C). By way of background, a SRCH Order is routable at any time the option series is open for trading. The Exchange is adding a Good-Till-Date Order or GTD at proposed Supplementary Material .02(c) to NTX Options at Options 3, Section 7. Today, the Exchange does not offer a GTD Order. The GTD Order would be identical to ISE, GEMX, MRX and Phlx’s Good-Till-Date TIF at Supplementary Material .02(c) to Options 3, Section 7. The Exchange proposes to add GTD to into NTX Options at Options 5, Section 4(iii)(C), similar to ISE Options 5, Section 4(iii)(C), to reflect how a GTD TIF would be handled by the System for a SRCH Order.³⁰

Options 6, Section 1

By way of background, Options 6, Section 1 allows a Clearing Member to opt in, at The Options Clearing Corporation (“OCC”) clearing number level, to a feature that, if enabled by the Clearing Member, will allow the Clearing Member to specify which Participants are authorized to give up that OCC clearing number. For each transaction in which a Participant participates, the Participant may indicate, at the time of the trade or through post trade allocation, any OCC number of a Clearing Member through which a transaction will be cleared (“Give Up”), provided the Clearing Member has not elected to “Opt In,” and restrict one or more of its OCC number(s) (“Restricted OCC Number”). A Participant may Give Up a Restricted OCC Number provided the Participant has written authorization (“Authorized Member”). Clearing Members may request the Exchange restrict one or more of their OCC clearing numbers (“Opt In”). An Opt In remains in effect until the Clearing Member terminates the Opt In. If a Clearing Member does not Opt In, that Clearing Member’s OCC number may be subject to Give Up by any Participant.

The Exchange proposes to amend Options 6, Section 1, Authorization to Give Up, to align NTX Options’ process to that of ISE, GEMX and MRX Options 6, Section 1. The Exchange proposes to amend Options 6, Section 1(c) which currently states, “The System will not allow an unauthorized Give Up with a Restricted OCC Number to be submitted at the firm mnemonic³¹ level at the

²⁸ The term “Official” shall mean an Exchange staff member or contract employee designated as such by the Chief Regulatory Officer. A list of individual Officials shall be displayed on the Exchange website. The Chief Regulatory Officer shall maintain the list of Officials and update the website each time a name is added to, or deleted from, the list of Officials. In the event no Official is available to rule on a particular matter, the Chief Regulatory Officer or his/her designee shall rule on such matter. See Options 3, Section (a)(3).

²⁹ Options 3, Section 20(c)(2) describes the time deadlines for a party that believes that it participated in a transaction that was the result of an Obvious Error to notify an Official in the manner specified by the Exchange.

³⁰ A GTD SRCH Order may be routed as part of the Opening Process.

³¹ The term “mnemonic” means an acronym comprised of letters and/or numbers assigned to Participants. A Participant account may be associated with multiple mnemonics. See Options 1, Section 1(a)(26).

point of order entry.” Today, the System will block the entry of the order from the outset. This is because a valid mnemonic will be required for any order to be submitted directly to the System, and a mnemonic will only be set up for a Participant if there is already a clearing arrangement in place for that firm either through a Letter of Guarantee or in the case of a Restricted OCC Number, the Participant becoming an Authorized Participant. The System also restricts any post trade allocation changes if the Participant is not authorized to use a Restricted OCC Number.

At this time, the Exchange proposes to instead provide that “The System will not allow an unauthorized Participant to Give Up a Restricted OCC Number. If an unauthorized Give Up with a Restricted OCC Number is submitted to the System, the System will process that transaction using the Participant’s default OCC clearing number.” With this change, if an unauthorized Give Up with a Restricted OCC Number is submitted to the System, the System will process that transaction using the Participant’s default OCC clearing number. With this proposal, a Participant may amend the OCC clearing number to any valid OCC clearing number at the time of the trade, or through post trade allocation. Today, Participants may not amend the OCC clearing number; rather, they may only utilize a permissible mnemonic to Give-Up a transaction. With this proposal, the Exchange also proposes to remove the sentence in Options 6, Section 1(a) which states, “All transactions will automatically clear through the Participant’s guarantor at the time of the trade,” as this will no longer be the case. This amendment provides Participants with greater flexibility.

Implementation

The Exchange will implement this rule change on or before June 30, 2027. The Exchange will issue an Options Trader Alert to Participants to provide notification of the implementation date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³² in general, and furthers the objectives of Section 6(b)(5) of the Act,³³ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market

system, and, in general to protect investors and the public interest.

Options 1, Section 1 and Options 2, Section 3

The Exchange’s proposal to define the term “Lead Market Maker” at Options 1, Section 1(a)(25) to mean a Market Maker who is registered as an options Lead Market Maker pursuant to Options 2, Section 3 is consistent with the Act as the definition will provide guidance to Members about where to locate information concerning Lead Market Makers.

The Exchange’s proposal to amend current Options 1, Section 1(a)(45) which describes the term “out-of-the-money” to remove the final sentence which states, “This definition shall only apply for purposes of Market Maker quoting obligations in Options 2, Section 5” is consistent with the Act because the term applies to all Options Rules and not only Options 2, Section 5.

The Exchange’s proposal to amend Options 2, Section 3, Lead Market Maker Allocations, to remove “LMM” in Options 2, Section 3A and instead state “Lead Market Maker” and define an “LMM” in Options 2, Section 3A(a) is a non-substantive amendment.

Options 2, Section 6

The Exchange’s proposal to restrict Market Makers from entering Reserve Orders, in both appointed and non-appointed options classes, is consistent with the Act. Today, ISE, GEMX, MRX and Phlx Options 2, Section 6 restricts Market Makers from entering Reserve Orders. Unlike other order types, the Reserve Order is a limit order that contains both a displayed portion and a non-displayed portion. Both the displayed and non-displayed portions of a Reserve Order are available for potential execution against incoming marketable orders. When the displayed portion of a Reserve Order is decremented, either in full or in part, it shall be refreshed from the non-displayed portion of the resting Reserve Order. The Exchange believes that because a Reserve Order contains a non-displayed portion, Market Makers should not be permitted to enter this order type. Market Makers are required to make markets that, absent changed market conditions, will be honored for the number of contracts entered into the Exchange’s System in all series of options classes to which the market maker is appointed.

Options 3, Section 7

Generally, the Exchange’s proposal is intended to add or align its order types

in Options 3, Section 7 with those of ISE, GEMX, MRX Options 3, Section 7 to provide a more consistent technology offering across affiliated Nasdaq options exchanges. A more harmonized technology offering, in turn, will simplify technology implementation, changes, and maintenance by market participants of the Exchange that are also participants on Nasdaq affiliated options exchanges. The Exchange’s proposal also seeks to provide greater harmonization between the rules of the Exchange and its affiliates, which would result in greater uniformity, and less burdensome and more efficient regulatory compliance by market participants. As such, the proposal would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that more consistent rules will increase the understanding of the Exchange’s operations for market participants that are also participants on the Nasdaq affiliated options exchanges, thereby contributing to the protection of investors and the public interest.

The Exchange believes that the proposed changes to the rules governing Exchange order types are consistent with the Act. As discussed above, the proposed changes consist of several functional enhancements to align the Exchange’s order types to existing ISE, GEMX, MRX and Phlx order types, and rule adjustments that add more specificity and clarity to existing order types.

Market Orders

The Exchange’s proposal to amend the description of Market Orders and relocate the order type from Options 3, Section 7(a)(5) to Options 3, Section 7(a) without any substantive change is consistent with the Act. The Exchange’s amendment to the first sentence does not substantively amend this order type, rather the text is being reworded to align to ISE, GEMX, MRX and Phlx rule text at Options 3, Section 7(a).

Limit Orders

The Exchange’s proposal to amend and relocate “Limit Orders” from current Options 3, Section 7(a)(3) to proposed Options 3, Section 7(b) is consistent with the Act. The Exchange proposes to slightly modify the text in a non-substantive manner to align to ISE, GEMX, MRX and Phlx Options 3, Section 7(b) with respect to the description of a Limit Order and a Marketable Limit Order to provide at

³² 15 U.S.C. 78f(b).

³³ 15 U.S.C. 78f(b)(5).

proposed Options 3, Section 7(b) that a Limit Order is an order to buy or sell a stated number of options contracts at a specified price or better.

The Exchange also proposes to break out Limit Order further to define a Marketable Limit Order at proposed Options 3, Section 7(b)(1) as a Limit Order to buy (sell) at or above (below) the best offer (bid) on the Exchange. Finally, the Exchange proposes to define a Fill-or-Kill Order at proposed Options 3, Section 7(b)(2) as a Limit Order that is to be executed in its entirety as soon as it is received and, if not so executed, treated as cancelled. This proposed new rule text aligns NTX Options' order type to ISE, GEMX, MRX and Phlx Options 3, Section 7(b)(2) and will provide NTX Participants the same ability to send this type of IOC order as ISE, GEMX, MRX and Phlx members.

All-or-None Orders

The Exchange's proposal to amend and relocate the All-or-None Orders or "AON" Orders from current Options 3, Section 7(a)(7) to proposed Options 3, Section 7(c) is consistent with the Act. The Exchange proposes to add a new sentence which states that AON Orders will only execute against multiple, aggregated orders if the executions would occur simultaneously. This is true for NTX Options today. Similar to ISE, GEMX, MRX and Phlx, the Exchange proposes to modify All-or-None Orders so that they would execute against multiple, aggregated orders if the executions would occur simultaneously. The proposed description of the handling of All-or-None Orders is consistent with the Exchange's allocation methodology in Options 3, Section 10 by making clear that because of the size contingency of the All-or-None Order (*i.e.*, executed in its entirety or not at all), those orders must be satisfied simultaneously to avoid any priority conflict on the order book, which considers current displayed NBBO prices to avoid locked and crossed markets as well as trade-throughs. Finally, the current rule text similarly prohibits the submission of AON Orders before the market opens, which occurs at the end of the Opening Process, as is the case today on NTX Options.

Stop and Stop Limit Orders

The Exchange's proposal to adopt Stop Orders and Stop Limit Orders in Options 3, Sections 7(d) and 7(e), respectively, is consistent with the Act. The Exchange proposes to describe a Stop Order as an order that becomes a Market Order when the stop price is elected. A Stop Order to buy is elected

when the option is bid or trades on the Exchange at, or above, the specified stop price. A Stop Order to sell is elected when the option is offered or trades on the Exchange at, or below, the specified stop price. A Stop Order shall be cancelled if it is immediately electable upon receipt. Stop Orders may only be entered through FIX. A Stop Order shall not be elected by a trade that is reported late.³⁴ A Stop Order is not elected by a trade that is reported late to ensure systemically that a Stop Order would be elected on the Exchange by the execution price at the actual time of the execution, instead of at a later time. Absent this provision, it would be possible for a Stop Order to be elected by a trade that is reported late, which could result in such Stop Order being converted into a Market Order or a Limit Order and, in the case of a Stop Order executed at a significantly different price than the election price of the Stop Order.³⁵ Offering these order types similar to ISE, GEMX, MRX and Phlx will provide NTX Participants additional opportunities to enter orders with specific instructions thereby contributing to the protection of investors and the public interest. This may encourage market participants to bring additional liquidity to the market, which benefits all investors.

Cancel and Replace Orders

The Exchange's proposal to rename a "Cancel-Replacement Order" to a "Cancel and Replace Order" amend and relocate the description from Options 3, Section 7(a)(1) to proposed Options 3, Section 7(f) to mirror the functionality on ISE, GEMX, MRX and Phlx at Options 3, Section 7(f) is consistent with the Act. Aligning NTX Options' current functionality for a Cancel and Replace Order to that of ISE, GEMX, MRX and Phlx will create consistent rules and will increase the understanding of the Exchange's operations for market participants that are also participants on the Nasdaq affiliated options exchanges, thereby contributing to the protection of investors and the public interest. The Exchange is not proposing to substantively amend the description of a Cancel and Replace Order, except that the Exchange proposes to introduce

³⁴ ISE and MRX Options 3, Section 7(c) also provide that a Stop Order is not elected by a Complex Order trading with another Complex Order. NTX Options does not offer complex orders, therefore it is not adding that sentence.

³⁵ For example, if a Stop Order to sell at \$3.00 is elected by a trade reported late or out-of-sequence with an execution price of \$3.00 when the actual bid price at the time of the report is \$1.00, the Stop Order would be converted into a market order and executed at \$1.00.

Reserve Order handling into the order type description.

Reserve Orders

The Exchange's proposal to adopt a Reserve Order at Options 3, Section 7(g) that is identical to the order type in ISE, GEMX, MRX and Phlx Options 3, Section 7(g) is consistent with the Act as it will align NTX Options' current functionality for a Reserve Order to that of ISE, GEMX, MRX and Phlx. Aligning NTX Options' functionality will create consistent rules and will increase the understanding of the Exchange's operations for market participants that are also participants on the Nasdaq affiliated options exchanges, thereby contributing to the protection of investors and the public interest. Both the displayed and non-displayed portions of a Reserve Order would be available for potential execution against incoming marketable orders. A non-marketable Reserve Order would rest on the order book. The displayed portion of a Reserve Order would be ranked at the specified limit price and the time of order entry. This new order type will be available to all Participants, except Market Makers as noted herein. The proposed rule change will promote competition as Reserve Orders will provide Participants with additional flexibility to manage and display their orders and additional control over their executions on the Exchange. This may encourage market participants to bring additional liquidity to the market, which benefits all investors.

Customer Cross Order

The Exchange's proposal to memorialize a Customer Cross Order at Options 3, Section 7(i), similar to ISE, GEMX, MRX and Phlx Options 3, Section 7(i) will provide more transparency to this offering on NTX Options. Today, NTX Options at Options 3, Section 12(a) describes a Customer Cross Order. Similar to ISE, GEMX, MRX and Phlx Options 3, Section 7(i), the Exchange proposes to note this order at NTX Options at Options 3, Section 7(i) and state that 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. Such orders will trade in accordance with Options 3, Section 12(a).

Add Liquidity Orders

The Exchange's proposal to relocate and amend the Add Liquidity Order ("ALO") from current Options 3,

Section 7(a)(12)³⁶ to proposed Options 3, Section 7(n) will provide more transparency to this offering on NTX Options. Requiring Add Liquidity Orders to be entered only as Day Orders is consistent with the Act because an Add Liquidity Order may not remove liquidity from the order book. The Add Liquidity Order is designed to encourage displayed liquidity and offer Participants greater flexibility to post liquidity on the Exchange. Therefore, limiting the Time-in-Force is consistent with removing impediments to and perfecting the mechanisms of a free and open market and a national market system as there would be no logical outcome for an Add Liquidity Order to have a Time-in-Force of Immediate-or-Cancel. Currently, Options 3, Section 7(n) states that Add Liquidity Orders may only be submitted when an options series is open for trading, therefore a Time-In-Force of “OPG” is not permissible. Finally, with respect to a Time-in-Force of Good-Till-Date or Good-Till-Canceled, these Time-in-Force designations if permitted to be entered may persist into the next trading day if the orders did not execute and, as a result, would participate in the Opening Process. Because Add Liquidity Orders may not participate in the Opening Process as noted in Options 3, Section 7(n), the Exchange proposes not to permit an Add Liquidity Order with a Time-in-Force of GTD or GTC. The proposed text represents current System functionality. Additionally, the Exchange’s proposal would harmonize NTX Options’ Add Liquidity Order with NOM’s Add Liquidity Order which may only have a Time-in-Force of Day.³⁷

³⁶ Current NTX Options at Options 3, Section 7(a)(12) states that An “Add Liquidity Order” is a Limit Order that is to be executed in whole or in part on the Exchange (i) only after being displayed on the Exchange’s Limit Order Book; and (ii) without routing any portion of the order to another market center. Participants may specify whether an Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the national best bid price (for sell orders) or below the national best offer price (for buy orders) if, at the time of entry, the order (i) is executable on the Exchange; or (ii) the order is not executable on the Exchange but would lock or cross the national best bid or offer. If at the time of entry, an Add Liquidity Order would lock or cross one or more non-displayed orders or quotes on the Exchange, the Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the best non-displayed bid price (for sell orders) or below the best non-displayed offer price (for buy orders). Notwithstanding the aforementioned, if an Add Liquidity Order would not lock or cross an order or quote on the System but would lock or cross the NBBO, the order will be handled pursuant to Options 3, Section 5(d). An Add Liquidity Order will be ranked in the Exchange’s Limit Order Book in accordance with Options 3, Section 10. Add Liquidity Orders may only be submitted when an options series is open for trading.

³⁷ See NOM Options 3, Section 7(a)(9).

Opening Sweep

The Exchange’s proposal to relocate the Opening Sweep order type from current Options 3, Section 7(a)(8) to proposed Options 3, Section 7(b)(6)³⁸ without change will provide more transparency to this offering on NTX Options. This amendment is non-substantive.

The Exchange also proposes to amend Options 3, Section 8 to account for the addition of Reserve Orders and the related changes described above.

Block Order

The Exchange’s proposal to relocate Block Order from current Options 3, Section 7(a)(11)³⁹ to proposed Options 3, Section 7(u) without change will provide more transparency to this offering on NTX Options. This amendment is non-substantive.

PRISM Order

The Exchange’s proposal to relocate the description of a PRISM Order from current Options 3, Section 7(a)(9)⁴⁰ to proposed Options 3, Section 7(y) without substantive change will provide more transparency to this offering on NTX Options. This amendment is non-substantive.

Day Order

The Exchange’s proposal to relocate Day Order from current Options 3, Section 7(b)(3) to Supplementary Material .02(a) to Options 3, Section 7 with minor amendments is consistent with the Act. The Exchange is rewording the rule text of Day Order to mirror the text in ISE, GEMX, MRX and Phlx Supplementary Material .02(a) to Options 3, Section 7.

Good-Till-Cancelled

The Exchange’s proposal to rename “Good Till Cancelled” as “Good-Till-Canceled” and to relocate the order type from Options 3, Section 7(b)(4) to Supplementary Material .02(b) to Options 3, Section 7 and amend its

³⁸ Current NTX Options at Options 3, Section 7(a)(8) provides, “Opening Sweep” is a one-sided order entered by a Market Maker through SQF for execution against eligible interest in the System during the Opening Process. This order type is not subject to any protections listed in Options 3, Section 15, except for Automated Quotation Adjustments and Market Wide Risk Protection. The Opening Sweep will only participate in the Opening Process pursuant to Options 3, Section 8 and will be cancelled upon the open if not executed.

³⁹ Current NTX Options at Options 3, Section 7(a)(9) provides Block Order. A Block Order is an order entered into the Block Order Mechanism as described in Options 3, Section 11(a).

⁴⁰ Current NTX Options at Options 3, Section 7(a)(8) provides that a “PRISM Order” is as described in Options 3, Section 13.

description is consistent with the Act because it will align the order type with other Nasdaq affiliated exchanges. The Exchange’s proposal to provide that a Good-Till-Canceled Order is an order to buy or sell entered with a TIF of “GTC” and remains in force until the order is filled, canceled or the option contract expires; provided, however, that GTC orders will be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract would address a corporate event, noting that GTC orders are canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. This clarifies the current System behavior. The proposed GTC description is identical to the rule text in ISE, GEMX, MRX and Phlx Supplementary Material .02(b) to Options 3, Section 7. There is no System change as a result of the change to the description of the GTC order.

Good-Till-Date

The Exchange’s proposal to adopt a new TIF designation, Good-Till-Date Supplementary Material .02(c) to Options 3, Section 7 which is identical to ISE, GEMX, MRX and Phlx’s Good-Till-Date TIF at Supplementary Material .02(c) to Options 3, Section 7 is consistent with the Act. A Good-Till-Date TIF is an order to buy or sell entered with a TIF of “GTD,” which, if not executed, would be cancelled at the sooner of the end of the expiration date assigned to the order, or the expiration of the series; provided, however, that GTD orders would be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. GTD orders may be entered through FIX. The Exchange believes this additional TIF will provide Participants with additional opportunities when trading on NTX Options.

Immediate-or-Cancel

The Exchange proposes to relocate Immediate-or-Cancel from Options 3, Section 7(c)(2)⁴¹ to Supplementary

⁴¹ Current NTX Options at Options 3, Section 7(b)(2) states (d) “Immediate-or-Cancel” or “IOC” is a Market Order or Limit Order to be executed in whole or in part upon receipt. Any portion not so executed is cancelled. (A) Orders entered with a TIF of IOC are not eligible for routing. (B) IOC orders may be entered through FIX or SQF, provided that an IOC Order entered by a Market Maker through SQF is not subject to the Order Price Protection, the Market Order Spread Protection, or Size Limitation in Options 3, Section 15(a)(1), (a)(2), and (b)(2), respectively; (C) Block Orders, Customer Cross Orders, and PRISM Orders are considered to have a TIF of IOC. By their terms, these orders will be: (1) executed either on entry or after an exposure period, or (2) cancelled.

Material .02(d) to Options 3, Section 7 with minor non-substantive wording amendments⁴² is consistent with the Act. As proposed, the amendments will align the rule text in ISE, GEMX, MRX and Phlx Supplementary Material .02(d) to Options 3, Section 7.

Opening Only

The Exchange's proposal to relocate Opening Only from Options 3, Section 7(b)(1) to proposed Supplementary Material .02(e) of Options 3, Section 7 without change is consistent with the Act. This amendment is non-substantive.

Minimum Quantity Orders

The Exchange's proposal to no longer offer Minimum Quantity Orders at Options 3, Section 7(a)(4) is consistent with the Act as there is a lack of demand for this order type. A Minimum Quantity Order is an order that requires that a specified minimum quantity of contracts be obtained, or the order is cancelled. Minimum Quantity Orders are treated as having a time-in-force designation of Immediate or Cancel. Minimum Quantity Orders received prior to the Opening Process or after market close will be rejected. This order type is not utilized frequently on the Exchange and is not currently offered on ISE, GEMX or MRX.

Order Entry Protocols

The Exchange's proposal to relocate the order entry protocols from current Options 3, Section 7(e) to proposed Supplementary Material .03 to Options 3, Section 7 is non-substantive. The Exchange's proposal to commence offering post trade allocation messages on FIX, described at proposed Supplementary Material .03(a) to Options 3, Section 7, is consistent with the Act as it will allow market participants to specify how an order should be subdivided among one or more accounts.⁴³ Today, ISE, GEMX, MRX and Phlx provide post trade allocation messages through FIX.⁴⁴ Additionally, the Exchange proposes to add a header for Request for PRISM. No changes are proposed for the remainder

of the protocols. The Exchange also proposes to reserve (d).

The Exchange's proposal to remove the words "complex instrument" from the OTTO description at proposed Supplementary Material .03(b) to Options 3, Section 7 is non-substantive as NTX Options does not currently offer complex functionality.

Routing

The Exchange's proposal to relocate the rule text at Options 3, Section 7(c) to Supplementary Material .04 of Options 3, Section 7 without change is a non-substantive amendment.

Order Size

The Exchange's proposal to remove the definition of the term "Order Size" is consistent with the Act as that term is not used in the Exchange's rules.

Options 3, Section 8

The Exchange's proposal to amend Options 3, Section 8, Options Opening Process, at Options 3, Section 8(b) to note the eligible interest that will be included in the Opening Process, is consistent with the Act because the Opening Only Order type was designated for entering interest into the opening whereas an "Immediate-or-Cancel" and Add Liquidity Order are meant to be utilized on an order book and not during the Opening Process where there is no order book.

The Exchange's proposal to add a sentence that states, "The displayed and non-displayed portions of the Reserve Orders are considered for execution and in determining the Opening Price throughout the Opening Process" is consistent with the Act. With the addition of Reserve Orders, the Exchange is proposing to describe the handling of newly adopted Reserve Orders in the Opening Process. The proposed eligibility of these orders mirrors ISE, GEMX, MRX and Phlx Options 3, Section 8(b). Also, similar to ISE, GEMX, MRX and Phlx Options 3, Section 8(g), the Exchange proposes to account for the addition of Reserve Orders with respect to the Potential Opening Price⁴⁵ in NTX Options at Options 3, Section 8(h). To calculate the Potential Opening Price, the System will take into consideration all Valid Width Quotes and orders (including Opening Sweeps and displayed and non-displayed portions of Reserve Orders) for the option series and identify the price at which the maximum number of contracts can trade ("maximum quantity

criterion"). The addition of this rule text will make clear the manner in which the System will handle a Reserve Order during the Opening Process. The Exchange also proposes to amend NTX Options at Options 3, Section 8(k)(3)(F) to note how Reserve Orders will be handled in the Opening Process for purposes of execution. This rule text will add transparency to the Exchange's rule text, and mirror rule text in ISE, GEMX, MRX and Phlx Options 3, Section 8(j)(6).

Finally, the Exchange proposes to amend rule text in the Opening Process Cancel Timer in Options 3, Section 8(l). With the retention of the "Good-Till-Canceled Order" and adoption of the "Good-Till-Date Order," the Exchange proposes to amend the order types in the last sentence of Options 3, Section 8(l) for consistency.

The Exchange's proposal to amend Options 2, Section 4, Obligations of Market Makers and Lead Market Makers at paragraph (l)(2)(a) to rename "Opening Cross" to "Opening Process" is a non-substantive amendment.

Options 3, Section 9

The Exchange's proposal to amend Options 3, Section 9, Trading Halts, at (d)(2) to describe the manner in which the newly adopted Stop Order will be treated during a trading halt is consistent with the Act. The Exchange proposes to mirror the treatment of Stop Orders in ISE, GEMX, MRX and Phlx Options 3, Section 9(d)(3). The Exchange proposes to add this sentence to Options 3, Section 9(d)(2), "Provided the Exchange has opened an affected option for trading, the Exchange shall elect Stop Orders if the condition as provided in Options 3, Section 7(d) is met, and, because they become Market Orders, shall cancel them back and notify Participants of the reason for such rejection." Stop Orders would become elected as provided for in proposed Options 3, Section 7(d).⁴⁶ If they elect as Market Orders, those Market Orders would be rejected. This aligns to the current treatment for Market Orders during a trading halt. These proposed changes are intended to bring greater clarity to the Exchange's rules.

Options 3, Section 10

The Exchange's proposal to amend Options 3, Section 10, Electronic

⁴² The Exchange amended the sentence that stated, "Immediate-or-Cancel" or "IOC" is a Market Order or Limit Order to be executed in whole or in part upon receipt. Any portion not so executed is cancelled. The proposed new sentence states, that an Immediate-or-Cancel is an order entered with a TIF of "IOC" that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled.

⁴³ For example, a Participant may specify the account(s) and their respective order quantities which make up the order.

⁴⁴ See ISE, GEMX and MRX Supplementary Material .03(a)(i) of Options 3, Section 7.

⁴⁵ The Potential Opening Price indicates a price where the System may open once all other Opening Process criteria is met.

⁴⁶ As proposed in NTX Options at Options 3, Section 7(d) a Stop Order becomes a Market Order when the stop price is elected. A Stop Order to buy is elected when the option is bid or trades on the Exchange at, or above, the specified stop price. A Stop Order to sell is elected when the option is offered or trades on the Exchange at, or below, the specified stop price.

Execution Priority and Processing in the System, is consistent with the Act.

Similar to the ISE, GEMX and MRX applicability language in Options 3, Section 10, the Exchange's proposal clarifies that the allocations specified in Options 3, Section 10 do not apply to the Price Improvement Auction ("PRISM") described within Options 3, Section 13, unless Options 3, Section 10 is specifically referenced.

The proposal to add a sentence at Options 3, Section 10(a)(A) with respect to Price/Time allocation that states, "Allocation of displayed interest shall occur before allocation of non-displayed interest at each price level" is consistent with the Act as it accounts for the allocation of Reserve Orders which have both displayed and non-displayed interest.

Today, ISE, GEMX and MRX Options 3, Section 10(c) provide for a Size Pro-Rata allocation. The proposal aligns the description of Size Pro Rata to ISE, GEMX and MRX Options 3, Section 10(c) to account for the fact that it is adopting Reserve Orders which will have both a displayed size and a non-displayed size. The Size Pro-Rata allocation divides the remainder proportionally among the non-displayed interest. Both the displayed and non-displayed portions of a Reserve Order are available for potential execution against incoming marketable orders or quotes. The non-displayed portion of any Reserve Order is available for execution only after all displayed interest on the single-leg order book has been executed.

The Exchange's proposal to replace the term "Lead Market Maker" with "LMM" and correct references to "book" with "order book" in various places throughout Options 3, Section 10 and to include the word "Process" after "Opening" in Options 3, Section 10(a)(5) are non-substantive amendments.

Options 3, Section 15

Acceptable Trade Range

The Exchange's proposal to amend the last sentence of Acceptable Trade Range or "ATR" at Options 3, Section 15(b)(1) to remove a reference to Minimum Quantity Orders is consistent with the Act. The Exchange proposes to remove Minimum Quantity Orders as they will no longer be offered.

Options 3, Section 20

The Exchange's proposal to add language at Options 3, Section 20(i), Nullification and Adjustment of Options Transactions including Obvious Errors, to describe the treatment of Stop and

Stop-Limit Orders triggered by an erroneous trade is consistent with the Act as the new language will describe the System handling for these new orders which are triggered by their Stop Price and may have been triggered by an erroneous trade. The proposed rule text is identical to Phlx Options 3, Section 20(i).

Options 3, Section 22

The Exchange's proposal to amend Options 3, Section 22, Limitations on Order Entry, to adopt a new Supplementary Material .01 is consistent with the Act because the new text will address exposure of non-displayed reserve portion of a Reserve Order as the Exchange is adding this new order type. The proposed text is identical to ISE, GEMX and MRX Supplementary Material .02 to Options 3, Section 22.

Options 3, Section 28

The Exchange's proposal to amend Options 3, Section 28, Optional Risk Protections, to align the rule text to ISE, GEMX, MRX and Phlx Options 3, Section 28 rule text is consistent with the Act as the proposed changes do not amend the functionality of the optional risk protections. The changes to the rule text would provide more guidance to market participants.

Options 5, Section 4

The Exchange's proposal to amend Options 5, Section 4, Order Routing, to account for new order types and align its rule to ISE Options 5, Section 4, is consistent with the Act. The Exchange proposes to amend Options 5, Section 4(a) to account for Stop Orders and Stop Limits Orders with respect to routing. The Exchange's proposal adopts the Stop Order at ISE Options 3, Section 7(d) and Stop Limit Order at ISE Options 3, Section 7(e). Stop Orders and Stop-Limit Orders are not included in the BBO because they have not been triggered. The new rule text will bring greater clarity to the Exchange's rule regarding the Exchange's BBO with respect to the routing of orders.

The Exchange's proposal to amend its SRCH Order in NTX Options at Options 5, Section 4(iii)(C) to conform to ISE Options 5, Section 4(iii)(C) is consistent with the Act because it brings greater clarity to the manner in which the SRCH Order routes. By way of background, a SRCH Order is routable at any time the option series is open for trading. The Exchange is adding a Good-Till-Date Order or GTD at proposed Supplementary Material .02(c) to NTX Options at Options 3, Section 7. Today, the Exchange does not offer a GTD

Order. The GTD Order would be identical to ISE, GEMX, MRX and Phlx's Good-Till-Date TIF at Supplementary Material .02(c) to Options 3, Section 7. Adding GTD to NTX Options at Options 5, Section 4(iii)(C), similar to ISE Options 5, Section 4(iii)(C), will reflect how a GTD TIF would be handled by the System for a SRCH Order.

Options 6, Section 1

The Exchange's proposal to amend Options 6, Section 1, Authorization to Give Up, to align the Exchange's process to that of ISE, GEMX and MRX Options 6, Section 1(c) is consistent with the Act because with the proposed change, the System will process that transaction using the Participant's default OCC clearing number. Therefore, a Participant may amend the OCC clearing number to any valid OCC clearing number at the time of the trade, or through post trade allocation. Today, Participants may not amend the mnemonic, rather they may only utilize a permissible mnemonic to Give-Up a transaction. This amendment provides Participants with greater flexibility similar to ISE, GEMX and MRX. The proposed rule will be identical to ISE, GEMX and MRX.

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.

Options 1, Section 1 and Options 2, Section 3

The Exchange's proposal to define the term "Lead Market Maker" at Options 1, Section 1(a)(25) to mean a Market Maker who is registered as an options Lead Market Maker pursuant to Options 2, Section 3 does not impose an undue burden on competition because it replicates a term that is proposed at Options 2, Section 5. The Exchange's proposal to amend current Options 1, Section 1(a)(45) which describes the term "out-of-the-money" to remove the final sentence which states, "This definition shall only apply for purposes of Market Maker quoting obligations in Options 2, Section 5" is also a non-substantive amendment because, today, the term applies to all Options Rules and not only Options 2, Section 5.

Options 2, Section 6

The Exchange believes that this proposal does not impose an undue burden on inter-market competition because each options exchange generally determines permissible order

types for market makers in its trading environment based on the exchange's individual business policy, objectives, and trading system.

The Exchange's proposal reflects its policy and objectives, and does not impose an undue burden on intra-market competition because it treats all Market Makers uniformly with respect to permissible order types. Market Makers, unlike other market participants, are required to abide by certain quoting requirements in the options classes in which they are appointed pursuant to Options 2, Section 5, in order to maintain the status of a Market Maker. Current Options 2, Section 6(b) restricts the number of orders that a Market Maker may enter in an options class to which the Market Maker is not appointed. The Exchange believes that permitting a Market Maker to enter additional eligible order types, except Reserve Orders in addition to the current restriction for Customer Cross Orders, in their appointed options class will permit Market Makers additional latitude to conduct business on NTX Options and effectively compete with other market makers on other options exchanges.

Options 3, Section 7

The Exchange's proposal to amend NTX Options' existing order types so that the selected order types are identical to order types available on ISE, GEMX, MRX and Phlx Options 3, Section 7 and to adopt new order types such as a Fill-or-Kill Order, a Stop Order, a Stop Limit Order, a Reserve Order and a TIF of GTD does not impose an inter-market burden on competition as other exchanges may determine to adopt similar order types. Additionally, removing Minimum Quantity Orders from its offering does not impose an inter-market burden on competition as other exchanges may elect to adopt this order type.

The Exchange's proposal to amend NTX Options' existing order types so that those order types are identical to order types available on ISE, GEMX, MRX and Phlx Options 3, Section 7 and to adopt new order types such as a Fill-or-Kill Order, a Stop Order, a Stop Limit Order, a Reserve Order and a TIF of GTD does not impose an intra-market burden because all Participants would be able to utilize all of the order types, except Market Makers with respect to Reserve Orders. Restricting Market Makers (and Lead Market Makers) from entering Reserve Orders does not impose an intra-market burden on competition because Market Maker (and Lead Market Maker) liquidity should be

displayed, and Reserve Orders have non-displayed portions of liquidity. Additionally, removing Minimum Quantity Orders from its offering does not impose an intra-market burden on competition as no Participant would be able to utilize a Minimum Quantity Order. Finally, the Exchange's proposal to restrict the Add Liquidity Order to a Time-in-Force of Day does not impose an intra-market burden on competition because no Participant will be able to enter an Add Liquidity Order with a Time-in-Force other than Day. The Exchange's proposal to restrict the Add Liquidity Order to a Time-in-Force of Day does not impose an inter-market burden on competition because Options 3, Section 7(a)(9) also restricts Add Liquidity Orders to Day Orders only.

The Exchange's proposal to amend the FIX protocol to offer post trade allocation messages does not impose an intra-market burden on competition because all Participants will be offered post trade allocation messages.

The Exchange's proposal to amend the FIX protocol to offer post trade allocation messages does not impose an inter-market burden on competition because today ISE, GEMX, MRX and Phlx provide post trade allocation messages through FIX.⁴⁷

Options 3, Section 8

The Exchange's proposal to amend Options 3, Section 8, Options Opening Process, to add System detail concerning new order types, does not impose an inter-market burden because other exchanges may adopt similar functionality. Today, ISE, GEMX, MRX and Phlx Options 3, Section 8 contain similar functionality.

The Exchange's proposal to amend Options 3, Section 8, Options Opening Process, to add System details concerning new order types, does not impose an intra-market burden because all market participants would be subject to the Opening Process.

Options 3, Section 9

The Exchange's proposal to amend Options 3, Section 9, Trading Halts, to mirror the treatment of Stop Orders in ISE, GEMX, MRX and Phlx Options 3, Section 9(d)(3) does not impose an inter-market burden because other exchanges may adopt similar functionality.

The Exchange's proposal to amend Options 3, Section 9, Trading Halts, to mirror the treatment of Stop Orders in ISE, GEMX, MRX and Phlx Options 3, Section 9(d)(3) does not impose an

intra-market burden because all market participants would be subject to the Trading Halts rule.

Options 3, Section 10

The Exchange's proposal to add a sentence at Options 3, Section 10(a)(A) with respect to Price/Time allocation that states, "Allocation of displayed interest shall occur before allocation of non-displayed interest at each price level" does not impose an inter-market burden, rather this additional rule text accounts for the allocation of Reserve Orders which have both displayed and non-displayed interest and applies uniformly to all orders allocated in the order book.

The Exchange's proposal to add a sentence at Options 3, Section 10(a)(A) with respect to Price/Time allocation that states, "Allocation of displayed interest shall occur before allocation of non-displayed interest at each price level" does not impose an intra-market burden because displayed interest is allocated before non-displayed interest on ISE, GEMX and MRX pursuant to Options 3, Section 10.

The Exchange's proposal to amend Options 3, Section 10, Electronic Execution Priority and Processing in the System, to adopt a Size Pro-Rata description similar to ISE, GEMX and MRX Options 3, Section 10 does not impose an inter-market burden because other exchanges may apply Size Pro-Rata similarly.

The Exchange's proposal to amend Options 3, Section 10, Electronic Execution Priority and Processing in the System, to adopt a Size Pro-Rata description similar to ISE, GEMX and MRX Options 3, Section 10 does not impose an intra-market burden because the Exchange is amending its order types and would account for Reserve Orders which have both displayed and non-displayed liquidity.

Options 3, Section 15

The Exchange's proposal to remove Minimum Quantity Orders from the Acceptable Trade Range description does not impose an undue burden on competition because that order type will no longer be capable of being utilized by any market participant.

Options 3, Section 20

The Exchange's proposal to add language at Options 3, Section 20(i), Nullification and Adjustment of Options Transactions including Obvious Errors, to describe the treatment of Stop and Stop-Limit Orders triggered by an erroneous trade does not impose an undue burden on intra-market

⁴⁷ See ISE, GEMX and MRX Supplementary Material .03(a)(i) of Options 3, Section 7.

competition as the rule will be applied in a uniform manner.

The Exchange's proposal to add language at Options 3, Section 20(i), Nullification and Adjustment of Options Transactions including Obvious Errors, to describe the treatment of Stop and Stop-Limit Orders triggered by an erroneous trade does not impose an undue burden on inter-market competition because all other options exchanges that offer Stop and Stop-Limit Orders have this rule.

Options 3, Section 22

The Exchange's proposal to amend Options 3, Section 22, Limitations on Order Entry to account for Reserve Orders does not impose an undue burden on intra-market competition as the rule will be applied in a uniform manner.

The Exchange's proposal to amend Options 3, Section 22, Limitations on Order Entry to account for Reserve Orders does not impose an undue burden on inter-market competition because ISE, GEMX, MRX and Phlx Options 3, Section 22 has identical rule text.

Options 3, Section 28

The Exchange's proposal to align the rule text to ISE, GEMX, MRX and Phlx Options 3, Section 28 rule text does not impose an undue burden on inter-market competition because it does not amend the functionality of the optional risk protections and provides additional clarity to market participants.

Options 5, Section 4

The Exchange's proposal to amend its routing rule, similar to ISE Options 5, Section 4, to account for the new order types does not impose an undue burden on inter-market competition because other exchanges may elect to route in a similar manner.

The Exchange's proposal to amend its routing rule, similar to ISE Options 5, Section 4, to account for the new order types does not impose an undue burden on intra-market competition because the routing rules apply equally to all NTX Participants.

Options 6, Section 1

The Exchange's proposal to amend Options 6, Section 1, Authorization to Give Up, does not impose an undue burden on intra-market competition, rather it will permit all Participants to amend the OCC mnemonic to any valid OCC number at the time of the trade, or through post trade allocation. The proposal will create a uniform process for Give-Up for all Participants and harmonize the Exchange's Options 6,

Section 1 rule to ISE, GEMX and MRX Options 6, Section 1.

The Exchange's proposal to amend Options 6, Section 1, Authorization to Give Up, does not impose an undue burden on inter-market competition because other markets today have the same Give-Up process.⁴⁸

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁴⁹ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁵⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or

⁴⁸ See ISE, GEMX and MRX Options 6, Section 1(c).

⁴⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

- Send an email to rule-comments@sec.gov. Please include file number SR-NasdaqTX-2026-033 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NasdaqTX-2026-033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NasdaqTX-2026-033 and should be submitted on or before August 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵¹

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105998; File No. SR-PHLX-2026-47]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Introduce Nasdaq Totalview Plus and Nasdaq Basic Plus Data Feeds

July 28, 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 24, 2026, Nasdaq PHLX LLC (the "Exchange" or "Phlx") 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

⁵¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 introduce Nasdaq TotalView Plus and Nasdaq Basic Plus, two new data feeds which will offer consolidated top of book and depth of book information currently disseminated by Nasdaq PSX, The Nasdaq Stock Market LLC ("Nasdaq"), and Nasdaq Texas, LLC ("Nasdaq Texas").

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

The Exchange proposes to introduce Nasdaq TotalView Plus and Nasdaq Basic Plus, two new data feeds which will offer consolidated top of book and depth of book information currently disseminated by Nasdaq, Nasdaq Texas, and Nasdaq PSX. The new depth of book product, Nasdaq TotalView Plus, will combine information from Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView. The new top of book product, Nasdaq Basic Plus, will combine information from Nasdaq Basic (which includes both best bid and offer and last sale information), Nasdaq Texas BBO, Nasdaq Texas Last Sale, PSX BBO, and PSX Last Sale.

The proposed data feeds, Nasdaq TotalView Plus and Nasdaq Basic Plus, are modeled on the existing NLS Plus feed, which has disseminated consolidated last sale information from three Nasdaq-affiliated equity markets

and the FINRA/Nasdaq TRF for over a decade.³ Similar data feeds that consolidate data from multiple exchanges have been offered by other Self-Regulatory Organizations for about the same amount of time.⁴

This proposal will provide customers with a new option for consuming top-of-book and depth-of-book information. The current underlying feeds will remain available, and customers may choose to purchase those feeds as they do now. This proposal will also enable customers to purchase a consolidated feed through a single connection which may, for some customers, allow them to optimize the ingestion of data. Nothing in this proposal will change the depth-of-book or top-of-book information available in the market, as the underlying feeds will remain available, and the proposed feeds are simply amalgamations of those same underlying feeds.

Although the consolidation of top-of-book and depth-of-book data feeds from multiple affiliated exchanges is not new, the Exchange believes that such feeds will become more important with the commencement of overnight trading in December 2026. Because liquidity may be limited for certain stocks in the overnight session, the proposed consolidated feeds will provide investors with a broader view of the market than independent feeds, improving the ability of the investor to analyze market data in a lower liquidity environment. As such, we believe that the creation of these new feeds will facilitate the transition of investors to an overnight trading environment.

Proposals to add Nasdaq TotalView Plus and Nasdaq Basic Plus to the

³ See Securities Exchange Act Release No. 74972 (May 15, 2015), 80 FR 29370 (May 21, 2015) (SR-Nasdaq-2015-055) (establishing the NLS Plus data feed).

⁴ See, e.g., Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR-NYSE-2014-40) (order granting approval to establish the NYSE Best Quote & Trades ("BQT") data feed, which offers best bid and offer and last sale information for NYSE-affiliated exchanges); Securities Exchange Act Release No. 82423 (December 29, 2017), 83 FR 579 (January 4, 2018) (SR-ChoeEDGA-2017-004) (proposal to modify the Choe One Feed, which disseminates the aggregate best bid and offer of all displayed order for securities traded on Choe-affiliated exchanges); Securities Release Act Release No. 105190 (April 9, 2026), 91 FR 19233 (April 14, 2026) (SR-ChoeEDGX-2026-020) (proposal to modify Choe One Premium data feed, an aggregated depth-of-book feed for Choe-affiliated exchanges, from five to twelve price levels); Securities Exchange Act Release No. 100030 (April 25, 2024), 89 FR 35260 (May 1, 2024) (SR-NYSE-2024-24) (proposal to modify the NYSE Pillar Depth feed, which provides a consolidated view of the ten best price levels on both the bid and offer sides for NYSE-affiliated exchanges).

Nasdaq and Nasdaq Texas rulebooks are being simultaneously submitted.

Current Feeds

PSX TotalView

PSX TotalView disseminates all individual Nasdaq PSX participant orders displayed in Nasdaq PSX, the aggregate size of such orders at each price level, and the trade data for executions that occur within Nasdaq PSX.⁵

Nasdaq TotalView

Nasdaq TotalView is a Depth-of-Book data feed that contains price quotations at more than one price level. Nasdaq TotalView means, with respect to stocks listed on Nasdaq and on an exchange other than Nasdaq, all orders and quotes from all Nasdaq members displayed in the Nasdaq Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq Market Center.⁶

Nasdaq Texas TotalView

Nasdaq Texas TotalView disseminates all individual Nasdaq Texas Equities System participant orders and quotes displayed in the system, the aggregate size of such orders and quotes at each price level, and the trade data for executions that occur within the Nasdaq Texas Equities System.⁷

PSX BBO Feeds

PSX BBO Feeds consist of real-time market information from PSX.⁸ "PSX BBO for Nasdaq" contains PSX's best bid and offer for Nasdaq-listed securities. "PSX BBO for NYSE" contains PSX's best bid and offer for NYSE-listed securities. "PSX BBO for NYSE Amex" contains PSX's best bid and offer for NYSE Amex-listed securities.

PSX Last Sale

PSX Last Sale consists of proprietary data feeds containing real-time last sale information for trades executed on PSX.⁹ "PSX Last Sale for Nasdaq" contains all transaction reports for Nasdaq-listed securities. "PSX Last Sale for NYSE/NYSEAmex" contains all such transaction reports for securities

⁵ Nasdaq PHLX LLC Rules, Equity 7, Section 3, PSX TotalView.

⁶ Nasdaq Stock Market LLC Rules, Equity 7, Section 123.

⁷ Nasdaq Texas LLC Rules, Equity 7, Section 123.

⁸ Nasdaq PHLX LLC, Equity 7, Section 3, PSX BBO Feeds.

⁹ Nasdaq PHLX LLC, Equity 7, Section 3, PSX Last Sale and Nasdaq Last Sale Plus Data Feeds.

listed on NYSE, NYSE Amex, and other exchanges.

Nasdaq Basic

Nasdaq Basic consists of three proprietary data feeds with real-time market information from the Nasdaq Market Center and the FINRA/Nasdaq Trade Reporting Facility (“TRF”).¹⁰ First, “Nasdaq Basic for Nasdaq” contains Nasdaq’s best bid and offer and last sale for Nasdaq-listed stocks from Nasdaq and the FINRA/Nasdaq TRF. Second, “Nasdaq Basic for NYSE” contains Nasdaq’s best bid and offer and last sale for NYSE-listed stocks from Nasdaq and the FINRA/Nasdaq TRF. Third, “Nasdaq Basic for NYSE American” contains Nasdaq’s best bid and offer and last sale for stocks listed on NYSE American and other Tape B listing venues from Nasdaq and the FINRA/Nasdaq TRF.

Nasdaq Texas BBO Feeds

The Nasdaq Texas BBO Feeds consist of real-time market information from the Exchange Market Center.¹¹ “Nasdaq Texas BBO for Nasdaq” contains the Exchange’s best bid and offer for Nasdaq-listed securities. “Nasdaq Texas BBO for NYSE” contains the Exchange’s best bid and offer for NYSE-listed securities. “Nasdaq Texas BBO for Amex” contains the Exchange’s best bid and offer for Amex-listed securities.

Nasdaq Texas Last Sale

Nasdaq Texas Last Sale is a proprietary data feed containing real-time last sale information for trades executed on the Exchange.¹² “Nasdaq Texas Last Sale for Nasdaq” contains all transaction reports for Nasdaq-listed securities. “Nasdaq Texas Last Sale for NYSE/Amex” contains all such transaction reports for NYSE- and Amex-listed securities.

Proposed Feeds

Nasdaq Basic Plus

The Exchange proposes Nasdaq Basic Plus, which will include the best bid and offer and last sale information for stocks listed on any of the Nasdaq U.S. Equity Markets (The Nasdaq Stock Market (“Nasdaq”), Nasdaq Texas (“NTX”), and Nasdaq PSX (“PSX”)) or any exchange other than Nasdaq and displayed on any of the Nasdaq U.S. Equity Markets or the FINRA/Nasdaq TRF, including all information currently

disseminated through Nasdaq Basic,¹³ Nasdaq Texas BBO,¹⁴ Nasdaq Texas Last Sale, PSX BBO,¹⁵ and PSX Last Sale.

Nasdaq TotalView Plus

The Exchange proposes Nasdaq TotalView Plus, which will include, with respect to stocks listed on Nasdaq or on any exchange other than Nasdaq, all orders and quotes from all members of any of the Nasdaq U.S. Equity Markets and displayed on a Nasdaq U.S. Equity Market, including all information currently disseminated through Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView, and the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq U.S. equity markets.

In offering Nasdaq Basic Plus and Nasdaq TotalView Plus, Nasdaq will be acting as a redistributor of depth-of-book¹⁶ and top-of-book¹⁷ products from Nasdaq, Nasdaq Texas, and Nasdaq PSX. Nasdaq Basic Plus and Nasdaq TotalView Plus will be compiled from the same underlying feeds from Nasdaq, Nasdaq Texas, and Nasdaq PSX that are distributed to the purchasers of those feeds.

All of the market data distributed through Nasdaq Basic Plus and Nasdaq TotalView Plus will be taken from the Nasdaq, Nasdaq Texas, and Nasdaq PSX data feeds, which will remain available to vendors. Although the proposed feeds will differ from the underlying feeds in certain ancillary characteristics, none of these ancillary characteristics will advantage the Exchange in any way relative to vendors, as all depend on independent sources of information equally available to both the Exchange and vendors.¹⁸

¹³ Including “Nasdaq Basic for Nasdaq,” “Nasdaq Basic for NYSE,” and “Nasdaq Basic for NYSE American.”

¹⁴ Including “Nasdaq Texas BBO for Nasdaq,” “Nasdaq Texas BBO for NYSE,” and “Nasdaq Texas BBO for Amex.”

¹⁵ Including “PSX BBO for Nasdaq,” “PSX BBO for NYSE,” and “PSX BBO for NYSE Amex.”

¹⁶ The underlying depth of book products are Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView.

¹⁷ The underlying top of book products are Nasdaq Basic (which includes both best bid and offer and last sale information), Nasdaq Texas BBO, Nasdaq Texas Last Sale, PSX BBO, and PSX Last Sale.

¹⁸ The proposed feeds will use timestamps in Epoch (or “Unix”) time (the number of seconds since January 1, 1970). Epoch time is based on a universal standard available to all market participants and freely convertible from any other time measurement. The configuration of Nasdaq Basic Plus and Nasdaq TotalView Plus will also differ from the underlying feeds through the creation of standardized headers or message structures. Such ancillary characteristics can be replicated by any vendor.

Nasdaq will have no competitive advantage over other market data vendors because the Exchange will consolidate the trading information needed to form Nasdaq Basic Plus and Nasdaq TotalView Plus at the same time and using the same data feeds distributed to other vendors. Although Nasdaq will propose specific fees in a separate filing, the Exchange expects to set fees at a level that will provide vendors with the ability to offer competing products using the same underlying feeds at no cost disadvantage. As such, the Exchange will not have a speed, information, or cost advantage relative to other vendors in the creation or sale of consolidated data feeds.

With respect to speed, the path for the distribution of the information by the Exchange will not be faster than the path for distribution that would be used by a market data vendor to distribute similar, independently created products. As such, the Exchange will have no latency advantage over a competing market data vendor.

With respect to information, the same source of the market data to be used by the Exchange to create the two proposed products will also be available to any other market data vendor. Specifically, the Nasdaq system that will create and support Nasdaq Basic Plus and Nasdaq TotalView Plus will access the underlying feeds from Nasdaq, Nasdaq Texas, and Nasdaq PSX from the same point as any market data vendor.

With respect to cost, the Exchange will submit a separate proposal to establish fees for Nasdaq Basic Plus and Nasdaq TotalView Plus. In that filing, the Exchange expects to set fees at a level that will provide vendors with the ability to offer a competing product using the same underlying feeds at no cost disadvantage.

As such, Nasdaq will have no competitive advantage over any market data vendor that may offer a similar or comparable product.

Fees

Fees for Nasdaq TotalView Plus and Nasdaq Basic Plus will be proposed in a separate filing.

Implementation

The Exchange will announce the operative date of the proposed rule change to members and member organizations in an Equity Trader Alert.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

¹⁰ The Nasdaq Stock Market LLC, Equity 7, Section 147.

¹¹ Nasdaq Texas, LLC, Equity 7, Section 147.

¹² Nasdaq Texas, LLC, Equity 7, Section 139(a).

of the Act,¹⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁰ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. This is because the proposal will offer customers additional choice in how they consume their depth of book and best bid and offer information and allow certain customers to optimize how they consume such information.

The proposal will expand customer choice by allowing them to select whether to purchase best bid and offer information through the separate data feeds of Nasdaq Basic, Nasdaq Texas BBO and PSX BBO (or any combination thereof) separately or in a single feed. Customers will similarly be able to consume Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView (or any combination thereof) separately or in a single feed. This is a well-established market feed structure offered by multiple exchanges over many years. The NLS Plus feed is one such example, and has been available for over a decade.²¹ The New York Stock Exchange has offered a similar bid and offer feed for as long a period,²² as have other exchanges.²³

As set forth in more detail in Section 7, Nasdaq Basic Plus will provide substantially the same top-of-book information as the NYSE BQT feed, which provides best bid and offer and last sale information for the New York Stock Exchange and its affiliates,²⁴ and the Cboe One feed, which disseminates the aggregate best bid and offer of all displayed orders traded on Cboe's affiliated exchanges.²⁵

The proposed Nasdaq TotalView Plus feed will also provide substantially the

same depth-of-book information as the Cboe One Premium feed, which disseminates aggregated depth-of-book information for up to twelve price levels for the Cboe-affiliated exchanges,²⁶ and the NYSE Pillar Depth feed, which provides a consolidated view of the ten best price levels on both the bid and offer sides across the NYSE Group's combined limit order books for the NYSE-affiliated exchanges.²⁷

The proposal will also allow certain customers to optimize consumption by ingesting information from multiple markets in a single connection, allowing subscribers to onboard and maintain access to market data more efficiently, which may result in cost savings for subscribers based on a more efficient configuration of data feeds.

This proposal will not change the depth of book or top of book information available in the market, as the consolidated feed will have the same information as the underlying feeds. As explained above, Nasdaq is acting as a redistributor of depth-of-book²⁸ and top-of-book²⁹ products from Nasdaq, Nasdaq Texas, and Nasdaq PSX. Also, as noted above, the proposed feeds will differ from the underlying feeds in certain ancillary characteristics, but none of these ancillary characteristics will advantage the Exchange in any way relative to vendors, as all depend on independent sources of information equally available to both the Exchange and vendors. Nasdaq will have no competitive advantage over other market data vendors because the Exchange will take the same data available to other market data vendors at the same time, and therefore will have neither a speed nor an information advantage over them. With respect to cost, the Exchange will propose in a separate filing to set fees at a level that will provide vendors with the ability to offer a competing product using the same underlying feeds at no cost disadvantage.

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.

Nothing in the proposal burdens inter-market competition (the competition among self-regulatory organizations) because the proposed changes do not alter the ability of non-affiliated markets to propose changes to their respective rulebooks to offer similar feeds, or alternative feeds to compete against these products, in response to these changes.

Nothing in the proposal burdens intra-market competition (the competition among consumers of exchange data) because the proposed feeds will be available to any market participant on a non-discriminatory basis.

Nothing in the proposal will burden the ability of market data vendors to compete with the Exchange. As explained above, Nasdaq is acting as a redistributor of depth of book and top of book products from Nasdaq, Nasdaq Texas, and Nasdaq PSX.

Nasdaq will have no competitive advantage over other market data vendors because the Exchange will take the same data available to other market data vendors at the same time, and therefore will have neither a speed nor an information advantage over them. With respect to cost, the Exchange will propose in a separate filing to set fees at a level that will provide vendors with the ability to offer a competing product using the same underlying feeds at no cost disadvantage. Although the proposed feeds will differ from the underlying feeds in certain ancillary characteristics, none of these ancillary characteristics will advantage the Exchange in any way relative to vendors, as all depend on independent sources of information equally available to both the Exchange and vendors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ See Securities Exchange Act Release No. 74972 (May 15, 2015), 80 FR 29370 (May 21, 2015) (SR-Nasdaq-2015-055) (establishing the NLS Plus data feed).

²² See, e.g., Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR-NYSE-2014-40) (order granting approval to establish the NYSE Best Quote & Trades ("BQT") Data Feed).

²³ See, e.g., Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (SR-BATS-2014-055; SR-BYX-2014-030; SR-EDGA-2014-25; SR-EDGX-2014-25) (order approving market data product called BATS One Feed being offered by four affiliated exchanges).

²⁴ Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR-NYSE-2014-40).

²⁵ Securities Exchange Act Release No. 82423 (December 29, 2017), 83 FR 579 (January 4, 2018) (SR-CboeEDGA-2017-004).

²⁶ Securities Release Act Release No. 105190 (April 9, 2026), 91 FR 19233 (April 14, 2026) (SR-CboeEDGX-2026-020).

²⁷ Securities Exchange Act Release No. 100030 (April 25, 2024), 89 FR 35260 (May 1, 2024) (SR-NYSE-2024-24) (introducing the NYSE Pillar Depth feed as immediately effective pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b-4(f)(6) thereunder).

²⁸ The underlying depth of book products are Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView.

²⁹ Nasdaq Basic (which includes both best bid and offer and last sale information), Nasdaq Texas BBO, Nasdaq Texas Last Sale, PSX BBO, and PSX Last Sale.

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 Act³⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.³¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-PHLX-2026-47 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-2026-47. 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-2026-47 and should be submitted on or before August 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-15462 Filed 7-30-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0063]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Exchange Act Form 10-K

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") this request for an extension of the previously approved collection of information discussed below. The Commission also is requesting approval from OMB to designate this existing collection of information (OMB Control No. 3235-0063) as a "common form" for purposes of PRA submissions¹ because the Board of Governors of the Federal

³² 17 CFR 200.30-3(a)(12).

¹ See ROCIS PRA Module User Guide v. 8.2, at 110-111 (Mar. 2024), available at <https://www.rocis.gov/rocis/viewResources.do> ("A 'common form' is an information collection that can be used by two or more agencies, or government-wide, for the same purpose. The Common Forms Module [in ROCIS] allows a 'host' agency to obtain [OMB] approval of an information collection for use by one or more 'using' agencies. After OMB grants approval, any prospective using agency that seeks to collect identical information for the same purpose can obtain approval to use the 'common form' by providing its agency-specific information to OMB (e.g., burden estimates and number of respondents). . . . The host agency will indicate in the **Federal Register** notices that it is requesting approval of a common form and, if known, identify other agencies that may use the information collection. Both the **Federal Register** notices and the ICR should account only for the burden imposed by the host agency's use of the common form. Once the host agency has received approval from OMB, any agency will be able to request OMB approval for its use of the common form in ROCIS by providing its agency specific information to OMB (e.g., burden estimates and number of respondents). Additional public notice by those agencies will not be required.").

Reserve System uses this information collection (under OMB Control No. 7100-0091).

Form 10-K (17 CFR 249.310) is filed by issuers of securities to satisfy their annual reporting obligations pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)). The information provided by Form 10-K is intended to ensure the adequacy of information available to investors and securities markets about an issuer. The information required by Form 10-K is mandatory, and Form 10-K filings are publicly available on the Commission's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system. We estimate that Form 10-K is filed once per year by approximately 6,740 respondents, for a total of approximately 6,740 responses annually. We estimate that respondents incur 1,695.2 burden hours per Form 10-K response, for a total annual reporting burden of 11,425,648 hours (1,695.2 burden hours per response × 6,740 responses). We estimate that respondents incur \$334,438.81 cost burden per Form 10-K response, for a total annual cost burden of \$2,254,117,579 (\$334,438.81 cost burden per response × 6,740 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202605-3235-002 or send an 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 31, 2026.

Dated: July 29, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-15557 Filed 7-30-26; 8:45 am]

BILLING CODE 8011-01-P

³⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

³¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105996; File No. SR–NYSETEX–2026–29]

Self-Regulatory Organizations; NYSE Texas, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.35 (Auctions) for ETP IPO Securities

July 28, 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 17, 2026, the NYSE Texas, Inc. (“NYSE Texas” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.35 (Auctions) to introduce an option for an exchange-traded products (“ETP”) eligible to participate in an initial public offering (“IPO”) auction to elect to commence trading in the NYSE Texas Early Trading Session. 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 7.35(f) to provide an option for an “ETP IPO Security” as defined therein to commence trading in the Early Trading Session. The proposal is substantively identical to Cboe BZX Exchange, Inc. (“Cboe BZX”) functionality that allows similarly defined ETP IPO Securities the option to commence trading at 4:00 a.m. Eastern Time (“ET”) or in the IPO Auction at 9:30 a.m. ET on the first day of trading.⁴ The Exchange’s affiliate NYSE Arca, Inc. (“NYSE Arca”), recently adopted substantially the same rule text.⁵

Background and Proposed Rule Change

Currently, IPO Auctions for any security, including Derivative Securities Products,⁶ for which NYSE Texas is the primary listing market, excluding transfers, commence trading at the start of the Core Trading Session, which begins for each security at 9:30 a.m. ET.⁷ IPO Auctions follow the processing rules of a Core Open Auction subject to Rule 7.35(f).

The Exchange proposes to provide that an ETP IPO Security, defined as a Derivative Securities Product that is eligible to participate in an IPO Auction pursuant Rule 7.35–E(f), may elect to begin trading in the Early Trading Session, which begins at 4:00 a.m. ET,⁸ as an alternative to the IPO Auction. As

proposed, an ETP IPO Security that elects to commence trading during the Early Trading Session would follow the processing rules of an Early Open Auction set forth in Rule 7.35(b).

To effectuate these changes, the Exchange would add the following text to Rule 7.35–E(f):

An “ETP IPO Security” as defined herein may elect to commence trading in the Early Trading Session. An ETP IPO Security that elects to commence trading during the Early Trading Session will follow the processing rules of an Early Open Auction. An “ETP IPO Security” means a Derivative Securities Product that is eligible to participate in an IPO Auction pursuant to this Rule.

The proposed rule text is substantially the same as Cboe BZX Rule 11.23(a)(24) and Rule 11.23(d)(2)(E)(i)(a) and NYSE Arca Rule 7.35–E(f).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest by strengthening the Exchange’s ability to oversee and police its marketplace. In addition, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.¹¹

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and national market system and will benefit investors by providing market participants with additional opportunities to source and access liquidity for their orders in new issue ETPs on the Exchange. The proposed option to permit issuers to begin trading an ETP IPO Security during the Early Trading Session would provide for earlier trading opportunities in highly anticipated new issue ETPs, functionality that is already in place on other marketplaces.¹² The Exchange

⁴ See Cboe BZX Rule 11.23(a)(24) & 11.23(d)(2)(E)(i)(a). See Securities Exchange Act Release No. 104037 (Sept. 29, 2025), 90 FR 46690 (Sept. 29, 2025) (SR–CboeBZX–2025–130) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.23 To Introduce an Option for an Exchange-Traded Product (“ETP”) Eligible To Participate in an Initial Public Offering (“IPO”) Auction To Elect to Commence Trading in the BZX Early Trading Session) (“Cboe BZX Notice”). Nasdaq Stock Market LLC (“Nasdaq”) also offers substantially similar functionality. See Nasdaq Rule 4120; see generally Securities Exchange Act Release No. 103085 (May 20, 2025), 90 FR 22424 (May 27, 2025) (SR–Nasdaq–2025–011) (Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Introduce Functionality To Initiate a Trading Halt for Exchange-Traded Products on Launch Day) (“Nasdaq Approval Order”).

⁵ See NYSE Arca Rule 7.35–E(f). See Securities Exchange Act Release No. 105670 (June 11, 2026), 91 FR 36224 (June 16, 2026) (SR–NYSEARCA–2026–60) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend Rule 7.35–E).

⁶ Rule 1.1(k) defines “Derivative Securities Product” as a security that meets the definition of “derivative securities product” in Rule 19b–4(e) under the Act.

⁷ See Rule 7.34(a)(2).

⁸ See Rule 7.34(a)(1).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78f(b)(5).

¹² See notes 4 & 5, *supra*.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

believes that the issuer is best situated to determine whether to commence trading in its ETP IPO Security during the Early Trading Session or pursuant to the IPO Auction.

The proposed amendments will have no impact on the operation of trading in the Early Trading Session and would simply allow for an ETP IPO Security to begin trading on the Exchange at 4 a.m. ET at the issuer's option in the same manner that an ETP transferred from another securities exchange begins trading on the Exchange. The Exchange believes that amending its rules to extend trading hours for ETP IPO Securities will benefit investors in that they will now be able to trade ETP IPO Securities earlier in the day on the Exchange in the same manner as currently available on other marketplaces, thereby providing additional access to liquidity in securities that an ETP issuer deems appropriate for trading in the Early Trading Session. The Exchange also believes that offering the IPO Auction as a default for ETP IPO Securities with the option to participate in the Early Trading Session will allow issuers an alternative option if such issuer is concerned about unexpected volatility in ETP pricing during the Early Trading Session.¹³

The Exchange believes that proposed rule changes raise no novel issues as the proposed rules are consistent with early trading for ETPs already in place under the rules of other exchanges.¹⁴

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. In particular, the Exchange does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of purposes of the Act because all ETP IPO Securities may commence trading in the Exchange's Early Trading Session if requested by the issuer. The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition but instead may promote competition because the proposed early trading hours for ETP IPO Securities are identical to those on Cboe, Nasdaq, and the Exchange's affiliate NYSE Arca.¹⁵ Market participants are free to trade on

the Exchange if they determine that this proposed rule change has made the Exchange a more attractive or favorable venue.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁶ 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 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-NYSETEX-2026-29 on the subject line.

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-NYSETEX-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 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-NYSETEX-2026-29 and should be submitted on or before August 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-15460 Filed 7-30-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106003; File No. SR-NasdaqTX-2026-035]

Self-Regulatory Organizations; Nasdaq Texas, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Introduce Nasdaq TotalView Plus and Nasdaq Basic Plus Data Feeds

July 28, 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 24, 2026, Nasdaq Texas, LLC (the "Exchange" or "Nasdaq Texas") 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

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹³ See Cboe BZX Notice, 90 FR at 46691 (citing Nasdaq Approval Order, 90 FR at 24430).

¹⁴ See notes 4 & 5, *supra*.

¹⁵ See *id.*

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 introduce Nasdaq TotalView Plus and Nasdaq Basic Plus, two new data feeds which will offer consolidated top of book and depth of book information currently disseminated by Nasdaq Texas, The Nasdaq Stock Market LLC ("Nasdaq"), and Nasdaq PHLX LLC equities ("Nasdaq PSX").

While these amendments are effective upon filing, the Exchange will announce the operative date of the proposed rule change to members and member organizations in an Equity Trader Alert.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaqtx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to introduce Nasdaq TotalView Plus and Nasdaq Basic Plus, two new data feeds which will offer consolidated top of book and depth of book information currently disseminated by Nasdaq, Nasdaq Texas, and Nasdaq PSX. The new depth of book product, Nasdaq TotalView Plus, will combine information from Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView. The new top of book product, Nasdaq Basic Plus, will combine information from Nasdaq Basic (which includes both best bid and offer and last sale information), Nasdaq Texas BBO, Nasdaq Texas Last Sale, PSX BBO, and PSX Last Sale.

The proposed data feeds, Nasdaq TotalView Plus and Nasdaq Basic Plus, are modeled on the existing NLS Plus

feed, which has disseminated consolidated last sale information from three Nasdaq-affiliated equity markets and the FINRA/Nasdaq TRF for over a decade.³ Similar data feeds that consolidate data from multiple exchanges have been offered by other Self-Regulatory Organizations for about the same amount of time.⁴

This proposal will provide customers with a new option for consuming top-of-book and depth-of-book information. The current underlying feeds will remain available, and customers may choose to purchase those feeds as they do now. This proposal will also enable customers to purchase a consolidated feed through a single connection which may, for some customers, allow them to optimize the ingestion of data. Nothing in this proposal will change the depth-of-book or top-of-book information available in the market, as the underlying feeds will remain available, and the proposed feeds are simply amalgamations of those same underlying feeds.

Although the consolidation of top-of-book and depth-of-book data feeds from multiple affiliated exchanges is not new, the Exchange believes that such feeds will become more important with the commencement of overnight trading in December 2026. Because liquidity may be limited for certain stocks in the overnight session, the proposed consolidated feeds will provide investors with a broader view of the market than independent feeds, improving the ability of the investor to analyze market data in a lower liquidity environment. As such, we believe that the creation of these new feeds will facilitate the transition of investors to an overnight trading environment.

³ See Securities Exchange Act Release No. 74972 (May 15, 2015), 80 FR 29370 (May 21, 2015) (SR-Nasdaq-2015-055) (establishing the NLS Plus data feed).

⁴ See, e.g., Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR-NYSE-2014-40) (order granting approval to establish the NYSE Best Quote & Trades ("BQT") data feed, which offers best bid and offer and last sale information for NYSE-affiliated exchanges); Securities Exchange Act Release No. 82423 (December 29, 2017), 83 FR 579 (January 4, 2018) (SR-CboeEDGA-2017-004) (proposal to modify the Cboe One Feed, which disseminates the aggregate best bid and offer of all displayed order for securities traded on Cboe-affiliated exchanges); Securities Exchange Act Release No. 105190 (April 9, 2026), 91 FR 19233 (April 14, 2026) (SR-CboeEDGX-2026-020) (proposal to modify Cboe One Premium data feed, an aggregated depth-of-book feed for Cboe-affiliated exchanges, from five to twelve price levels); Securities Exchange Act Release No. 100030 (April 25, 2024), 89 FR 35260 (May 1, 2024) (SR-NYSE-2024-24) (proposal to modify the NYSE Pillar Depth feed, which provides a consolidated view of the ten best price levels on both the bid and offer sides for NYSE-affiliated exchanges).

Proposals to add Nasdaq TotalView Plus and Nasdaq Basic Plus to the Nasdaq and Nasdaq PSX rulebooks are being submitted simultaneously.

Current Feeds

Nasdaq Texas TotalView

Nasdaq Texas TotalView disseminates all individual Nasdaq Texas Equities System participant orders and quotes displayed in the system, the aggregate size of such orders and quotes at each price level, and the trade data for executions that occur within the Nasdaq Texas Equities System.⁵

Nasdaq TotalView

Nasdaq TotalView is a Depth-of-Book data feed that contains price quotations at more than one price level. Nasdaq TotalView means, with respect to stocks listed on Nasdaq and on an exchange other than Nasdaq, all orders and quotes from all Nasdaq members displayed in the Nasdaq Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq Market Center.⁶

PSX TotalView

PSX TotalView disseminates all individual Nasdaq PSX participant orders displayed in Nasdaq PSX, the aggregate size of such orders at each price level, and the trade data for executions that occur within Nasdaq PSX.⁷

Nasdaq Texas BBO Feeds

The Nasdaq Texas BBO Feeds consist of real-time market information from the Exchange Market Center.⁸ "Nasdaq Texas BBO for Nasdaq" contains the Exchange's best bid and offer for Nasdaq-listed securities. "Nasdaq Texas BBO for NYSE" contains the Exchange's best bid and offer for NYSE-listed securities. "Nasdaq Texas BBO for Amex" contains the Exchange's best bid and offer for Amex-listed securities.

Nasdaq Texas Last Sale

Nasdaq Texas Last Sale is a proprietary data feed containing real-time last sale information for trades executed on the Exchange.⁹ "Nasdaq Texas Last Sale for Nasdaq" contains all transaction reports for Nasdaq-listed securities. "Nasdaq Texas Last Sale for NYSE/Amex" contains all such

⁵ Nasdaq Texas LLC Rules, Equity 7, Section 123.

⁶ Nasdaq Stock Market LLC Rules, Equity 7, Section 123.

⁷ Nasdaq PHLX LLC Rules, Equity 7, Section 3, PSX TotalView.

⁸ Nasdaq Texas, LLC, Equity 7, Section 147.

⁹ Nasdaq Texas, LLC, Equity 7, Section 139(a).

transaction reports for NYSE- and Amex-listed securities.

Nasdaq Basic

Nasdaq Basic consists of three proprietary data feeds with real-time market information from the Nasdaq Market Center and the FINRA/Nasdaq Trade Reporting Facility (“TRF”).¹⁰ First, “Nasdaq Basic for Nasdaq” contains Nasdaq’s best bid and offer and last sale for Nasdaq-listed stocks from Nasdaq and the FINRA/Nasdaq TRF. Second, “Nasdaq Basic for NYSE” contains Nasdaq’s best bid and offer and last sale for NYSE-listed stocks from Nasdaq and the FINRA/Nasdaq TRF. Third, “Nasdaq Basic for NYSE American” contains Nasdaq’s best bid and offer and last sale for stocks listed on NYSE American and other Tape B listing venues from Nasdaq and the FINRA/Nasdaq TRF.

PSX BBO Feeds

PSX BBO Feeds consist of real-time market information from PSX.¹¹ “PSX BBO for Nasdaq” contains PSX’s best bid and offer for Nasdaq-listed securities. “PSX BBO for NYSE” contains PSX’s best bid and offer for NYSE-listed securities. “PSX BBO for NYSE Amex” contains PSX’s best bid and offer for NYSE Amex-listed securities.

PSX Last Sale

PSX Last Sale consists of proprietary data feeds containing real-time last sale information for trades executed on PSX.¹² “PSX Last Sale for Nasdaq” contains all transaction reports for Nasdaq-listed securities. “PSX Last Sale for NYSE/NYSEAmex” contains all such transaction reports for securities listed on NYSE, NYSE Amex, and other exchanges.

Proposed Feeds

Nasdaq Basic Plus

The Exchange proposes Nasdaq Basic Plus, which will include the best bid and offer and last sale information for stocks listed on any of the Nasdaq U.S. Equity Markets (The Nasdaq Stock Market (“Nasdaq”), Nasdaq Texas (“NTX”), and Nasdaq PSX (“PSX”)) or any exchange other than Nasdaq and displayed on any of the Nasdaq U.S. Equity Markets or the FINRA/Nasdaq TRF, including all information currently

disseminated through Nasdaq Basic,¹³ Nasdaq Texas BBO,¹⁴ Nasdaq Texas Last Sale, PSX BBO,¹⁵ and PSX Last Sale.

Nasdaq TotalView Plus

The Exchange proposes Nasdaq TotalView Plus, which will include, with respect to stocks listed on Nasdaq or on any exchange other than Nasdaq, all orders and quotes from all members of any of the Nasdaq U.S. Equity Markets and displayed on a Nasdaq U.S. Equity Market, including all information currently disseminated through Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView, and the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq U.S. equity markets.

In offering Nasdaq Basic Plus and Nasdaq TotalView Plus, Nasdaq will be acting as a redistributor of depth-of-book¹⁶ and top-of-book¹⁷ products from Nasdaq, Nasdaq Texas, and Nasdaq PSX. Nasdaq Basic Plus and Nasdaq TotalView Plus will be compiled from the same underlying feeds from Nasdaq, Nasdaq Texas, and Nasdaq PSX that are distributed to the purchasers of those feeds.

All of the market data distributed through Nasdaq Basic Plus and Nasdaq TotalView Plus will be taken from the Nasdaq, Nasdaq Texas, and Nasdaq PSX data feeds, which will remain available to vendors. Although the proposed feeds will differ from the underlying feeds in certain ancillary characteristics, none of these ancillary characteristics will advantage the Exchange in any way relative to vendors, as all depend on independent sources of information equally available to both the Exchange and vendors.¹⁸

¹³ Including “Nasdaq Basic for Nasdaq,” “Nasdaq Basic for NYSE,” and “Nasdaq Basic for NYSE American.”

¹⁴ Including “Nasdaq Texas BBO for Nasdaq,” “Nasdaq Texas BBO for NYSE,” and “Nasdaq Texas BBO for Amex.”

¹⁵ Including “PSX BBO for Nasdaq,” “PSX BBO for NYSE,” and “PSX BBO for NYSE Amex.”

¹⁶ The underlying depth-of-book products are Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView.

¹⁷ The underlying top-of-book products are Nasdaq Basic (which includes both best bid and offer and last sale information), Nasdaq Texas BBO, Nasdaq Texas Last Sale, PSX BBO, and PSX Last Sale.

¹⁸ The proposed feeds will use timestamps in Epoch (or “Unix”) time (the number of seconds since January 1, 1970). Epoch time is based on a universal standard available to all market participants and freely convertible from any other time measurement. The configuration of Nasdaq Basic Plus and Nasdaq TotalView Plus will also differ from the underlying feeds through the creation of standardized headers or message structures. Such ancillary characteristics can be replicated by any vendor.

Nasdaq will have no competitive advantage over other market data vendors because the Exchange will consolidate the trading information needed to form Nasdaq Basic Plus and Nasdaq TotalView Plus at the same time and using the same data feeds distributed to other vendors. Although Nasdaq will propose specific fees in a separate filing, the Exchange expects to set fees at a level that will provide vendors with the ability to offer competing products using on the same underlying feeds at no cost disadvantage. As such, the Exchange will not have a speed, information, or cost advantage relative to other vendors in the creation or sale of consolidated data feeds.

With respect to speed, the path for the distribution of the information by the Exchange will not be faster than the path for distribution that would be used by a market data vendor to distribute similar, independently created products. As such, the Exchange will have no latency advantage over a competing market data vendor.

With respect to information, the same source of the market data to be used by the Exchange to create the two proposed products will also be available to any other market data vendor. Specifically, the Nasdaq system that will create and support Nasdaq Basic Plus and Nasdaq TotalView Plus will access the underlying feeds from Nasdaq, Nasdaq Texas, and Nasdaq PSX from the same point as any market data vendor.

With respect to cost, the Exchange will submit a separate proposal to establish fees for Nasdaq Basic Plus and Nasdaq TotalView Plus. In that filing, the Exchange expects to set fees at a level that will provide vendors with the ability to offer a competing product using the same underlying feeds at no cost disadvantage.

As such, Nasdaq will have no competitive advantage over any market data vendor that may offer a similar or comparable product.

Fees

Fees for Nasdaq TotalView Plus and Nasdaq Basic Plus will be proposed in a separate filing.

Implementation

The Exchange will announce the operative date of the proposed rule change to members and member organizations in an Equity Trader Alert.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

¹⁰ The Nasdaq Stock Market LLC, Equity 7, Section 147.

¹¹ Nasdaq PHLX LLC, Equity 7, Section 3, PSX BBO Feeds.

¹² Nasdaq PHLX LLC, Equity 7, Section 3, PSX Last Sale and Nasdaq Last Sale Plus Data Feeds.

of the Act,¹⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁰ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. This is because the proposal will offer customers additional choice in how they consume their depth of book and best bid and offer information and allow certain customers to optimize how they consume such information.

The proposal will expand customer choice by allowing them to select whether to purchase best bid and offer information through the separate data feeds of Nasdaq Basic, Nasdaq Texas BBO and PSX BBO (or any combination thereof) separately or in a single feed. Customers will similarly be able to consume Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView (or any combination thereof) separately or in a single feed. This is a well-established market feed structure offered by multiple exchanges over many years. The NLS Plus feed is one such example, and has been available for over a decade.²¹ The New York Stock Exchange has offered a similar bid and offer feed for as long a period,²² as have other exchanges.²³

As set forth in more detail in Section 7, Nasdaq Basic Plus will provide substantially the same top-of-book information as the NYSE BQT feed, which provides best bid and offer and last sale information for the New York Stock Exchange and its affiliates,²⁴ and the Cboe One feed, which disseminates the aggregate best bid and offer of all displayed orders traded on Cboe's affiliated exchanges.²⁵

The proposed Nasdaq TotalView Plus feed will also provide substantially the same depth-of-book information as the

Cboe One Premium feed, which disseminates aggregated depth-of-book information for up to twelve price levels for the Cboe-affiliated exchanges,²⁶ and the NYSE Pillar Depth feed, which provides a consolidated view of the ten best price levels on both the bid and offer sides across the NYSE Group's combined limit order books for the NYSE-affiliated exchanges.²⁷

The proposal will also allow certain customers to optimize consumption by ingesting information from multiple markets in a single connection, allowing subscribers to onboard and maintain access to market data more efficiently, which may result in cost savings for subscribers based on a more efficient configuration of data feeds.

This proposal will not change the depth-of-book or top-of-book information available in the market, as the consolidated feed will have the same information as the underlying feeds. As explained above, Nasdaq is acting as a redistributor of depth-of-book²⁸ and top-of-book²⁹ products from Nasdaq, Nasdaq Texas, and Nasdaq PSX. Also, as noted above, the proposed feeds will differ from the underlying feeds in certain ancillary characteristics, but none of these ancillary characteristics will advantage the Exchange in any way relative to vendors, as all depend on independent sources of information equally available to both the Exchange and vendors. Nasdaq will have no competitive advantage over other market data vendors because the Exchange will take the same data available to other market data vendors at the same time, and therefore will have neither a speed nor an information advantage over them. With respect to cost, the Exchange will propose in a separate filing to set fees at a level that will provide vendors with the ability to offer a competing product using the same underlying feeds at no cost disadvantage.

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.

Nothing in the proposal burdens inter-market competition (the competition among self-regulatory organizations) because the proposed changes do not alter the ability of non-affiliated markets to propose changes to their respective rulebooks to offer similar feeds, or alternative feeds to compete against these products, in response to these changes.

Nothing in the proposal burdens intra-market competition (the competition among consumers of exchange data) because the proposed feeds will be available to any market participant on a non-discriminatory basis.

Nothing in the proposal will burden the ability of market data vendors to compete with the Exchange. As explained above, Nasdaq is acting as a redistributor of depth of book and top of book products from Nasdaq, Nasdaq Texas, and Nasdaq PSX.

Nasdaq will have no competitive advantage over other market data vendors because the Exchange will take the same data available to other market data vendors at the same time, and therefore will have neither a speed nor an information advantage over them. With respect to cost, the Exchange will propose in a separate filing to set fees at a level that will provide vendors with the ability to offer a competing product using the same underlying feeds at no cost disadvantage. Although the proposed feeds will differ from the underlying feeds in certain ancillary characteristics, none of these ancillary characteristics will advantage the Exchange in any way relative to vendors, as all depend on independent sources of information equally available to both the Exchange and vendors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ See Securities Exchange Act Release No. 74972 (May 15, 2015), 80 FR 29370 (May 21, 2015) (SR–Nasdaq–2015–055) (establishing the NLS Plus data feed).

²² See, e.g., Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR–NYSE–2014–40) (order granting approval to establish the NYSE Best Quote & Trades ("BQT") Data Feed).

²³ See, e.g., Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (SR–BATS–2014–055; SR–BYX–2014–030; SR–EDGA–2014–25; SR–EDGX–2014–25) (order approving market data product called BATS One Feed being offered by four affiliated exchanges).

²⁴ Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR–NYSE–2014–40).

²⁵ Securities Exchange Act Release No. 82423 (December 29, 2017), 83 FR 579 (January 4, 2018) (SR–CboeEDGA–2017–004).

²⁶ Securities Release Act Release No. 105190 (April 9, 2026), 91 FR 19233 (April 14, 2026) (SR–CboeEDGX–2026–020).

²⁷ Securities Exchange Act Release No. 100030 (April 25, 2024), 89 FR 35260 (May 1, 2024) (SR–NYSE–2024–24) (introducing the NYSE Pillar Depth feed as immediately effective pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b–4(f)(6) thereunder).

²⁸ The underlying depth of book products are Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView.

²⁹ Nasdaq Basic (which includes both best bid and offer and last sale information), Nasdaq Texas BBO, Nasdaq Texas Last Sale, PSX BBO, and PSX Last Sale.

19(b)(3)(A)(iii) of the Act³⁰ and subparagraph (f)(6) of Rule 19b–4 thereunder.³¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–NasdaqTX–2026–035 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.
- All submissions should refer to file number SR–NasdaqTX–2026–035. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer

to file number SR–NasdaqTX–2026–035 and should be submitted on or before August 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106001; File No. SR–NYSEARCA–2026–42]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend NYSE Arca Rule 8.201–E (Generic) Commodity-Based Trust Shares

July 28, 2026.

I. Introduction

On April 22, 2026, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder (“Rule 19b–4”),² a proposed rule change to amend NYSE Arca Rule 8.201–E (Generic) to modify the generic listing standards for Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on April 30, 2026.³ On June 11, 2026, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵

On July 15, 2026, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the original proposed rule change in its

entirety.⁶ The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1 (the “Proposal”), on an accelerated basis.

II. Description of the Proposal

The Commission previously approved NYSE Arca Rule 8.201–E (Generic), which sets forth generic listing standards⁷ for Commodity-Based Trust Shares⁸ on the Exchange.⁹ As described in more detail in Amendment No. 1,¹⁰ the Exchange proposes to amend NYSE Arca Rule 8.201–E (Generic) to modify certain aspects of the generic listing standards for Commodity-Based Trust Shares.

⁶ Amendment No. 1 to the proposed rule change is available on the Commission's website at: https://www.sec.gov/comments/SR-NYSEARCA-2026-42/srnysearca202642-961579-2966386_0.pdf (“Amendment No. 1”).

⁷ Generic listing standards for Commodity-Based Trust Shares permit the Exchange, pursuant to Rule 19b–4(e) under the Act (“Rule 19b–4(e)”), to list and trade Commodity-Based Trust Shares without first submitting a proposed rule change with the Commission pursuant to Section 19(b) of the Act. See 17 CFR 240.19b–4(e). The Exchange, however, is required to submit a rule filing with the Commission when seeking to list and trade Commodity-Based Trust Shares that do not meet the generic listing standards set forth in NYSE Arca Rule 8.201–E (Generic).

⁸ Pursuant to the current rule, the term “Commodity-Based Trust Shares” is defined as a security that: (1) is issued by a trust, limited liability company, partnership, or other similar entity (“trust”) that, if applicable, is operated by a registered commodity pool operator pursuant to the Commodity Exchange Act (“CEA”), and is not registered as an investment company pursuant to the Investment Company Act of 1940 (“1940 Act”), or series or class thereof; (2) is designed to reflect the performance of one or more reference assets or an index of reference assets; (3) in order to reflect such performance, is issued by a trust that holds (a) one or more commodities or commodity-based assets, and (b) in addition to such commodities or commodity-based assets, may hold securities, cash, and cash equivalents; (4) is issued by such trust in a specified aggregate minimum number in return for a deposit of (a) a specified quantity of the underlying commodities, commodity-based assets, securities, cash, and cash equivalents, or (b) a cash amount with a value based on the next determined net asset value (“NAV”) per trust share; and (5) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder (a) the specified quantity of the underlying commodities, commodity-based assets, securities, cash, and cash equivalents, or (b) a cash amount with a value based on the next determined NAV per trust share. See NYSE Arca Rule 8.201–E(c)(1) (Generic).

⁹ See Securities Exchange Act Release No. 103995 (Sept. 17, 2025), 90 FR 45414 (Sept. 22, 2025) (SR–NASDAQ–2025–056; SR–CboeBZX–2025–104; SR–NYSEARCA–2025–54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares) (“Generics Approval Order”).

¹⁰ See Amendment No. 1, *supra* note 6.

³² 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 105311 (Apr. 27, 2026), 91 FR 23327.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 105674, 91 FR 36181 (June 16, 2026) (designating July 29, 2026, as the date by which the Commission shall either approve the Proposal, disapprove the Proposal, or institute proceedings to determine whether the Proposal should be disapproved). The Commission has received no comments on the proposed rule change.

³⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

³¹ 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A. Proposed Amendment To Allow a 15% Buffer for Certain Assets

Currently, NYSE Arca Rule 8.201–E(d) (Generic) sets forth eligibility criteria that the holdings of Commodity-Based Trust Shares must meet for the shares to be listed and traded pursuant to the generic listing standards. Specifically, NYSE Arca Rule 8.201–E(d)(1) (Generic) requires that each commodity,¹¹ or commodity that underlies a commodity-based asset,¹² held by a trust must meet at least one of the following criteria:

- On an initial and continuing basis, the commodity trades on a market that is an Intermarket Surveillance Group (“ISG”) member, provided that the Exchange may obtain information about trading in such commodity from the ISG member;¹³

- On an initial and continuing basis, the commodity underlies a futures contract that has been made available to trade on a designated contract market (“DCM”) for at least six months; provided that the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG, with such DCM;¹⁴ or

- On an initial basis only, an exchange-traded fund (“ETF”)¹⁵ designed to provide economic exposure of no less than 40% of its NAV to the commodity lists and trades on a national securities exchange.¹⁶

In addition, to the extent a trust holds securities, (i) each equity security held by the trust must meet the requirements set forth in the Exchange’s rules for equity component securities underlying Managed Fund Shares generically listed on the Exchange;¹⁷ (ii) each fixed income security held by the trust must meet the requirements set forth in the Exchange’s rules for fixed income

component securities underlying Managed Fund Shares generically listed on the Exchange,¹⁸ and (iii) if the security is a listed option, it must trade on an ISG market.¹⁹

The Exchange proposes to amend NYSE Arca Rule 8.201–E(d) (Generic) to adopt a new subparagraph (3). As proposed, NYSE Arca Rule 8.201–E(d)(3) (Generic) would provide that, notwithstanding the eligibility criteria set forth in NYSE Arca Rules 8.201–E(d)(1) and (2) (Generic), up to 15% of the Commodity-Based Trust Shares’ NAV in the aggregate may consist of (i) “digital commodities”²⁰ that do not meet the criteria for commodities set forth in NYSE Arca Rule 8.201–E(d)(1) (Generic), or (ii) securities that do not meet the criteria for securities set forth in NYSE Arca Rule 8.201–E(d)(2) (Generic) (referred to herein as the “15% Buffer”).²¹ For purposes of calculating this 15% Buffer, any derivative held by the trust would be calculated based on its gross notional value.²²

¹⁸ See NYSE Arca Rule 8.600–E, Commentary .01(b) (Managed Fund Shares).

¹⁹ See NYSE Arca Rule 8.201–E(d)(2) (Generic).

²⁰ The Exchange proposes to define the term “digital commodity” to mean a commodity that is a digital asset and is intrinsically linked to and derives its value from the programmatic operation of a functional crypto system, as well as supply and demand dynamics, rather than from the expectation of profits from the essential managerial efforts of others. See proposed NYSE Arca Rule 8.201–E(c)(4) (Generic). The Exchange states that this proposed definition is informed by the joint interpretative guidance issued by the Commission and the Commodity Futures Trading Commission. See Amendment No. 1 at 6 n.9 (citing “Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets,” Securities Exchange Act Release No. 105020 (Mar. 17, 2026), 91 FR 13714 (Mar. 23, 2026)). The Exchange states that, to the extent legislation is enacted defining “digital commodity” or a substantially similar term, the Exchange will submit a rule filing to conform the definition of “digital commodity” in the Commodity-Based Trust Shares generic listing standards to the statutory definition. See *id.* The Exchange also states that the generic listing standards “are not intended to apply to novel products or materially distinct structures that were not considered when the standards were adopted,” and the Proposal “would effectively exclude other commodities such as non-fungible assets or non-fungible collectibles from being included in the 15% [B]uffer for generically listed Commodity-Based Trust Shares.” See *id.*

²¹ See proposed NYSE Arca Rule 8.201–E(d)(3) (Generic).

²² See *id.* The Exchange states that it similarly calculates percentage limitations on derivatives in its Managed Fund Shares rule based on the aggregate gross notional value of derivatives. See Amendment No. 1 at 6 n.9 (citing to NYSE Arca Rule 8.600–E, Commentary .01(d)(1) and (e) (Managed Fund Shares)).

B. Proposed Amendment To Allow Actively Managed Commodity-Based Trust Shares

Currently, NYSE Arca Rule 8.201–E(c)(1) (Generic) defines a “Commodity-Based Trust Share” to mean, in part, a security that “is designed to reflect the performance of one or more reference assets or an index of reference assets.”²³ Thus, NYSE Arca Rule 8.201–E (Generic) currently precludes actively managed Commodity-Based Trust Shares from being eligible to list and trade pursuant to the generic listing standards (*i.e.*, without a rule filing pursuant to Section 19(b) of the Act).²⁴

The Exchange now proposes to amend NYSE Arca Rule 8.201–E (Generic) to allow for the generic listing and trading of actively managed Commodity-Based Trust Shares that otherwise meet the generic listing standards, as proposed to be amended.²⁵ In particular, the Exchange proposes to amend the definition of “Commodity-Based Trust Shares” to remove the requirement that Commodity-Based Trust Shares be “designed to reflect the performance of one or more reference assets or an index of reference assets” and to add a requirement that a trust’s holdings be “consistent with [its] investment objective and policies.”²⁶

In connection with this amendment to the definition of “Commodity-Based Trust Shares,” the Exchange also proposes to adopt certain additional trading halt and firewall requirements.²⁷ First, if the Exchange becomes aware that the information required by paragraph (e)(1) of NYSE Arca Rule 8.201–E (Generic)²⁸ (*i.e.*, the

²³ See NYSE Arca Rule 8.201–E(c)(1)(ii) (Generic). See also *supra* note 8.

²⁴ See Securities Exchange Act Release Nos. 105681 (June 12, 2026), 91 FR 36629 (June 17, 2026) (NYSEARCA–2025–77) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2 Thereto, To List and Trade Shares of the T. Rowe Price Active Crypto ETF under NYSE Arca Rule 8.201–E (Generic) Commodity-Based Trust Shares) (“T. Rowe Order”) at 36630 n. 20; 105582 (May 29, 2026), 91 FR 33252 (June 3, 2026) (NASDAQ–2025–085) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Shares of the iShares Bitcoin Premium Income ETF Under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)) (“iShares Order”) at 33252 n. 15.

²⁵ See Amendment No. 1 at 9.

²⁶ See proposed NYSE Arca Rule 8.201–E(c)(1) (Generic).

²⁷ These additional proposed requirements would apply in addition to what is already required under NYSE Arca Rule 8.201–E(l) and (n) (Generic). See Amendment No. 1 at 9–10.

²⁸ NYSE Arca Rule 8.201–E(e)(1) (Generic) requires that the trust disclose prominently on its website, which is publicly available and free of charge, before the opening of regular trading on the Exchange, for the trust’s commodities, commodity-

¹¹ The term “commodity” is as defined in Section 1a(9) of the CEA that is not an “excluded commodity” as defined in Section 1a(19) of the CEA. See NYSE Arca Rule 8.201–E(c)(2) (Generic).

¹² The term “commodity-based asset” means a future, option, or swap on a commodity. See NYSE Arca Rule 8.201–E(c)(3) (Generic).

¹³ See NYSE Arca Rule 8.201–E(d)(1)(i) (Generic).

¹⁴ See NYSE Arca Rule 8.201–E(d)(1)(ii) (Generic).

¹⁵ The term “exchange-traded fund” means an open-end management investment company or a unit investment trust as defined in Section 4(2) of the 1940 Act or series or class thereof, the shares of which are listed and traded on a national securities exchange, and that has formed and operates under an exemptive order under the 1940 Act or in reliance on an exemptive rule adopted by the Commission. See NYSE Arca Rule 8.201–E(c)(7) (Generic).

¹⁶ See NYSE Arca Rule 8.201–E(d)(1)(iii) (Generic).

¹⁷ See NYSE Arca Rule 8.600–E, Commentary .01(a) (Managed Fund Shares).

Commodity-Based Trust Shares' portfolio information) is not disseminated to all market participants at the same time, it will halt trading in the Commodity-Based Trust Shares until such time as the required information is available to all market participants.²⁹ Second, any person associated with, or that is an agent of, the trust (including the Reporting Authority)³⁰ who has access to non-public information regarding the portfolio of the Commodity-Based Trust Shares, including any change thereto, must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio.³¹

III. Discussion and Commission Findings

After careful review, the Commission finds that the Proposal is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.³² In particular, the

based assets, securities, cash and cash equivalent, to the extent applicable: (i) ticker symbol; (ii) identifier; (iii) description of the holding; (iv) the quantity of each commodity, commodity-based asset, security, cash, and cash equivalents held; and (v) percentage weighting of the trust's assets.

²⁹ See proposed NYSE Arca Rules 8.201–E(l)(1)(iii) (Generic); 8.201–E(l)(2) (Generic). The Exchange states that this additional requirement is substantively identical to a requirement in the Exchange's rule governing the listing and trading of actively managed ETFs. See Amendment No. 1 at 11 (citing NYSE Arca Rule 8.600–E(d)(2)(D) (Managed Fund Shares)).

³⁰ The Exchange proposes to define the term "Reporting Authority" with respect to Commodity-Based Trust Shares to mean an institution or reporting service designated by the Exchange or the trust as the official source for calculating and reporting information relating to the Commodity-Based Trust Shares, including, but not limited to, its portfolio, the amount of any cash distribution to holders of Commodity-Based Trust Shares, NAV, or other information relating to the issuance, redemption or trading of Commodity-Based Trust Shares. Each Commodity-Based Trust Shares may have more than one Reporting Authority, each having different functions. See proposed NYSE Arca Rule 8.201–E(c)(12) (Generic). The Exchange states that NYSE Arca Rule 8.600–E(c)(4) (Managed Fund Shares) includes a similar definition of "Reporting Authority." See Amendment No. 1 at 10. See also NYSE Arca Rules 5.2–E(j)(8)(c)(4) (Exchange Traded Fund Shares); 8.601–E(c)(5) (Active Proxy Portfolio Shares).

³¹ See proposed NYSE Arca Rule 8.201–E(n)(3) (Generic). The Exchange states that this additional requirement is substantively rooted in the current prohibitions against the use and dissemination of material non-public information within the Exchange's rules governing actively-managed ETFs, and would apply to anyone associated with, or is an agent of, the trust who has access to non-public information regarding the trust's portfolio. See Amendment No. 1 at 10 n.18 (citing NYSE Arca Rules 8.600–E, Commentary .06 (Managed Fund Shares); 5.2–E(j)(8), Commentary .02(b) (Exchange Traded Fund Shares)).

³² In approving the Proposal, the Commission has considered the Proposal's impacts on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Commission finds that the Proposal is consistent with Section 6(b)(5) of the Act,³³ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, 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 are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Since the Generics Approval Order, the Commission has approved Commodity-Based Trust Shares that hold up to 15% of the portfolio in digital assets not previously approved by the Commission as permissible investments of an exchange-traded product ("ETP").³⁴ In each of the Grayscale Order and the Bitwise Order, the Commission stated that the risks associated with fraud and manipulation are sufficiently mitigated if an ETP holds at least 80% of the investments in assets that do not raise concerns relating to fraud and manipulation.³⁵ Accordingly, the Commission found that the requirement that each ETP holds at least 85% of its investments in commodities approved by the Commission to underlie an ETP as primary investments will enable adequate surveillance of the shares on the listing exchange.³⁶

Likewise, since the Generics Approval Order, the Commission has approved Commodity-Based Trust Shares that are not "designed to reflect the performance of one or more reference assets or an index of reference assets" but are actively managed.³⁷ In each of the iShares Order and the T. Rowe Order,

³³ 15 U.S.C. 78f(b)(5).

³⁴ See Securities Exchange Act Release Nos. 103996 (Sept. 17, 2025), 90 FR 45440 (Sept. 22, 2025) (SR–NYSEARCA–2024–87) (Order Setting Aside Action by Delegated Authority and Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend NYSE Arca Rule 8.500–E (Trust Units) and to List and Trade Shares of the Grayscale Digital Large Cap Fund LLC under Amended NYSE Arca Rule 8.500–E (Trust Units)) ("Grayscale Order"); and 104212 (Nov. 18, 2025), 90 FR 52724 (Nov. 21, 2025) (SR–NYSEARCA–2024–98) (Order Setting Aside Action by Delegated Authority and Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend NYSE Arca Rule 8.500–E (Trust Units) and to List and Trade Shares of the Bitwise 10 Crypto Index ETF under Amended NYSE Arca Rule 8.500–E (Trust Units)) ("Bitwise Order").

³⁵ See Grayscale Order at 45443; Bitwise Order at 52726.

³⁶ See *id.* In each case, 85% of the ETP's holdings were in bitcoin and/or ether and the remainder of its holdings were in other digital assets.

³⁷ See iShares Order, *supra* note 24; T. Rowe Order, *supra* note 24.

the Commission stated that, in the context of ETFs registered under the 1940 Act, the mere addition of active management to a portfolio that would otherwise qualify for generic listing as an index-based ETF does not affect the portfolio's susceptibility to manipulation or the availability of arbitrage between the ETF and its underlying portfolio.³⁸ The Commission stated that this principle also holds true for Commodity-Based Trust Shares.³⁹ Further, the Commission stated that consistently applying listing standards across products with economic exposures to the same underlying commodities levels the playing field between issuers, which should promote competition and would more readily afford investors greater investment options.⁴⁰

Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a national securities exchange shall not be deemed a proposed rule change pursuant to paragraph (c)(1) of Rule 19b–4⁴¹ if the Commission has approved, pursuant to Section 19(b) of the Act,⁴² the exchange's trading rules, procedures, and listing standards for the product class that would include the new derivative securities product, and the exchange has a surveillance program for the product class.⁴³ The Exchange proposes to amend its generic listing standards for Commodity-Based Trust Shares to include the 15% Buffer and active-management that the Commission has previously considered and approved in separate Rule 19b–4 filings. Accordingly, the Proposal fulfills the intended objective of Rule 19b–4(e) by permitting Commodity-Based Trust Shares that satisfy the requirements previously found to be consistent with the Act to commence trading without public comment and Commission approval.⁴⁴ The Exchange's ability to

³⁸ See iShares Order at 33252–3; T. Rowe Order at 36630. See also Securities Exchange Act Release Nos. 78396 (July 22, 2016), 81 FR 49698, 49702 (July 28, 2016) (SR–BATS–2015–100) (Order Approving Generic Listing Standards for Managed Fund Shares); and 78397 (July 22, 2016), 81 FR 49320, 49324–25 (July 27, 2016) (SR–NYSEARCA–2015–110) (Order Approving Generic Listing Standards for Managed Fund Shares).

³⁹ See iShares Order at 33253; T. Rowe Order at 36630.

⁴⁰ See *id.* See also Generics Approval Order at 45419.

⁴¹ 17 CFR 240.19b–4(c)(1).

⁴² 15 U.S.C. 78s(b).

⁴³ See 17 CFR 240.19b–4(e). See also *supra* note 7.

⁴⁴ The failure of any particular Commodity-Based Trust Shares to satisfy the proposed generic listing standards pursuant to Rule 19b–4(e) would not preclude the Exchange from submitting a separate filing pursuant to Section 19(b) to list and trade

rely on Rule 19b-4(e) to list and trade additional Commodity-Based Trust Shares that meet the applicable requirements and minimum standards will reduce the time frame for bringing the shares to market and thereby reduce the burdens on issuers and other market participants, while also promoting competition.⁴⁵

Similarly, the Exchange's proposed additional trading halt and firewall provisions are consistent with the Act.⁴⁶ Because NYSE Arca Rule 8.201-E (Generic) currently contemplates only passive management,⁴⁷ the Exchange proposes changes designed to address active management of Commodity-Based Trust Shares, namely provisions related to (1) trading halts if Commodity-Based Trust Shares' portfolio information⁴⁸ is not disseminated to all market participants at the same time,⁴⁹ and (2) procedures designed to prevent the use and dissemination of material non-public portfolio information.⁵⁰ The Exchange's proposed changes are substantively identical to NYSE Arca's rule governing the listing and trading of actively managed ETFs,⁵¹ and apply in addition

those Commodity-Based Trust Shares. See NYSE Arca Rule 8.201-E(i)(9) (Generic).

⁴⁵ NYSE Arca Rule 8.201-E (Generic), as modified by the Proposal, also continues to require the Exchange to maintain surveillance procedures for Commodity-Based Trust Shares, consistent with the requirements of Rule 19b-4(e). 17 CFR 240.19b-4(e). See NYSE Arca Rule 8.201-E(i) (Generic).

⁴⁶ 15 U.S.C. 78f(b)(5).

⁴⁷ See, e.g., NYSE Arca Rules 8.201-E(i)(4) (Generic) and 8.201-E(l)(1)(i) (Generic), requiring the Exchange to initiate delisting procedures and halt trading if the value of the underlying reference asset(s) or index is not made widely available on at least a 15-second basis from a source unaffiliated with the sponsor or the trust; NYSE Arca Rule 8.201-E(n)(1) (Generic), requiring that if the value of a Commodity-Based Trust Share is based on an index that is maintained by a broker-dealer, the broker-dealer erect and maintain a firewall around the personnel responsible for the maintenance of such index or who have access to information concerning changes and adjustments to the index; and NYSE Arca Rule 8.201-E(n)(2) (Generic), requiring that any advisory committee, supervisory board, or similar entity that advises an index licensor or administrator or that makes decisions regarding the index composition, methodology, and related matters must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable index.

⁴⁸ See *supra* note 28.

⁴⁹ See *supra* note 29 and accompanying text.

⁵⁰ See *supra* note 31 and accompanying text.

⁵¹ See NYSE Arca Rules 8.600-E(d)(2)(D) (Managed Fund Shares) (setting forth trading halt requirement if certain information with respect to a series of Managed Fund Shares is not disseminated to all market participants at the same time); 8.601-E(d)(2)(D)(iii) (Active Proxy Portfolio Shares) (setting forth trading halt requirement if certain information with respect to a series of Active Proxy Portfolio Shares is not being made available to all market participants at the same time). See also NYSE Arca Rules 8.600-E,

to what is already required under NYSE Arca Rule 8.201-E(l) and (n) (Generic). The additional trading halt provision will help to ensure that all market participants have transparency relating to the Commodity-Based Trust Shares' underlying portfolio, which information is key to pricing the shares and that no market participant has an unfair informational advantage. Ensuring such transparency relating to the underlying portfolio for all market participants will help facilitate a fair and orderly market for the Commodity-Based Trust Shares, as well as help to ensure that the Commodity-Based Trust Shares are not susceptible to manipulation. Likewise, the additional firewall provision will provide additional protection against the potential misuse of material, non-public information relating to a Commodity-Based Trust Share's actively-managed portfolio.

Finally, Commodity-Based Trust Shares listed pursuant to NYSE Arca Rule 8.201-E (Generic), as modified by the Proposal, would be required to comply with all applicable requirements of NYSE Arca Rule 8.201-E (Generic). In addition, all Commodity-Based Trust Shares listed under NYSE Arca Rule 8.201-E (Generic) will be subject to the rules and procedures of the Exchange that currently govern the trading of equity securities on the Exchange.⁵² The Exchange would continue to be required to submit a rule filing with the Commission when seeking to list and trade Commodity-Based Trust Shares that do not meet the generic listing standards under NYSE Arca Rule 8.201-E (Generic), as proposed to be modified.

Commentary .06 (Managed Fund Shares) (setting forth firewall and procedure requirements that apply to the investment adviser to the investment company issuing Managed Fund Shares and to personnel who make decisions on the investment company's portfolio composition); 5.2-E(j)(8), Commentary .02(b) (Exchange Traded Fund Shares) (setting forth firewall and procedure requirements that apply to the investment adviser to an Exchange Traded Fund and to personnel who make decisions on the Exchange Traded Fund's portfolio composition and setting forth procedure requirements that apply to the "Reporting Authority" that provides information relating to the Exchange Traded Fund's portfolio); and 8.601-E, Commentary .05 (Active Proxy Portfolio Shares) (setting forth procedure and firewall requirements that apply to any person or entity, including a Reporting Authority, who has access to nonpublic information regarding the fund's portfolio). Further, these requirements are substantially similar to requirements applicable to actively-managed Commodity-Based Trust Shares previously approved by the Commission. See iShares Order at 33253-4; T. Rowe Order at 36630-1.

⁵² See NYSE Arca Rule 8.201-E(b) (Generic).

III. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether the proposed rule change, as modified by Amendment No. 1, 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-2026-42 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-2026-42. 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-2026-42 and should be submitted on or before August 21, 2026.

IV. Accelerated Approval of the Proposal

The Commission finds good cause to approve the Proposal prior to the 30th day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. Amendment No. 1, which replaces and supersedes the Exchange's original proposed rule change, proposes the following: (1) limits the 15% Buffer to digital commodities and securities; (2) adds the definition of digital commodity; (3) amends the Commodity-Based Trust Shares definition to allow for active management; (4) adds firewall and trading halt requirements corresponding to the proposed changes allowing for

active management; and (5) adds the definition of Reporting Authority.⁵³ Amendment No. 1 conforms the Proposal to the changes the Commission previously considered and approved for generic listing standards for Commodity-Based Trust Shares.⁵⁴ Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁵⁵ to approve the Proposal on an accelerated basis.

V. Conclusion

This approval order is based on all of the Exchange's representations and descriptions in the Proposal, which the Commission has evaluated as discussed above. For the reasons set forth above, the Commission finds, pursuant to Section 19(b)(2) of the Act,⁵⁶ that the Proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) of the Act.⁵⁷

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁵⁸ that the proposed rule change, as modified by Amendment No. 1 (SR-NYSEARCA-2026-42), be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁹

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105997; File No. SR-NASDAQ-2026-061]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Introduce Nasdaq TotalView Plus and Nasdaq Basic Plus Data Feeds

July 28, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

⁵³ See Amendment No. 1 at 4 n.5. In addition to these changes, Amendment No. 1 also makes certain technical changes.

⁵⁴ See Securities Exchange Act Release No. 105995 (July 27, 2026) (SR-NASDAQ-2026-032) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend Nasdaq Rule 5711(d) (Commodity-Based Trust Shares)).

⁵⁵ 15 U.S.C. 78s(b)(2).

⁵⁶ 15 U.S.C. 78s(b)(2).

⁵⁷ 15 U.S.C. 78f(b)(5).

⁵⁸ 15 U.S.C. 78s(b)(2).

⁵⁹ 17 CFR 200.30-3(a)(12).

(“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 24, 2026, The Nasdaq Stock Market LLC (the “Exchange” or “Nasdaq”) 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 a proposal to introduce Nasdaq TotalView Plus and Nasdaq Basic Plus, two new data feeds which will offer consolidated top of book and depth of book information currently disseminated by The Nasdaq Stock Market LLC (“Nasdaq”), Nasdaq Texas, LLC (“Nasdaq Texas”) and Nasdaq PHLX LLC equities (“Nasdaq PSX”).

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to introduce Nasdaq TotalView Plus and Nasdaq Basic Plus, two new data feeds which will offer consolidated top of book and depth of book information currently disseminated by Nasdaq, Nasdaq Texas, and Nasdaq PSX. The new depth of book product, Nasdaq TotalView Plus, will combine information from Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView. The new top of

book product, Nasdaq Basic Plus, will combine information from Nasdaq Basic (which includes both best bid and offer and last sale information), Nasdaq Texas BBO, Nasdaq Texas Last Sale, PSX BBO, and PSX Last Sale.

The proposed data feeds, Nasdaq TotalView Plus and Nasdaq Basic Plus, are modeled on the existing NLS Plus feed, which has disseminated consolidated last sale information from three Nasdaq-affiliated equity markets and the FINRA/Nasdaq TRF for over a decade.³ Similar data feeds that consolidate data from multiple exchanges have been offered by other Self-Regulatory Organizations for about the same amount of time.⁴

This proposal will provide customers with a new option for consuming top-of-book and depth-of-book information. The current underlying feeds will remain available, and customers may choose to purchase those feeds as they do now. This proposal will also enable customers to purchase a consolidated feed through a single connection which may, for some customers, allow them to optimize the ingestion of data. Nothing in this proposal will change the depth of book or top of book information available in the market, as the underlying feeds will remain available, and the proposed feeds are simply amalgamations of those same underlying feeds.

Although the consolidation of top-of-book and depth-of-book data feeds from multiple affiliated exchanges is not new, the Exchange believes that such feeds will become more important with the commencement of overnight trading in December 2026. Because liquidity may be limited for certain stocks in the overnight session, the proposed

³ See Securities Exchange Act Release No. 74972 (May 15, 2015), 80 FR 29370 (May 21, 2015) (SR-Nasdaq-2015-055) (establishing the NLS Plus data feed).

⁴ See, e.g., Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR-NYSE-2014-40) (order granting approval to establish the NYSE Best Quote & Trades (“BQT”) data feed, which offers best bid and offer and last sale information for NYSE-affiliated exchanges); Securities Exchange Act Release No. 82423 (December 29, 2017), 83 FR 579 (January 4, 2018) (SR-CboeEDGA-2017-004) (proposal to modify the Cboe One Feed, which disseminates the aggregate best bid and offer of all displayed order for securities traded on Cboe-affiliated exchanges); Securities Release Act Release No. 105190 (April 9, 2026), 91 FR 19233 (April 14, 2026) (SR-CboeEDGX-2026-020) (proposal to modify Cboe One Premium data feed, an aggregated depth-of-book feed for Cboe-affiliated exchanges, from five to twelve price levels); Securities Exchange Act Release No. 100030 (April 25, 2024), 89 FR 35260 (May 1, 2024) (SR-NYSE-2024-24) (proposal to modify the NYSE Pillar Depth feed, which provides a consolidated view of the ten best price levels on both the bid and offer sides for NYSE-affiliated exchanges).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

consolidated feeds will provide investors with a broader view of the market than independent feeds, improving the ability of the investor to analyze market data in a lower liquidity environment. As such, we believe that the creation of these new feeds will facilitate the transition of investors to an overnight trading environment.

The Exchange also proposes two non-substantive changes to the NLS Plus feed, discussed in detail below.

Proposals to add Nasdaq TotalView Plus and Nasdaq Basic Plus to the Nasdaq Texas and Nasdaq PSX rulebooks are being submitted simultaneously.

Current Feeds

Nasdaq TotalView

Nasdaq TotalView is a Depth-of-Book data feed that contains price quotations at more than one price level. Nasdaq TotalView means, with respect to stocks listed on Nasdaq and on an exchange other than Nasdaq, all orders and quotes from all Nasdaq members displayed in the Nasdaq Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq Market Center.⁵

Nasdaq Texas TotalView

Nasdaq Texas TotalView disseminates all individual Nasdaq Texas Equities System participant orders and quotes displayed in the system, the aggregate size of such orders and quotes at each price level, and the trade data for executions that occur within the Nasdaq Texas Equities System.⁶

PSX TotalView

PSX TotalView disseminates all individual Nasdaq PSX participant orders displayed in Nasdaq PSX, the aggregate size of such orders at each price level, and the trade data for executions that occur within Nasdaq PSX.⁷

Nasdaq Basic

Nasdaq Basic consists of three proprietary data feeds with real-time market information from the Nasdaq Market Center and the FINRA/Nasdaq Trade Reporting Facility (“TRF”).⁸ First, “Nasdaq Basic for Nasdaq” contains Nasdaq’s best bid and offer and last sale for Nasdaq-listed stocks from Nasdaq and the FINRA/Nasdaq TRF. Second,

“Nasdaq Basic for NYSE” contains Nasdaq’s best bid and offer and last sale for NYSE-listed stocks from Nasdaq and the FINRA/Nasdaq TRF. Third, “Nasdaq Basic for NYSE American” contains Nasdaq’s best bid and offer and last sale for stocks listed on NYSE American and other Tape B listing venues from Nasdaq and the FINRA/Nasdaq TRF.

Nasdaq Texas BBO Feeds

The Nasdaq Texas BBO Feeds consist of real-time market information from the Nasdaq Texas Market Center.⁹ “Nasdaq Texas BBO for Nasdaq” contains the Nasdaq Texas’s best bid and offer for Nasdaq-listed securities. “Nasdaq Texas BBO for NYSE” contains Nasdaq Texas’s best bid and offer for NYSE-listed securities. “Nasdaq Texas BBO for Amex” contains Nasdaq Texas’s best bid and offer for Amex-listed securities.

Nasdaq Texas Last Sale

Nasdaq Texas Last Sale is a proprietary data feed containing real-time last sale information for trades executed on Nasdaq Texas.¹⁰ “Nasdaq Texas Last Sale for Nasdaq” contains all transaction reports for Nasdaq-listed securities. “Nasdaq Texas Last Sale for NYSE/Amex” contains all such transaction reports for NYSE- and Amex-listed securities.¹¹

PSX BBO Feeds

PSX BBO Feeds consist of real-time market information from PSX.¹² “PSX BBO for Nasdaq” contains PSX’s best bid and offer for Nasdaq-listed securities. “PSX BBO for NYSE” contains PSX’s best bid and offer for NYSE-listed securities. “PSX BBO for NYSE Amex” contains PSX’s best bid and offer for NYSE Amex-listed securities.

PSX Last Sale

PSX Last Sale is a proprietary data feed containing real-time last sale information for trades executed on Nasdaq PSX.¹³ “PSX Last Sale for

Nasdaq” contains all transaction reports for Nasdaq-listed securities on Nasdaq PSX. “PSX Last Sale for NYSE/ NYSEAmex” contains all such transaction reports on Nasdaq PSX for securities listed on NYSE, NYSE Amex, and other exchanges.¹⁴

Nasdaq Last Sale

Nasdaq Last Sale is comprised of two proprietary data feeds containing real-time last sale information for trades executed on Nasdaq or reported to the FINRA/Nasdaq Trade Reporting Facility. “Nasdaq Last Sale for Nasdaq” contains all such transaction reports for Nasdaq-listed stocks. “Nasdaq Last Sale for NYSE/NYSE American” contains all such transaction reports for NYSE-listed stocks and stocks listed on NYSE American and other Tape B listing venues.

Nasdaq Last Sale Plus

Nasdaq Last Sale Plus is a comprehensive data feed produced by Nasdaq Information LLC that provides last sale data from the Nasdaq U.S. equity markets (Nasdaq, Nasdaq Texas,¹⁵ Nasdaq PSX and the FINRA/ Nasdaq TRF). Nasdaq Last Sale Plus also reflects cumulative volume real-time trading activity across all U.S. exchanges for Tape A, B, and C securities. Nasdaq Last Sale Plus contains the following data from the Nasdaq U.S. equity markets: Trade Price, Trade Size, Sale Condition Modifiers, Adjusted Closing Price, IPO Information, and Bloomberg ID, as well as pertinent regulatory information: Market Wide Circuit Breaker, Reg SHO Short Sale Price Test Restricted Indicator, Trading Action, and Symbol Directory, and a consolidated end of day trade summary for Tape A, B and C securities.

Proposed Feeds

Nasdaq Basic Plus

The Exchange proposes Nasdaq Basic Plus, which will include the best bid and offer and last sale information for stocks listed on any of the Nasdaq U.S. Equity Markets (The Nasdaq Stock

⁹ Nasdaq Texas, LLC, Equity 7, Section 147.

¹⁰ Nasdaq Texas, LLC, Equity 7, Section 139(a).

¹¹ “Nasdaq Texas Last Sale for NYSE/Amex” also includes transaction reports from other Tape B listing venues, as set forth under Nasdaq Stock Market Rules, Equity 7, Section 139(a) (“Nasdaq Last Sale for NYSE/NYSE American” contains all such transaction reports for NYSE-listed stocks and stocks listed on NYSE American and other Tape B listing venues.”) As a clarification, Nasdaq Texas will propose adding the phrase “and other Tape B listing venues” in a separate filing to conform to the Nasdaq rulebook. This would be a clarification that does not reflect any change in the Nasdaq Texas Last Sale data feed.

¹² Nasdaq PHLX LLC, Equity 7, Section 3, PSX BBO Feeds.

¹³ Nasdaq PHLX LLC, Equity 7, Section 3, PSX Last Sale and Nasdaq Last Sale Plus Data Feeds.

¹⁴ The phrase “other exchanges” refers to other Tape B listing venues, as set forth under Nasdaq Stock Market Rules, Equity 7, Section 139(a) (“Nasdaq Last Sale for NYSE/NYSE American” contains all such transaction reports for NYSE-listed stocks and stocks listed on NYSE American and other Tape B listing venues.”) Nasdaq PSX will propose a technical clarification in a separate filing to replace “other exchanges” with “other Tape B listing venues” to conform to the Nasdaq rulebook. This will be a clarification that does not reflect any change in the PSX Last Sale data feed.

¹⁵ The current rulebook has an incorrect reference to Nasdaq BX, a previous name for Nasdaq Texas, LLC. The Exchange proposes to correct this reference, as discussed below.

⁵ Nasdaq Stock Market LLC Rules, Equity 7, Section 123.

⁶ Nasdaq Texas LLC Rules, Equity 7, Section 123.

⁷ Nasdaq PHLX LLC Rules, Equity 7, Section 3, PSX TotalView.

⁸ The Nasdaq Stock Market LLC, Equity 7, Section 147.

Market (“Nasdaq”), Nasdaq Texas (“NTX”), and Nasdaq PSX (“PSX”) or any exchange other than Nasdaq and displayed on any of the Nasdaq U.S. Equity Markets or the FINRA/Nasdaq TRF, including all information currently disseminated through Nasdaq Basic,¹⁶ Nasdaq Texas BBO,¹⁷ Nasdaq Texas Last Sale, PSX BBO,¹⁸ and PSX Last Sale.

Nasdaq TotalView Plus

The Exchange proposes Nasdaq TotalView Plus, which will include, with respect to stocks listed on Nasdaq or on any exchange other than Nasdaq, all orders and quotes from all members of any of the Nasdaq U.S. Equity Markets and displayed on a Nasdaq U.S. Equity Market, including all information currently disseminated through Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView, and the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq U.S. equity markets.

In offering Nasdaq Basic Plus and Nasdaq TotalView Plus, Nasdaq will be acting as a redistributor of depth-of-book¹⁹ and top-of-book²⁰ products from Nasdaq, Nasdaq Texas, and Nasdaq PSX. Nasdaq Basic Plus and Nasdaq TotalView Plus will be compiled from the same underlying feeds from Nasdaq, Nasdaq Texas, and Nasdaq PSX that are distributed to the purchasers of those feeds.

All of the market data distributed through Nasdaq Basic Plus and Nasdaq TotalView Plus will be taken from the Nasdaq, Nasdaq Texas, and Nasdaq PSX data feeds, which will remain available to vendors. Although the proposed feeds will differ from the underlying feeds in certain ancillary characteristics, none of these ancillary characteristics will advantage the Exchange in any way relative to vendors, as all depend on independent sources of information equally available to both the Exchange and vendors.²¹

¹⁶ Including “Nasdaq Basic for Nasdaq,” “Nasdaq Basic for NYSE,” and “Nasdaq Basic for NYSE American.”

¹⁷ Including “Nasdaq Texas BBO for Nasdaq,” “Nasdaq Texas BBO for NYSE,” and “Nasdaq Texas BBO for Amex”).

¹⁸ Including “PSX BBO for Nasdaq,” “PSX BBO for NYSE,” and “PSX BBO for NYSE Amex.”

¹⁹ The underlying depth of book products are Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView.

²⁰ The underlying top of book products are Nasdaq Basic (which includes both best bid and offer and last sale information), Nasdaq Texas BBO, Nasdaq Texas Last Sale, PSX BBO, and PSX Last Sale.

²¹ The proposed feeds will use timestamps in Epoch (or “Unix”) time (the number of seconds since January 1, 1970). Epoch time is based on a universal standard available to all market

Nasdaq will have no competitive advantage over other market data vendors because the Exchange will consolidate the trading information needed to form Nasdaq Basic Plus and Nasdaq TotalView Plus at the same time and using the same data feeds distributed to other vendors. Although Nasdaq will propose specific fees in a separate filing, the Exchange expects to set fees at a level that will provide vendors with the ability to offer competing products using the same underlying feeds at no cost disadvantage. As such, the Exchange will not have a speed, information, or cost advantage relative to other vendors in the creation or sale of consolidated data feeds.

With respect to speed, the path for the distribution of the information by the Exchange will not be faster than the path for distribution that would be used by a market data vendor to distribute similar, independently created products. As such, the Exchange will have no latency advantage over a competing market data vendor.

With respect to information, the same source of the market data to be used by the Exchange to create the two proposed products will also be available to any other market data vendor. Specifically, the Nasdaq system that will create and support Nasdaq Basic Plus and Nasdaq TotalView Plus will access the underlying feeds from Nasdaq, Nasdaq Texas, and Nasdaq PSX from the same point as any market data vendor.

With respect to cost, the Exchange will submit a separate proposal to establish fees for Nasdaq Basic Plus and Nasdaq TotalView Plus. In that filing, the Exchange expects to set fees at a level that will provide vendors with the ability to offer a competing product using the same underlying feeds at no cost disadvantage.

As such, Nasdaq will have no competitive advantage over any market data vendor that may offer a similar or comparable product.

Other Changes

Nasdaq Last Sale Plus

The Exchange proposes two non-substantive changes to the Nasdaq Last Sale Plus data feed. First, the Exchange proposes removing a reference to Nasdaq Information LLC as the distributor of the feed because the legal entity distributing information is not

participants and freely convertible from any other time measurement. The configuration of Nasdaq Basic Plus and Nasdaq TotalView Plus will also differ from the underlying feeds through the creation of standardized headers or message structures. Such ancillary characteristics can be replicated by any vendor.

necessary for the product description and not identified elsewhere in the Nasdaq rulebook for any other product. Second, the Exchange proposes to change an incorrect reference to Nasdaq BX to Nasdaq Texas, LLC.

Fees

Fees for Nasdaq TotalView Plus and Nasdaq Basic Plus will be proposed in a separate filing.

Implementation

The Exchange will announce the operative date of the proposed rule change to members and member organizations in an Equity Trader Alert.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²² in general, and furthers the objectives of Section 6(b)(5) of the Act,²³ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. This is because the proposal will offer customers additional choice in how they consume their depth of book and best bid and offer information and allow certain customers to optimize how they consume such information.

The proposal will expand customer choice by allowing them to select whether to purchase best bid and offer information through the separate data feeds of Nasdaq Basic, Nasdaq Texas BBO and PSX BBO (or any combination thereof) separately or in a single feed. Customers will similarly be able to consume Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView (or any combination thereof) separately or in a single feed. This is a well-established market feed structure offered by multiple exchanges over many years. The NLS Plus feed is one such example, and has been available for over a decade.²⁴ The New York Stock Exchange has offered a similar bid and offer feed for as long a period,²⁵ as have other exchanges.²⁶

²² 15 U.S.C. 78f(b).

²³ 15 U.S.C. 78f(b)(5).

²⁴ See Securities Exchange Act Release No. 74972 (May 15, 2015), 80 FR 29370 (May 21, 2015) (SR–Nasdaq–2015–055) (establishing the NLS Plus data feed).

²⁵ See, e.g., Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR–NYSE–2014–40) (order granting approval to establish the NYSE Best Quote & Trades (“BQT”) Data Feed).

²⁶ See, e.g., Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (SR–BATS–2014–055; SR–BYX–2014–

As set forth in more detail in Section 7, Nasdaq Basic Plus will provide substantially the same top-of-book information as the NYSE BQT feed, which provides best bid and offer and last sale information for the New York Stock Exchange and its affiliates,²⁷ and the Cboe One feed, which disseminates the aggregate best bid and offer of all displayed orders traded on Cboe's affiliated exchanges.²⁸

The proposed Nasdaq TotalView Plus feed will also provide substantially the same depth-of-book information as the Cboe One Premium feed, which disseminates aggregated depth-of-book information for up to twelve price levels for the Cboe-affiliated exchanges,²⁹ and the NYSE Pillar Depth feed, which provides a consolidated view of the ten best price levels on both the bid and offer sides across the NYSE Group's combined limit order books for the NYSE-affiliated exchanges.³⁰

The proposal will also allow certain customers to optimize consumption by ingesting information from multiple markets in a single connection, allowing subscribers to onboard and maintain access to market data more efficiently, which may result in cost savings for subscribers based on a more efficient configuration of data feeds.

This proposal will not change the depth of book or top of book information available in the market, as the consolidated feed will have the same information as the underlying feeds. As explained above, Nasdaq is acting as a redistributor of depth-of-book³¹ and top-of-book³² products from Nasdaq, Nasdaq Texas, and Nasdaq PSX. Also, as noted above, the proposed feeds will differ from the underlying feeds in certain ancillary characteristics, but none of these ancillary characteristics will advantage the

Exchange in any way relative to vendors, as all depend on independent sources of information equally available to both the Exchange and vendors. Nasdaq will have no competitive advantage over other market data vendors because the Exchange will take the same data available to other market data vendors at the same time, and therefore will have neither a speed nor an information advantage over them. With respect to cost, the Exchange will propose in a separate filing to set fees at a level that will provide vendors with the ability to offer a competing product using the same underlying feeds at no cost disadvantage.

The non-substantive changes to the description of the NLS Plus data feed are 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 by removing an unnecessary reference to a corporate entity distributing market data and correcting the name of one of the Nasdaq affiliated exchanges.

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.

Nothing in the proposal burdens inter-market competition (the competition among self-regulatory organizations) because the proposed changes do not alter the ability of non-affiliated markets to propose changes to their respective rulebooks to offer similar feeds, or alternative feeds to compete against these products, in response to these changes.

Nothing in the proposal burdens intra-market competition (the competition among consumers of exchange data) because the proposed feeds will be available to any market participant on a non-discriminatory basis.

Nothing in the proposal will burden the ability of market data vendors to compete with the Exchange. As explained above, Nasdaq is acting as a redistributor of depth of book and top of book products from Nasdaq, Nasdaq Texas, and Nasdaq PSX.

Nasdaq will have no competitive advantage over other market data vendors because the Exchange will take the same data available to other market data vendors at the same time, and therefore will have neither a speed nor an information advantage over them.

With respect to cost, the Exchange will propose in a separate filing to set fees at a level that will provide vendors with the ability to offer a competing product using the same underlying feeds at no cost disadvantage. Although the proposed feeds will differ from the underlying feeds in certain ancillary characteristics, none of these ancillary characteristics will advantage the Exchange in any way relative to vendors, as all depend on independent sources of information equally available to both the Exchange and vendors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the 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 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:

³³ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

030; SR-EDGA-2014-25; SR-EDGX-2014-25) (order approving market data product called BATS One Feed being offered by four affiliated exchanges)

²⁷ Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (SR-NYSE-2014-40).

²⁸ Securities Exchange Act Release No. 82423 (December 29, 2017), 83 FR 579 (January 4, 2018) (SR-CboeEDGA-2017-004)

²⁹ Securities Release Act Release No. 105190 (April 9, 2026), 91 FR 19233 (April 14, 2026) (SR-CboeEDGX-2026-020).

³⁰ Securities Exchange Act Release No. 100030 (April 25, 2024), 89 FR 35260 (May 1, 2024) (SR-NYSE-2024-24) (introducing the NYSE Pillar Depth feed as immediately effective pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b-4(f)(6) thereunder).

³¹ The underlying depth of book products are Nasdaq TotalView, Nasdaq Texas TotalView, and PSX TotalView.

³² Nasdaq Basic (which includes both best bid and offer and last sale information), Nasdaq Texas BBO, Nasdaq Texas Last Sale, PSX BBO, and PSX Last Sale.

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–NASDAQ–2026–061 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NASDAQ–2026–061. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer

to file number SR–NASDAQ–2026–061 and should be submitted on or before August 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁵

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–15461 Filed 7–30–26; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

**Small Business Investment Company
Licensing and Examination Fees
Inflation Adjustment**

AGENCY: U.S. Small Business Administration.

ACTION: Notice of inflation adjustment of SBIC licensing and examination fees.

SUMMARY: The U.S. Small Business Administration (SBA) is providing notice of the annual Inflation Adjustment to the Licensing and Examination Fees charged in the Small Business Investment Company (SBIC) program, required under the SBIC program regulations.

DATES: The SBIC program Licensing and Examination Fees identified in this notice will become effective on October

1, 2026, and will not require further Inflation Adjustment prior to the release of the June 2027 Consumer Price Index for All Urban Consumers (CPI–U), as calculated by the U.S. Bureau of Labor Statistics (BLS).

FOR FURTHER INFORMATION CONTACT: Paul Van Eyl, Office of Investment and Innovation at 202–257–5955 or oii.policy@sba.gov. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: The SBIC program regulations at 13 CFR 107.300(c)(4), 107.692(b)(2), and 107.692(e) require SBA to annually adjust the SBIC program Licensing and Examination Fees using the Inflation Adjustment defined in 13 CFR 107.50. The current Licensing Fees and Examination Fees payable by SBIC Applicants and SBICs, respectively, became effective on October 1, 2025. This document provides notice of the annual Inflation Adjustment based on the release of the June 2026 BLS CPI–U.

The table below identifies the Licensing Fees payable by SBIC License Applicants and Examination Fees payable by SBICs, effective as of October 1, 2026.

SBIC fee type	Fund sequence	Fees amounts (effective October 1, 2026)
Licensing Fees (effective under § 107.300):		
Initial Licensing Fee § 107.300(c)(1)	Fund I	\$5,400
	Fund II	11,000
	Fund III	16,400
	Fund IV+	21,800
Final Licensing Base Fee § 107.300(c)(2)	Fund I	11,000
	Fund II	16,400
	Fund III	27,300
	Fund IV+	32,800
Licensing Resubmission Penalty Fee § 107.300(c)(3) ¹ .....	.....	11,000
Examination Fees (effective under § 107.692):		
Minimum Base Fee (§ 107.692(b))	All Funds	11,700
Maximum Base Fee for non-Leveraged SBICs (§ 107.692(b))	All Funds	38,900
Maximum Base Fee for Leveraged SBICs (§ 107.692(b))	All Funds	56,900
Delay Fee (§ 107.692(e))	All Funds	800

¹ *Resubmission Penalty Fee.* The Resubmission Penalty Fee means a \$11,000 penalty fee assessed to an applicant that has previously withdrawn or is otherwise not approved for a license that must be paid *in addition* to the Initial and Final Licensing Fees at the time the applicant re-submits its application.

(Authority: 15 U.S.C. 681(e) and 687b(b); 13 CFR 107.300 and 107.692.)

Joshua R. Carter,
Associate Administrator, U.S. Small Business Administration, Office of Investment and Innovation.

[FR Doc. 2026–15468 Filed 7–30–26; 8:45 am]

BILLING CODE 8026–09–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2026–0727]

**Agency Information Collection
Activities: Proposed Request**

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and

Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections and one new collection.

SSA is soliciting comments on the accuracy of the agency’s burden estimate; the need for the information; its practical utility; ways to enhance its

³⁵ 17 CFR 200.30–3(a)(12).

quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers. (OMB) Office of Management and Budget, Attn: Desk Officer for SSA (SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235, Fax: 833-410-1631, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through <https://www.reginfo.gov/public/do/PRAMain> by clicking on Currently under Review—Open for Public Comments and choosing to click on one of SSA's published items. Please reference Docket ID Number [SSA-2026-0727] in your submitted response.

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than September 29, 2026. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Application for Parent's Insurance Benefits—20 CFR 404.370, 404.371,

404.373, 404.374 & 404.601–404.603—0960-0012. Section 202(h) of the Social Security Act (Act) establishes the conditions of eligibility a claimant must meet to receive monthly benefits as a parent of a deceased worker who was contributing at least one-half of the parent's support at the time of the worker's death or when the worker became disabled. SSA uses information from Form SSA-7-F6, Application for Parent's Insurance Benefits, to determine if the claimant meets the eligibility criteria. The respondents are applicants filing for Parent's Insurance Benefits.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
SSA-7-F6 (Paper—Mailed)	66	1	30	33	* \$33.54	.....	*** \$1,107
SSA-7 (Fillable PDF, Upload Documents)	60	1	30	30	* 33.54	.....	*** 1,006
Interview (MCS—Telephone or In-Person)	296	1	30	148	* 33.54	** 13	*** 7,110
Totals	422	.....	.....	211	.....	.....	*** 9,223

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** We based this figure on the average FY 2026 wait times for field offices (average wait time of 20 minutes) and for teleservice centers (average speed of answer of 5 minutes), based on SSA's current management information data; we use the average of field office and teleservice center wait times because we do not track whether interviews happen by telephone or in person. This figure reflects data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate, the wait times may be different on the website than they appear here.

*** This figure does not represent actual costs that SSA is imposing on individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. *There is no actual charge to respondents to complete the information collection.*

2. Employment Relationship Questionnaire—20 CFR 404.1007—0960-0040. When SSA needs to confirm a worker's employment status to ensure the accuracy of a worker's earning records, the agency uses Form SSA-7160, Employment Relationship

Questionnaire, to determine the existence of an employer-employee relationship. We use the information this form collects to determine whether a beneficiary is self-employed, or if the beneficiary is an employee. The respondents are individuals seeking to

establish their status as employees, as well as households, businesses, and state or local governments seeking to establish their status as alleged employers.

Type of Request: Revision of an OMB approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA-7160	19	1	25	8	\$33.54 *	20 **	\$470 ***

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** We based this figure on the average FY 2026 wait time for field offices (20 minutes), based on SSA's current management information data. This figure reflects data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate, the wait times may be different on the website than they appear here. While we have included wait time for all respondents, we note that respondents are not required to complete the form in person and those who mail or drop off a completed form do not experience any wait time.

*** This figure does not represent actual costs that SSA is imposing on individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. *There is no actual charge to respondents to complete the information collection.*

3. Farm Self-Employment Questionnaire—20 CFR 404.1082(c) & 404.1095—0960-0061. SSA collects the information on Form SSA-7156 on a voluntary and as-needed basis to determine the existence of an agriculture trade or business which may affect the insured status or monthly benefit of a retirement applicant. When an applicant indicates self-employment as a farmer, SSA uses the SSA-7165 to

determine the existence of an agricultural trade or business, and to calculate subsequent covered earnings for Social Security entitlement purposes the applicant is claiming. As part of the application process, we conduct a personal interview, either face-to-face or via telephone, and document the interview using Form SSA-7165. Alternately, applicants have the option of using our Upload Documents portal

(OMB No. 0960-0830), which allows them to complete and submit the form online in lieu of an interview. The respondents are applicants for Social Security benefits whose entitlement and amount of benefits depend on establishing whether the worker received covered earnings from self-employment as a farmer, and if so how much they earned.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
SSA-7156 (Fillable PDF—Upload Documents)	54	1	15	14	* \$30.16	.....	*** \$422
SSA-7156—(In-Person Interview)	6	1	15	2	* 30.16	** 13	*** 90
Totals	60	.....	.....	16	.....	.....	*** 512

* We based this figure on average Farmworkers and Laborers, Crop, Nursery, and Greenhouse salaries as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** We based this figure on the average combined FY 2026 wait times for field offices (average wait time of 20 minutes) and for teleservice centers (average speed of answer of 5 minutes), based on SSA's current management information data; we use the average of field office and teleservice center wait times because we do not track whether interviews happen by telephone or in person. This figure reflects data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate, the wait times may be different on the website than they appear here.

*** This figure does not represent actual costs that SSA is imposing on individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. *There is no actual charge to respondents to complete the information collection.*

4. *Certification by Religious Group—20 CFR 404.1075—0960-0093.* Under the Internal Revenue Code, Section 1402(g), certain self-employed religious group members may receive a waiver of all Social Security benefits and payments and thus will be exempt from paying Social Security taxes, if SSA

determines they qualify for the waiver. A religious group's authorized spokesperson completes and submits to SSA Form SSA-1458, Certification by Religious Group, so SSA can verify if religious organizational members meet or continue to meet the criteria for exemption. The respondents are

spokespersons for religious groups or sects seeking a waiver for Social Security payments and benefits under IRS Code Section 1402(g).

Type of Request: Revision of an OMB approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical cost amount (dollars) *	Total annual opportunity cost (dollars) ***
SSA-1458	318	1	15	80	\$33.54 *	\$2,683 **

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. *There is no actual charge to respondents to complete the information collection.*

5. *Notice Regarding Substitution of Party Upon Death of Claimant Reconsideration of Disability Cessation—20 CFR 404.907-404.921 and 416.1407-416.1421—0960-0351.* When a claimant dies before we make a determination on that person's request for reconsideration of a disability cessation, SSA seeks a qualified

substitute party who may choose to pursue the appeal. If SSA locates a qualified substitute party, the agency uses Form SSA-770-U4 to collect information about whether to pursue or withdraw the reconsideration request. We use this information as the basis for the decision to continue or discontinue with the appeals process. Respondents

are individuals with a relationship to the deceased or the deceased's estate who may be made a substitute party and proceed with or withdraw the reconsideration request.

Type of Request: Revision of an OMB approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA-770-U4	237	1	5	20	\$33.54 *	20 **	\$3,320 ****

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** We based this figure on the average FY 2026 wait time for field offices (20 minutes), based on SSA's current management information data. This figure reflects data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate, the wait times may be different on the website than they appear here. While we have included wait time for all respondents using the paper form, we note that respondents are not required to complete the form in person and those who mail or drop off a completed form do not experience any wait time.

*** This figure does not represent actual costs that SSA is imposing on individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. *There is no actual charge to respondents to complete the information collection.*

6. *Missing and Discrepant Wage Reports Letters, Questionnaires, and Online Reconciliation Application—20 CFR 31.6051-2—0960-0432.* Each year employers report the wage amounts they paid their employees to the Internal Revenue Service (IRS) for tax purposes, and separately to SSA for retirement and disability coverage purposes.

Employers are required to report the same figures to SSA and the IRS. However, each year some of the employer wage reports SSA receives are different than the amounts the same employers report to the IRS. SSA uses Forms SSA-L93-SM, SSA-L94-SM, SSA-95-SM, and SSA-97-SM to work with employers to resolve the

discrepancy and, ultimately, to ensure employees receive full credit for their wages. This information collection tool also includes the online IRS/SSA Reconciliation portal, which is a streamlined version of the SSA-95-SM and the SSA-97-SM. The IRS/SSA Reconciliation portal will guide employers to the appropriate solutions

and will link the users to on-line tools to correct issues. The respondents are employers who reported different wage

amounts to SSA than they reported to the IRS.

Type of Request: Revision of an OMB approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA-95-SM and SSA-97-SM (and accompanying cover letters SSA-L93, L94) (paper version)	356,800	1	30	178,400	* \$33.54	** \$5,983,536
IRS/SSA Reconciliation (online version)	89,200	1	30	44,600	* 33.54	** 1,495,884
Totals	446,000	.....	.....	223,000	.....	** 7,479,420

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. *There is no actual charge to respondents to complete the information collection.*

7. Request for Social Security Earning Information—20 CFR 404.100 and 404.810—0960-0525. The Act permits wage earners, or their authorized representatives, to request Social Security earnings information from SSA using Form SSA-7050-F4. SSA uses the information the respondent provides on Form SSA-7050-F4 to verify the wage earner has: (1) Earnings; (2) the right to access the correct Social Security

Record; and (3) the right to request the earnings statement. If we verify all three items, SSA produces an Itemized Statement of Earnings (Form SSA-1826), which includes the names and addresses of employers, or a Certified Yearly Totals of Earnings, and sends it to the requestor (if we cannot verify the items, we inform the respondent we cannot provide them with the requested Statement of Earnings due to this

mismatch). The agency charges respondents for sending them an Itemized Statement of Earnings, or for a Certified Yearly Totals of Earnings. Respondents are wage earners and their authorized representatives who are requesting Itemized Statement of Earnings records or Certified Yearly Totals of Earnings.

Type of Request: Revision of an OMB approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical cost amount (dollars) *	Total annual opportunity cost (dollars) ***
SSA-7050-F4	66,800	1	11	12,247	\$33.54 *	\$410,764 **

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is charging individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. The actual charge for an Itemized Statement of Earnings or a Certified Yearly Total of Earnings to be shown on the SSA-7050-F4 is as follows:

Type of respondent	Number of requests	Cost per request	Annual cost
Non-Certified Respondent	35,000	\$49	\$1,715,000
Certified Respondent	20,000	79	1,580,000
Certified Yearly Totals of Earnings	11,800	30	354,000
Total	66,880	.....	3,649,000

8. Function Report Adult-Third Party—20 CFR 404.1512 & 416.912—0960-0635. Individuals applying for or receiving Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) must provide SSA with medical evidence and other proof

SSA requires to prove their disability. SSA, and Disability Determination Services (DDS) on our behalf, collect information from third parties who know the adult applying for SSDI or SSI and who can provide information about how the adult's purported disability

affects the adult's ability to function. The respondents are third parties familiar with the functional limitations (or lack thereof) of claimants for or recipients of SSI and SSDI benefits.

Type of Request: Revision of an OMB approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA-3380-BK	635,620	1	61	646,214	\$23.91 *	\$15,450,977 **

* We based this figure on the average DI payments based on SSA's current FY 2026 data (Effect of COLA on Average Social Security Benefits) and on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

*** This figure does not represent actual costs that SSA is imposing on individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. *There is no actual charge to respondents to complete the information collection.*

9. Function Report—Adult 20 CFR 404.1512 and 416.912—0960-0681. SSA requires individuals applying for or receiving SSDI or SSI benefits to

provide us with medical evidence and other information we may need to prove their disability. SSA staff, and on SSA's behalf, State Disability Determination

Services' employees, use Form SSA-3373, an in-person interview, or a telephone interview to collect information directly from an adult SSI

or SSDI claimant or recipient about how their purported disability affects their activities, capabilities, and general ability to function. We use this

information to help determine eligibility, or continued eligibility, for SSI and SSDI claims. The respondents are adult Title II and Title XVI

claimants, or current recipients undergoing redeterminations of benefits. *Type of Request:* Revision of an OMB approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical cost amount (dollars) *	Average wait time in field office or for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
SSA-3373	1,812,929	1	61	1,843,144	\$14.27 *	13 **	\$31,906,935 ***

* We based this figure on the average disability payments based on SSA's current FY 2026 data (Effect of COLA on Average Social Security Benefits).

** We based this figure on the average combined FY 2026 wait times for field offices (average wait time of 20 minutes) and for teleservice centers (average speed of answer of 5 minutes), based on SSA's current management information data; we use the average of field office and teleservice center wait times because we do not track whether interviews happen by telephone or in person. This figure reflects data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate, the wait times may be different on the website than they appear here.

*** This figure does not represent actual costs that SSA is imposing on individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. *There is no actual charge to respondents to complete the information collection.*

10. *Electronic Records Express (ERE) and Electronic Records Appointed Representative Services (ERE-ARS)*—20 CFR 404.1512 and 416.912—0960-0753. Electronic Records Express (ERE) is a web-based SSA system that allows medical providers, educational providers, and other third parties, such as teachers and school administrators, to electronically submit disability claimant evidence to SSA after the system users completing the required registration process. SSA and State agency employees use ERE to request and receive medical and educational records

needed to determine eligibility for disability benefits. When the available evidence provided to us is insufficient, SSA also uses ERE to order and receive consultative examination reports. This information collection tool also includes ERE Appointed Representative Services (ERE-ARS), which allows appointed representatives to securely access online copies of documents and digital audio hearing recordings contained in their clients' disability claim files. Through ERE-ARS, appointed representatives can obtain the same information that SSA provides to disability claimants. To

ensure only authorized people access ERE or ERE-ARS, SSA requires third parties to complete a unique registration process if they wish to use this system. The respondents are medical providers who evaluate or treat disability claimants or recipients, other third parties with connections to disability applicants or recipients (e.g., Teachers and school administrators for child disability applicants), and appointed representative who voluntarily choose to use ERE or ERE-ARS.

Type of Request: Revision of an OMB approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical cost amount (dollars) *	Total annual opportunity cost (dollars) **
ERE (ERE sign-ins and activities)	6,121,008	1	10	1,020,168	* \$51	** \$52,028,568
ERE (account registrations)	3,668	1	35	2,140	* 51	** 109,140
ERE-ARS (technician-assisted actions)	500	1	15	125	* 89.35	** 11,169
ERE-ARS (Number of downloads)	135,477,567	1	1	2,257,960	* 89.35	** 201,748,726
Totals	141,602,743	.....	.....	3,280,391	.....	** 253,897,603

* We based this figure on Healthcare Practitioners and Technical Occupations, Secondary School worker's, and Lawyer's hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. *There is no actual charge to respondents to complete the information collection.*

11. *Management of Authorization for Government Users, Institutions, and Customers (MAGIC)*—20 CFR 401.45, 20 CFR 402—0960-NEW.

Introduction

The Social Security Administration (SSA) is creating a new public credentialing and authorization process, hereafter called Management of Authorization for Government Users, Institutions, and Customers (MAGIC), that provides secure access to SSA's electronic services for the Business Services Online (BSO) and Government Services Online (GSO) users.

Background

Currently SSA Integrated Registration Services (IRES), OMB No. 0960-0626, provides authentication and

authorization services to support business and government services through our BSO and GSO websites. Built in the late 1990s and early 2000s, IRES does not meet current federal authentication and digital identity requirements. Because of that, we decommissioned IRES registration as of July 2025, to ensure new users are not using the system.

Our new application, MAGIC, will replace IRES as the new registration and authorization process for Business Services Online (BSO) and Government Services Online (GSO). The new process will allow individuals within business and government entities to fully manage access for their users.

Management of Authorization for Government Users, Institutions, and Customers (MAGIC)

MAGIC is a self-service authorization framework. Each entity will designate a Responsible Entity Officer (REO) who is authorized to execute agreements on behalf of the entity that are legally binding and enforceable. The REO should have authority to access any information available to the entity through any Social Security service; authorize the disclosure of that information when appropriate; and delegate other individuals to have access to it.

Each designated REO will create a MAGIC account and self-attest, acknowledging responsibility for all business conducted in MAGIC, BSO,

and GSO on behalf of their organization. As a convenience, our framework includes additional administrative roles that the REO can delegate, authorizing another individual to manage the organization's MAGIC account. The REO and additional administrative roles have a higher level of safeguarding and security. The REO and/or additional administrative roles will delegate service roles authorizing other users to conduct specific BSO/GSO business during a specified timeframe on the organization's behalf, which includes third-party organizations. Both the REO and Administrator can revoke service roles as well. Every user (*i.e.*, REO, Administrator, or Service User) will use their own credential to access MAGIC and BSO/GSO.

Currently, we accept credentials from *Login.gov* or *ID.me* through our eAccess platform (OMB No. 0960–0789). MAGIC

will then allow businesses to specify who is appropriate to act on the business' behalf. MAGIC will offer the following options for the REO:

- Includes a single credential through one of SSAs CSPs to any customer who wants to do business online with the agency and meets the eligibility criteria (approved under OMB Control No. OMB #0960–0789);
- Allows users to give authorization to the appropriate employees to conduct business with us;
- Offers access to some of our services online while providing us an acceptable level of confidence in the identity of the person requesting access to these services;
- Uses a risk-based approach to balance security, ease of use, compliance, cost, and feasibility consideration; and
- Provides a user-friendly means for the public to conduct extended business

with us online instead of visiting local servicing offices or requesting information over the phone.

In addition, MAGIC will offer organizational REOs the option of technician assistance for unlocking and blocking user accounts within their organization, or for terminating the REO account. In this way, MAGIC will give more flexibility to organizations and businesses who do business with SSA through the BSO and GSO portals. MAGIC will offer organizations accessibility to SSA's online services, ensuring our online services are both secure and user-friendly which both an agency priority and is vital to good public service.

Respondents are individuals registering and authorizing users for access to BSO and GSO.

Type of Request: Request for a new information collection.

Method of completion	Number of respondents +	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average dedicated BSO call line wait time (minutes) **	Total annual opportunity cost (dollars) ***
Internet Registrations	+ 2,000,000	1	2	66,667	* \$33.54	.....	*** \$2,236,011
CSA Screens (Technician Assisted Unlocking/Blocking Account; Terminate REO)	+ 100,000	1	2	3,333	* 33.54	** 2	*** 223,578
Internet Sign-Ins	+ 2,000,000	1	1	33,333	* 33.54	.....	*** 1,117,989
Totals	+ 4,100,000	.....	.....	103,333	.....	.....	*** 3,577,578

+ Once we have MI data for this new information collection, we will submit a Change Request to update the burden with more accurate data.

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** We based this figure on the FY 2026 wait times for the dedicated BSO Call Line, based on SSA's current management information data. This figure reflects data from our systems on the date we drafted this document. We continue to monitor our management information data on call wait times to ensure we report updated figures when possible.

*** This figure does not represent actual costs that SSA is imposing on individuals; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the information collection. *There is no actual charge to respondents to complete the information collection.*

Mark Steffensen,

General Counsel, Chief of Law, Policy and Legislative Affairs, Social Security Administration.

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SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2026–0694]

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes one new information collection, as well as revisions and one extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden

estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA (SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235, Fax: 833–410–1631, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through <https://www.reginfo.gov/public/do/PRAMain> by clicking on Currently under Review—Open for Public Comments and choosing to click

on one of SSA's published items. Please reference Docket ID Number [SSA–2026–0694] in your submitted response.

SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than August 31, 2026. Individuals can obtain copies of this OMB clearance package by writing to the *OR.Reports.Clearance@ssa.gov*.

1. *Certificate of Election for Reduced Spouse's Benefits—20 CFR 404.421–0960–0398.* SSA cannot pay reduced Social Security benefits to an already entitled spouse unless the spouse elects to receive reduced benefits and is (1) at least age 62, but under full retirement age; and (2) is no longer caring for a child. In this situation, spouses who decide to elect reduced benefits must file Form SSA–25, Certificate of Election for Reduced Spouse's Benefits. SSA

uses the information to pay qualified spouses who elect to receive reduced benefits. Respondents are entitled

spouses seeking reduced Social Security benefits.

Type of Request: Revision of an OMB approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office **	Total annual opportunity cost (dollars) ***
SSA-25 (paper)	1,040	1	13	225	* \$33.54	** 20	*** \$19,185
SSA-25 (Upload Documents)	576	1	13	125	* 33.54	.....	*** 4,193
Totals	1,616	.....	.....	350	.....	.....	*** 23,378

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** We based this figure on the average FY 2026 wait time for field offices (20 minutes), based on SSA's current management information data. This figure reflects data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate daily, the wait times may be different on the website than they appear here. While we have included wait time for all respondents using the paper form, we note that respondents are not required to complete the form in person and those who mail or drop off a completed form do not experience any wait time.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. Appointment of Representative—20 CFR 404.1707, 404.1720, 408.1101, 416.1507, and 416.1520—0960–0527. Individuals claiming rights or benefits under the Act must notify SSA in writing using our prescribed appointment form, Form SSA-1696, or the submittable electronic version, e1696, to appoint an individual to represent them in dealing with SSA. In addition, as part of SSA's regulations, SSA requires both claimants and representatives to sign our prescribed form and file it with SSA before SSA will recognize the appointment. Claimants use Form SSA-1696, or e1696, to appoint a representative to handle their claim before SSA. They may also use the SSA-1696 (or e1696) to name their principal representative. Their selected representative(s) can use

the SSA-1696, or e1696, to indicate whether they will charge a fee, to show their eligibility for direct fee payment, and to assign direct payment of their fee to an entity. In addition, representatives also use the SSA-1696, or e1696, to inform SSA of their disbarment; suspension from a court or bar in which they previously admitted to practice; or their disqualification from participating in or appearing before a Federal program or agency. SSA uses the information on the SSA-1696, or e1696, to document the appointment of the representative. We also use this form to collect the representative's business affiliation and employer identification number. In addition, claimants may use the SSA-1696-SUP1 to revoke their appointment of a representative, and representatives may use the SSA-1696–

SUP2 to withdraw their acceptance of the appointment. SSA uses the information on the SSA-1696-SUP1 and SSA-1696-SUP2 to document the revocation and withdrawal of a representative. Respondents are applicants for, or recipients of, Social Security disability benefits (SSDI); SSI payments; or anyone pursuing a benefit or invoking a right under SSA programs, who are notifying SSA they wish to appoint someone to represent them in their dealings with SSA; representatives being appointed by a claimant; as well as individuals revoking the appointment of a representative, and representatives withdrawing from an appointment.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA-1696; SSA-1696-APP (Appointed Representative) ..	1,852,171	1	5	154,347	* \$89.35	** \$13,790,904
SSA-1696; SSA-1696-APP (Claimants)	1,852,171	1	7	216,087	* 14.27	** 3,083,561
SSA-1696-SUP1 (Claimants)	21,959	1	5	1,830	* 14.27	** 26,114
SSA-1696-SUP2 (Appointed Representative)	252,000	1	5	21,000	* 89.35	** 1,876,350
Totals	3,978,301	.....	.....	393,264	.....	** 18,776,929

* We based this figure on the average Lawyers, Judges, and Related Workers, hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics) and the average disability payments based on SSA's current FY 2026 data (Effect of COLA on Average Social Security Benefits).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. Public Information Campaign—0960–0544. Periodically, SSA sends various public information materials, including public service announcements; news releases; and

educational tapes, to public broadcasting systems so they can inform the public about various programs and activities SSA conducts. SSA frequently sends follow-up business reply cards for

these public information materials to obtain suggestions for improving them. The respondents are broadcast sources.

Type of Request: Extension of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Radio	5,000	2	1	167	* \$37.85	** \$6,321

* We based this figure on average Broadcast Announcers and Radio Disc Jockey's hourly salary, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. Medical Permit Parking Application—41 CFR 102-71.20 & 102-74.305—0960-0624. SSA employees and contractors with a qualifying medical condition who park at SSA-owned and leased facilities may apply to receive a medical parking permit. SSA uses two forms for this program: (1) the SSA-3192, the Application and Statement, which an individual

completes when first applying for the medical parking space; and (2) the SSA-3193, the Physician's Report, which the applicant's physician completes to verify the medical condition after the individual completes the top portion and brings the form to the physician. The respondents are SSA employees and contractors seeking medical parking permits and their physicians. Because

SSA employees are Federal workers exempt from the requirements of the Paperwork Reduction Act, the burden below is only for SSA contractors and physicians (of both SSA employees and contractors).

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA-3192 (Contractor Applicant)	195	1	30	98	* \$55.15	** \$5,405
SSA-3193 (Contractor Applicant)	195	1	++ 15	49	* 55.15	** 2,702
SSA-3193 (Physician)	+ 233	1	90	350	* 133.30	** 46,655
Totals	623	.....	.....	497	.....	** 54,762

* This figure accounts for all of the forms the physicians complete (both from SSA employees and contractors).

** This average figure includes both the time estimate for the contractor applicant completing the top portion of Form SSA-3193 (approximately 5 minutes) and the amount of time to bring the form to the physician (approximately 10 minutes).

* We based these figures on the average SSA contractor's hourly wages based on SSA's management information, and the average Physician's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

5. Teacher Questionnaire and Request for Administrative Information—20 CFR 404.1513, 416.913, and 416.924a(a)—0960-0646. When determining the effects of a child's impairment(s), SSA obtains information about the child's functioning from teachers; parents; and others who observe the child on a daily basis. SSA requests teachers complete

the SSA-5665, Teacher's Questionnaire to obtain a report on the child's daily overall functioning, comprehension, and known medical conditions throughout the school day. SSA requests the school administration to complete the SSA-5666, Request for Administrative Information, to obtain formal testing results, other teacher

reports, therapy progress notes, individualized education program documents, and other records of a child's educational aptitude and achievements. The respondents are teachers, educational administrators, and other education personnel.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA-5665-BK (Teachers)	211,487	1	40	140,991	* \$25.12	** \$3,541,694
SSA-5666 (Administrators)	154,723	1	30	77,362	* 48.99	** 3,789,964
Totals	366,210	.....	.....	218,353	.....	** 7,331,658

* We based this figure on Teachers and Instructors worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

6. Request for Accommodation in Communication Method—0960-0777. SSA allows disabled or impaired Social Security applicants, beneficiaries, recipients, and representative payees to choose one of seven alternative methods

of communication they want SSA to use when we send them benefit notices and other related communications. The seven alternative methods we offer are: (1) standard print notice by first-class mail; (2) standard print mail with a

follow-up telephone call; (3) certified mail; (4) Braille; (5) Microsoft Word file on data CD; (6) large print (18-point font); or (7) audio CD. Respondents who want to receive notices from SSA through a communication method other

than the seven methods listed above must explain their request to us. Those respondents use our iAccommodate Intranet or mySNO internet screens, or the paper Form SSA-9000-F6 to: (1) describe the type of accommodation they want from SSA; (2) disclose their condition necessitating the need for a different type of accommodation; and (3) explain why none of the seven methods described above are sufficient for their needs. SSA uses our internet

and Intranet screens or Form SSA-9000-F6 to determine, based on applicable law and regulation, whether to grant the respondents' requests for an accommodation based on their impairment or disability. SSA collects this information electronically through either an in-person telephone interview during which the SSA employee keys in the information on our iAccommodate Intranet screens, or through the mySNO internet screens which respondents may

complete for themselves using the application available through their mySSA accounts. The respondents are disabled or impaired Social Security or SSI applicants, beneficiaries, recipients, and representative payees who ask SSA to send notices and other communications in an alternative method besides the seven modalities we currently offer.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average teleservice answer time (minutes) **	Total annual opportunity cost (dollars) ***
SSA-9000/iAccommodate	128	1	20	43	*\$14.27	**5	***\$771
mySNO	20,524	1	20	6,841	* 14.27	.....	***97,621
Totals	20,652	.....	.....	6,884	.....	.....	***98,392

* We based this figure on the average disability payments based on SSA's current FY 2026 data (Effect of COLA on Average Social Security Benefits).

** We based this figure on the FY 2026 answer times for the teleservice centers (the average speed of answer), based on SSA's current management data. This figure reflects data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate, the wait times may be different on the website than they appear here.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

7. *Waiver of Supplemental Security Income Payment Continuation—20 CFR 416.1400–416.1422—0960–0783.* SSI recipients who wish to discontinue their SSI payments while awaiting a determination on their appeal complete Form SSA-263, Waiver of Supplemental

Security Income Payment Continuation, to inform SSA of this decision. SSA collects the information to determine whether the SSI recipient meets the provisions of the Social Security Act regarding waiver of payment continuation and as proof respondents

no longer want their payments to continue. Respondents are recipients of SSI payments who wish to discontinue receipt of payment while awaiting a determination on their appeal.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
SSA-263	1,662	1	15	416	*\$14.27	** 13	***\$11,075

* We based this figure on the average disability payments based on SSA's current FY 2026 data (Effect of COLA on Average Social Security Benefits).

** We based this figure on the average combined FY 2026 wait times for field offices (average wait time of 20 minutes) and for teleservice centers (average speed of answer of 5 minutes), based on SSA's current management information data. This figure reflects data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate, the wait times may be different on the website than they appear here. While we have included wait time for all respondents using the paper form, we note that respondents are not required to complete the form in person and those who mail or drop off a completed form do not experience any wait time.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

8. *Application for Access to SSA Systems—20 CFR 401.45—0960–0791.* SSA uses Form SSA-120, Application for Access to SSA Systems, to allow limited access to SSA's information resources for SSA employees and non-Federal employees (contractors). SSA

requires supervisory approval, and local or component Security Officer review prior to granting this access. The respondents are SSA employees and non-Federal Employees (contractors) who require access to SSA systems to perform their jobs.

Note: Because SSA employees are Federal workers exempt from the requirements of the Paperwork Reduction Act, the burden below is only for SSA contractors.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA-120 (paper version)	685	1	2	23	*\$55.15	***\$1,268
SSA-120 (Internet version)	1,482	1	2	49	* 55.15	** 2,702
Total	2,167	.....	.....	72	.....	***3,970

* We based these figures on the average SSA contractor's hourly wages based on SSA's management information.

****** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

9. Incoming and Outgoing Intergovernmental Personnel Act Assignment Agreement—5 CFR part 334—0960–0792. The Intergovernmental Personnel Act (IPA) mobility program provides for the temporary assignment of civilian personnel between the Federal Government and State and local governments; colleges and universities; Indian tribal governments; federally funded research and development centers; and other eligible organizations. The Office of Personnel Management (OPM) created a generic form, the OF–69, for agencies to use as a template

when collecting information for the IPA assignment. The OF–69 collects information about the assignment including: (1) the enrolled employee's name, Social Security number, job title, salary, classification, and address; (2) the type of assignment; (3) the reimbursement arrangement; and (4) an explanation as to how the assignment benefits both SSA and the non-federal organization involved in the exchange. OPM directs agencies to use their own forms for recording these agreements. Therefore, SSA modified the OF–69 to meet our needs, creating the SSA–187

for incoming employees and the SSA–188 for outgoing employees. SSA collects information on the SSA–187 and SSA–188 to document the IPA assignment, and to act as an agreement between the agencies. Respondents are personnel from State and local governments; colleges and universities; Indian tribal governments; federally funded research and development centers; and other eligible organizations who participate in the IPA exchange with SSA.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Non-Federal employee	3	1	30	2	* \$57.78	** \$116
Non-Federal employer signers	12	1	5	1	* 57.78	** 58
Totals	15			3		** 174

* We based this figure on averaging the average of Postsecondary Education Administrators and Management Analysts hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

10. Authorization for the Social Security Administration to Obtain Personal Information—20 CFR 404.704, 404.820–404.823, 404.1926, 416.203, & 418.3001—0960–0801. SSA uses Form SSA–8510 to contact a public or private custodian of records on behalf of an applicant or recipient of an SSA program to request evidence information or proofs, which may support a benefit application or payment continuation. SSA also uses this form to obtain evidence or proof to determine the claimant's payment amount. We ask for information such as the following:

- Age requirements (e.g., birth certificate, court documents)
- Insured status (e.g., earnings, employer verification)

- Marriage or divorce
- Pension offsets
- Wages verification
- Annuities
- Dividends, royalties, or other similar payments
- Property information
- Benefit verification from a State agency or third party
- Immigration status (rare instances)
- Income verification from public agencies or private individuals
- Unemployment benefits
- Insurance policies
- Alimony or Child Support payments

If the custodian of the records requires a signed authorization from the individual(s) whose information SSA requests, SSA may provide the custodian with a copy of the SSA–8510.

Once the respondent completes the SSA–8510, either using the paper form or using the Personal Information Authorization Intranet version, SSA uses the form as the authorization to obtain personal information regarding the respondent from third parties until the authorizing person (respondent) withdraws their claim or revokes the permission of its use. The collection is voluntary; however, failure to verify the individuals' eligibility can prevent SSA from making an accurate and timely decision for their benefits. The respondents are individuals who may file for, or currently receive, Social Security benefits, SSI payments, or Medicare Part D subsidies.

Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA–8510 (paper)	20,522	1	5	1,710	* \$33.54	* 20	*** \$286,801
SSA–8510 (Upload Documents)	2,849	1	5	237	* 33.54		*** 7,740
Totals	23,371			1,947			*** 294,541

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** We based this figure on the average FY 2026 wait times for field offices (20 minutes). This figure reflects data from our systems and the data posted on our public facing website (Social Security performance | SSA) on the date we drafted this document. As the figures fluctuate, the wait times may be different on the website than they appear here. While we have included wait time for all respondents using the paper form, we note that respondents are not required to complete the form in person and those who mail or drop off a completed form do not experience any wait time.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

11. *Evidence From Excluded Medical Sources of Evidence—20 CFR 404.1503b and 416.903b—0960–0803.* Section 812 of the Bipartisan Budget Act of 2015 (BBA), “Exclusion of certain medical sources of evidence,” mandates that SSA exclude evidence in disability decisions from certain medical sources. BBA Section 812 amended section 223(d)(5) of the Social Security Act (Act) by adding a subsection “C.” Section 223(d)(5)(C)(i) of the Act, as amended, requires SSA to exclude evidence (except for good cause) from medical sources: (1) convicted of a felony under sections 208 or 1632 of the Act; (2) excluded from participating in any Federal health care program under section 1128 of the Act; or (3) imposed with a civil monetary penalty (CMP),

assessment, or both, for submitting false evidence, under section 1129 of the Act. We also implemented section 223(d)(5)(C), as amended, through regulations at 20 CFR 404.1503b and 416.903b of the Code of Federal Regulations. These regulations require excluded medical sources to self-report their excluded status, in writing, each time they submit evidence related to a claim for benefits under Titles II or XVI of the Act. Excluded medical sources’ duty to self-report their excluded status applies to evidence they submit to SSA directly, or through a representative, claimant, or other individual or entity. As needed, SSA informs the medical sources we suspect should be excluded of these requirements through a Fact Sheet we send to them via mail, or

which they can find on our website where we list the regulatory requirements under BBA section 812. In addition, along with the Fact Sheet and website, we provide sample statements as templates the affected medical sources can use to create their own written statements as required under our regulations. The respondents for this collection are medical sources that: (1) meet one of the exclusionary categories set forth in section 223(d)(5)(C)(i) of the Act, as amended; (2) furnish evidence related to a claim for benefits under Titles II or XVI of the Act; and (3) had failed to self-identify as an excluded source of medical evidence as required in section 223(d)(5)(C)(i).
Type of Request: Revision of an OMB-approved information collection.

Method of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual theoretical opportunity cost (dollars) ***
404.1503b(c) (Fact Sheet)	2,670	1	2,670	20	890	*\$52.26	**\$46,511
416.903b(c) (Follow-up Notice)	10	4	40	20	13	52.26	**679
Totals	2,680	.....	2,710	.....	903	.....	**47,190

* We based this figure on the average Healthcare Practitioners and Technical Occupations worker’s hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).
** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

12. *Request for Individual Access to Records Protected Under the Privacy Act—20 CFR 401.30–401.95—0960–NEW.* The *Creating Advanced Streamlined Electronic Services for Constituents Act of 2019 (CASES Act)*, Public Law 116–50, 133 Stat. 1073 (2019), requires Federal agencies to establish a digital process for identity-proofed and authenticated individuals to request access to their records protected by the *Privacy Act of 1974 (Privacy Act)* (5 U.S.C. 552a of the *United States Code*). To comply with the *CASES Act* and *OMB Memorandum, M–21–04*, and pursuant to authority under sections 702(a)(5) and 1106(a) of the *Social Security Act* (42 U.S.C. 902(a)(5), 1306(a)), the Social Security Administration (SSA) developed Form SSA–2288–OP1, Request for Individual Access to Records Protected Under the Privacy Act, a dynamic webform that guides respondents through the information necessary to submit an electronic request for access to agency records about themselves. Under SSA’s regulations at 20 CFR 401.40 regarding individuals’ access rights under the *Privacy Act* (5 U.S.C. 552a(f)), individuals may request access to their

records by visiting their local Social Security field office or writing to the manager of the applicable system of records. Since SSA currently has no special agency form available to the public to submit this type of request, we are implementing Form SSA–2288–OP1 to comply with the *CASES Act*, the *Privacy Act*, *OMB M–21–04*, and SSA’s governing regulations at 20 CFR 401.30–401.95.
Form SSA–2288–OP1 is an electronic webform that respondents submit online only via SSA’s Upload Documents portal (OMB No. 0960–0830), after the portal first appropriately identity-proofs and authenticates respondents, consistent with requirements in the *CASES Act* and *OMB M–21–04*. Respondents can use Form SSA–2288–OP1 to request access to records or information about themselves from SSA’s program files. Pursuant to the *Privacy Act* and SSA’s regulations, a special procedure governs access requests that include medical records (5 U.S.C. 552a(f)(3) and 20 CFR 401.55). Therefore, respondents requesting medical record requests via Form SSA–2288–OP1 must designate an individual (such as a health professional or other responsible individual) to receive and

review the records and inform the respondent of its contents. SSA may grant the respondent direct access to their medical records if it determines direct access is not likely to have an adverse effect on the respondent. Respondents who cannot (or do not wish to) submit their request electronically or seek other types of records can always avail themselves of SSA’s existing service delivery channels, such as visiting or calling their local Social Security office, or submitting a written request by mail, fax, or hand-delivery.
Respondents can learn more about SSA’s privacy program from its privacy web page at www.ssa.gov/privacy, which contains sub-pages with additional information about *Privacy Act* requests and a link to Form SSA–2288–OP1. Respondents may also find Form SSA–2288–OP1 within the Upload Documents portal, or on SSA’s Forms web page at www.ssa.gov/forms. Respondents are the subjects of the record(s) protected by the *Privacy Act*, who request access to agency records about themselves.
Type of Request: Request for a new information collection.

Method of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA-2288-OP1	1,097	1	12	219	\$33.54 *	\$7,345 **

* We based this figure on average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Mark Steffensen,

General Counsel, Chief of Law, Policy and Legislative Affairs, Social Security Administration.

[FR Doc. 2026-15448 Filed 7-30-26; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF STATE

[Public Notice: 13081]

Notice of Department of State Sanctions Actions

ACTION: Notice.

SUMMARY: The U.S. Department of State is publishing the names of persons who have been added to the Department of the Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List), administered by the Office of Foreign Assets Control (OFAC) based on the Secretary of State's determination pursuant to and in accordance with the referenced authority that one or more applicable criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of the designated persons are blocked.

DATES: This action was issued on June 23, 2026. See **SUPPLEMENTARY INFORMATION** section for applicable dates.

FOR FURTHER INFORMATION CONTACT: Aaron P. Forsberg, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic, Energy, and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: ForsbergAP@state.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning sanctions programs are available on OFAC's website, <https://ofac.treasury.gov/>.

Notice of Department of State Actions

Acting pursuant to the authority of, and in accordance with, E.O. 14404, the Secretary of State determined that the following persons met the E.O. criteria referenced below. As a result, these

persons have been added to the SDN List as of June 23, 2026, and all property and interests in property subject to U.S. jurisdiction of those persons are blocked.

Individuals

1. RUEDA CARDERO, Annalie Lilliam, Cuba; DOB 28 Jan 1985; POB Havana, Cuba; nationality Cuba; Gender Female; National ID No. 85012804859 (Cuba) (individual) [CUBA-EO14404].

Designated pursuant to Section 2(a)(i)(I) of Executive Order 14404 for being an adult family member of Alejandro Castro Espin, a person designated pursuant to this order.

Entities

2. ALMACENES UNIVERSALES S.A., Fabrica No. 54 e/Aspuru y Linea del Ferrocarril, Habana Vieja, Havana, Cuba; Organization Established Date 28 Jan 1994; Organization Type: Cargo handling; Tax ID No. 11.791.301/0001-05 (Brazil); Entity Code 60297 (Cuba) [CUBA-EO14404].

Designated pursuant to Section 2(a)(i)(B) of Executive Order 14404 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, GRUPO DE ADMINISTRACION EMPRESARIAL S.A., a person whose property or interests in property are blocked pursuant to this order.

3. RAFIN S.A., Ave. Del Puerto Esq. A Obrapia, Edif. La Marina, La Habana Vieja, Havana, Cuba; Organization Established Date 28 Feb 1999; Organization Type: Management consultancy activities; Entity Code 60448 (Cuba) [CUBA-EO14404].

Designated pursuant to Section 2(a)(i)(A) of Executive Order 14404 for operating in or having operated in the financial services sector of the Cuban economy.

4. BANCO FINANCIERO INTERNACIONAL S.A. (a.k.a. "BFI"), 5ta Ave. No. 9009 esq. 92, Playa, Havana, Cuba; SWIFT/BIC BFICCUHH; Organization Established Date 13 Oct 1984; Target Type Financial Institution; alt. Target Type State-Owned Enterprise; Entity Code 60210 (Cuba) [CUBA-EO14404].

Designated pursuant to Section 2(a)(i)(A) of Executive Order 14404 for

operating in or having operated in the financial services sector of the Cuban economy.

5. EMPRESA SIDERURGICA JOSE MARTI (a.k.a. ANTILLANA DE ACERO), Calle 20 No 10522, Cotorro, Havana, Cuba; Organization Established Date 04 May 1958; Organization Type: Manufacture of basic iron and steel; Entity Code 1101 (Cuba) [CUBA-EO14404].

Designated pursuant to Section 2(a)(i)(A) of Executive Order 14404 for operating in or having operated in the metals and mining sector of the Cuban economy.

6. GEOMINERA, S.A., Calzada de Guines S/N E/Virgen del Camino y Calle Linea del Ferrocarril, RPTO Los Angeles, Havana, Cuba; Organization Established Date 01 Jan 1998; Organization Type: Extraction of salt; Entity Code 60274 (Cuba) [CUBA-EO14404].

Designated pursuant to Section 2(a)(i)(A) of Executive Order 14404 for operating in or having operated in the metals and mining sector of the Cuban economy.

Hugo Y. Yon,

Principal Deputy Assistant Secretary, Bureau of Economic, Energy, and Business Affairs, U.S. Department of State.

[FR Doc. 2026-15522 Filed 7-30-26; 8:45 am]

BILLING CODE 4710-07-P

DEPARTMENT OF STATE

[Public Notice: 13077]

Notice of Department of State Sanctions Action

ACTION: Notice.

SUMMARY: The U.S. Department of State is publishing the names of persons who have been added to the Department of the Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List), administered by the Office of Foreign Assets Control (OFAC) based on the Secretary of State's determination pursuant to and in accordance with the referenced authority that one or more applicable criteria were satisfied. All property and interests in property subject to U.S.

jurisdiction of the designated persons are blocked.

DATES: This action was issued on May 7, 2026.

FOR FURTHER INFORMATION CONTACT:

Aaron P. Forsberg, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: ForsbergAP@state.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning sanctions programs are available on OFAC's website, <https://ofac.treasury.gov/>.

Notice of Department of State Actions

Acting pursuant to the authority of, and in accordance with, Executive Order (E.O.) of May 1, 2026, "Imposing Sanctions on Those Responsible for Repression in Cuba and for Threats to U.S. National Security and Foreign Policy," the Secretary of State determined that the following persons met the E.O. criteria referenced below. As a result, all property and interests in property subject to U.S. jurisdiction of those persons are blocked.

Individuals

1. LASTRES MORERA, Ania Guillermina, Marianao, Havana, Cuba; DOB 19 Aug 1962; POB Marianao, Cuba; nationality Cuba; Gender Female (individual) [CUBA–E.O.].

Designated pursuant to section 2(a)(i)(E) of E.O. of May 1, 2026, "Imposing Sanctions on Those Responsible for Repression in Cuba and for Threats to U.S. National Security and Foreign Policy," for being or having been a leader, official, senior executive officer, or member of the board of directors of GRUPO DE ADMINISTRACION EMPRESARIAL S.A., an entity whose property and interests in property are concurrently blocked pursuant to the same E.O.

Entities

2. GRUPO DE ADMINISTRACION EMPRESARIAL S.A. (a.k.a. GAESA; a.k.a. "GRUPO GAE"), Edificio de la Marina, Avenida Del Puerto Y Brapia, Havana, Cuba; Organization Established Date 28 Feb 1999; Organization Type: Activities of holding companies; Entity Code 60446 (Cuba) [CUBA] [CUBA–E.O.].

Designated pursuant to Section 2(a)(i)(A) of E.O. of May 1, 2026, "Imposing Sanctions on Those Responsible for Repression in Cuba and for Threats to U.S. National Security

and Foreign Policy," for operating in or having operated in the financial services sector of the Cuban economy.

3. MOA NICKEL SA, Moa, Cuba; Organization Established Date 1994; Organization Type: Mining of other non-ferrous metal ores [CUBA] [CUBA–E.O.].

Designated pursuant to section 2(a)(i)(A) of E.O. of May 1, 2026, "Imposing Sanctions on Those Responsible for Repression in Cuba and for Threats to U.S. National Security and Foreign Policy," for operating in or having operated in the metals and mining sector of the Cuban economy.

Hugo Y. Yon,

Principal Deputy Assistant Secretary, Bureau of Economic, Energy, and Business Affairs, U.S. Department of State.

[FR Doc. 2026–15491 Filed 7–30–26; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice: 13078]

Notice of Department of State Sanctions Actions

ACTION: Notice.

SUMMARY: The U.S. Department of State (State) is publishing the names of persons who have been added to the Department of the Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List), administered by the Office of Foreign Assets Control (OFAC). State is also publishing updates to the identifying information of one or more persons currently included in OFAC's SDN List.

DATES: This action was issued on May 18, 2026. See **SUPPLEMENTARY INFORMATION** section for applicable dates.

FOR FURTHER INFORMATION CONTACT:

Aaron P. Forsberg, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic, Energy, and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: ForsbergAP@state.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning sanctions programs are available on OFAC's website, <https://ofac.treasury.gov/>.

Notice of Department of State Actions

A. As of May 18, 2026, State is updating the following previously published information regarding the designation of the following persons currently included in OFAC's SDN List

for prior designations pursuant to E.O. 13818, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption." State is updating this information to reflect the following determination. Acting pursuant to the authority of, and in accordance with, E.O. 14404, the Secretary of State determined that the following persons met the E.O. criteria referenced below. State is also publishing updates to the identifying information on the SDN List of one or more of the following persons.

Individuals

1. SIERRA ARIAS, Eddy Manuel, Calle 206A, No. 2119B, Entre 21 y 23, Atabey, Playa, Havana, Cuba; DOB 03 Sep 1971; POB Holguin, Cuba; nationality Cuba; Gender Male; Passport A008237 (Cuba) expires 20 Apr 2027; National ID No. 71090325982 (Cuba) (individual) [GLOMAG] [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

2. CALLEJAS VALCARCE, Oscar Alejandro, Goycuria #119, 10 Octubre, Havana, Cuba; DOB 19 Sep 1957; POB Havana, Cuba; nationality Cuba; Gender Male; Passport A006951 (Cuba) expires 18 Jul 2027; National ID No. 57091910348 (Cuba) (individual) [GLOMAG] [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

Entities

3. MINISTRY OF INTERIOR OF CUBA (a.k.a. MINISTERIO DEL INTERIOR; a.k.a. "MININT"), Aranguren and Carlos Manuel de Cespedes, Havana, Cuba; Organization Established Date Jun 1961; Target Type Government Entity [GLOMAG] [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(F) of E.O. 14404 for being a political subdivision, agency, or instrumentality of the Government of Cuba.

4. POLICIA NACIONAL REVOLUCIONARIA (a.k.a. NATIONAL REVOLUTIONARY POLICE), Manzana que ocupan las calles Cuba, Tacon y Chacon, La Habana Vieja, Havana, Cuba; Organization Established Date 05 Jan

1959; Target Type Government Entity [GLOMAG] [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(F) of E.O. 14404 for being a political subdivision, agency, or instrumentality of the Government of Cuba.

B. Acting pursuant to the authority of, and in accordance with, E.O. 14404, the Secretary of State determined that the following persons met the E.O. criteria referenced below. As a result, these persons have been added to the SDN List as of May 18, 2026, and all property and interests in property subject to U.S. jurisdiction of those persons are blocked.

Individuals

1. AREVICH MARIN, Mayra, Cuba; DOB 1966; POB Havana, Cuba; nationality Cuba; Gender Female (individual) [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

2. DE LA O LEVY, Vicente, Havana, Cuba; DOB 25 Apr 1962; nationality Cuba; Gender Male (individual) [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

3. GAMON VERDE, Rosabel, Cuba; DOB 09 Feb 1973; POB Havana, Cuba; nationality Cuba; Gender Female (individual) [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

4. GOMEZ DEL VALLIN, Jose Miguel, Las Tunas, Cuba; DOB 06 Aug 1960; nationality Cuba; Gender Male (individual) [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

5. LAZO HERNANDEZ, Juan Esteban, Cuba; DOB 26 Feb 1944; POB Jovellanos, Provincia de Matanzas,

Cuba; nationality Cuba; Gender Male (individual) [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

6. MORALES OJEDA, Roberto Tomas, Cienfuegos, Cuba; DOB 15 Jun 1967; nationality Cuba; Gender Male (individual) [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

7. QUINTAS SOLA, Joaquin, Colon, Matanzas, Cuba; DOB 24 Sep 1938; POB Santiago de Cuba, Cuba; nationality Cuba; Gender Male (individual) [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

8. RABILERO AGUILERA, Eugenio Armando, Cuba; DOB 06 Nov 1964; nationality Cuba; Gender Male (individual) [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

9. VILLAR KESSELL, Raul, Ciego de Avila, Cuba; DOB 04 Aug 1965; POB Bahia Honda, Artemisa Province, Cuba; nationality Cuba; Gender Male (individual) [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(E) of E.O. 14404 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity whose property or interests in property are blocked pursuant to this order.

Entities

10. DIRECTORATE OF INTELLIGENCE OF CUBA (Latin: DIRECCIÓN DE INTELIGENCIA) (a.k.a. DIRECCIÓN GENERAL DE INTELIGENCIA; a.k.a. “DGI”; a.k.a. “G2”), Cuba; Organization Established

Date 06 Jun 1961; Target Type Government Entity [CUBA–EO14404].

Designated pursuant to Sec. 2(a)(i)(F) of E.O. 14404 to be a political subdivision, agency, or instrumentality of the Government of Cuba.

Hugo Y. Yon,

Principal Deputy Assistant Secretary, Bureau of Economic, Energy, and Business Affairs, U.S. Department of State.

[FR Doc. 2026–15492 Filed 7–30–26; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice: 13080]

Notice of Department of State Sanctions Actions

ACTION: Notice.

SUMMARY: The U.S. Department of State is publishing the names of persons who have been added to the Department of the Treasury’s List of Specially Designated Nationals and Blocked Persons (SDN List), administered by the Office of Foreign Assets Control (OFAC) based on the Secretary of State’s determination pursuant to and in accordance with the referenced authority that one or more applicable criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of the designated persons are blocked.

DATES: This action was issued on June 11, 2026. See **SUPPLEMENTARY INFORMATION** section for applicable dates.

FOR FURTHER INFORMATION CONTACT:

Aaron P. Forsberg, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic, Energy, and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: ForsbergAP@state.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning sanctions programs are available on OFAC’s website, <https://ofac.treasury.gov/>.

Notice of Department of State Actions

Acting pursuant to the authority of, and in accordance with, E.O. 14404, the Secretary of State determined that the following person met the E.O. criteria referenced below. As a result, this persons have been added to the SDN List as of June 11, 2026, and all property and interests in property subject to U.S. jurisdiction of that person is blocked.

Entities

1. UNION CUBA PETROLEO (a.k.a. "CUPET"), Avenida Salvador Allende No. 666, entre Oquendo y Soledad, Havana, Cuba; Organization Established Date 25 Mar 1992; Entity Code 2605 (Cuba); Target Type State Owned Enterprise [CUBA-EO14404].

Designated pursuant to Section 2(a)(i)(A) of Executive Order 14404 for operating in or having operated in the energy sector of the Cuban economy.

Hugo Y. Yon,

Principal Deputy Assistant Secretary, Bureau of Economic, Energy, and Business Affairs, U.S. Department of State.

[FR Doc. 2026-15490 Filed 7-30-26; 8:45 am]

BILLING CODE 4710-07-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Docket No. FAA-2026-3941]

**Agency Information Collection
Activities: Requests for Comments;
Clearance of Renewed Approval of
Information Collection**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for renewal of information collection. The collection for visitors involves individual names, driver's license number and vehicle license plate at the Mike Monroney Aeronautical Center. The information to be collected will be used to authenticate individuals attempting to access the Aeronautical Center.

DATES: Written comments should be submitted 60 days after date of publication in the **Federal Register**.

ADDRESSES: Please send written comments:

By Electronic Docket:
www.regulations.gov (Enter docket number into search field).

By email: Kyle Daniel,
9amcamp300operations-and-maintenance@faa.gov.

By fax to email:
9amcamp300operations-and-maintenance@faa.gov.

FOR FURTHER INFORMATION CONTACT: Kyle Daniel by email at: 9amcamp300operations-and-maintenance@faa.gov; phone: 405-954-4094

SUPPLEMENTARY INFORMATION:

Title: ACSMS System

Form Numbers: AC 1600-50 MMAC

Visitor Request For & Visitor Log

Type of Review: Clearance of Renewal

Background:

Overview of the ACSMS

Aeronautical Center Security Management System (ACSMS), which is used by security forces to authenticate individuals attempting to access the Aeronautical Center. This system relates to the mission of the FAA by providing the Mike Monroney Aeronautical Center (MMAC) security forces with the ability to verify the identity of individuals entering the facility which ensures that only authorized personnel are admitted. The business functions provided by this Information System are:

- Temporary Access Badge creation.

The system creates temporary access badges for federal personnel upon hire. This information system collects the following information:

- Legal Name (First, Middle, Last, Suffix)
- Routing Information or Company
- Key inventory. The system maintains an inventory of electronic and metal keys issued to personnel for access to varying parts of the facility. This information system collects the following information:

- Legal Name (First, Middle, Last, Suffix)
- Routing Information
- Parking Permit Tracking. The system tracks vehicle information associated with parking permits issued to federal employees and contractors. This information system collects the following information:
- Legal Name (First, Middle, Last, Suffix)
- Routing Information
- Driver's License Number
- Vehicle Information (e.g. License Plate Number, Make, Model, Color, etc.)

- Visitor and vehicles not covered by permit tracking. This information system collects the following information:

- Legal Name (First, Middle, Last, Suffix)
- Routing Information or Company
- Driver's License Number
- Vehicle Information (e.g. License Plate Number, Make, Model, Color, etc.)

**Information, Including Personally
Identifiable Information, in ACSMS**

ACSMS collects information about visitors and contractors who work or attend classes at the MMAC.

This information system collects the following information:

- Legal Name (First, Middle, Last, Suffix)
- Routing information or company
- Driver's License Number
- Vehicle Information (e.g. License Plate Number, Make, Model, Color, etc.)

This documentation is provided to the MMAC Security Forces for data entry into ACSMS.

Why ACSMS Collects PII Information

The FAA requires this information be stored in order to provide access to the MMAC campus by individuals. Parking permits are necessary to gain entry to the facility.

Key tracking is essential to ensure that only authorized personnel obtain keys to access buildings, etc., on the campus.

**Legal Authority for Information
Collection**

The information is collected under the following:

5 U.S.C. 301 49 U.S.C. 322

How ACSMS Uses Information

The information collected by the system is used to create individual access passes and parking permits. It provides a ready concentration of employee personal data to facilitate issuance, accountability, and recovery of required identification media issued to employees, contractors and visitors.

An individual's information would be made unavailable in the event a record is archived due to specific events (e.g. retirement, termination, resignation) which would negate the need for identification media to access the facility. In the event a record is archived, it could be reconstructed from backup media. This activity would be prompted by the request of the Information System Owner (ISO).

This Information System complies with the following System Of Record Notices:

- DoT/ALL 9 Identification Media Record System
- DoT/OST 035 Personnel Security Record System

How ACSMS Shares Information

PII contained in ACSMS is shared with the MMAC Security and Investigations Division (AMC-700 (ASH)) and Mike Monroney Aeronautical Center (MMAC) Security Forces members.

This information is utilized by AMC-700 to perform investigations, support litigation and validate personnel identity. Security Forces utilize the

system to validate personnel identity, track parking stickers and access key cards.

Both entities access the application via workstation through the FAA intranet.

The PII information collected by this system is not shared with any other system.

How ACSMS Provides Notice and Consent

For an individual's PII to be included in the ACSMS, that individual must have interest in working at the MMAC campus.

How ACSMS Ensures Data Accuracy

All information input into the system is done manually by Security Forces members. The system utilizes data validation to ensure accuracy of data entered from the documentation.

How ACSMS Secures PII Information

ACSMS takes appropriate security measures to safeguard PII and other sensitive data. The system is housed within the System Management Facility located at the MMAC. This location physically protects the system from access by unauthorized individuals through access via ID media to enter the campus controlled by an access token provided only to personnel authorized access. The system resides on the FAA network and is only accessible by the intranet. All communications with the system are performed through an SSL connection. By virtue of residing on the network, the system is protected by MMAC IAP's firewalls and CSMC's owned and managed Intrusion Detection System (IDS). Additionally, the system is protected with localized, FAA approved anti-virus and spyware software. The application protects itself from threats, such as SQL Injection, through coding methods built in by the developers. Remote access is only allowed from within the trusted network environment, utilizing Remote Desktop (RDP) and MMAC's internet access point (IAP) controlled Virtual Private Network (VPN).

Issued In Oklahoma City, Oklahoma on July 28, 2026.

James T Hildebrand,

Division Manager, Operations & Maintenance Division, AMP-300.

[FR Doc. 2026-15451 Filed 7-30-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2026-1255]

Robomart, Inc.—Receipt of Application for Temporary Exemption From Various Requirements of the Federal Motor Vehicle Safety Standards for an Automated Driving System-Equipped Vehicle

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of receipt of application for temporary exemption.

SUMMARY: NHTSA has received an application from Robomart, Inc. ("Robomart") for a temporary exemption from several requirements of Federal Motor Vehicle Safety Standard ("FMVSS") No. 500 applicable to its low-speed vehicle (LSV) with an automated driving system ("ADS"). NHTSA is reviewing Robomart's application and will publish a subsequent notice seeking public comment on the merits of the application after the agency conducts its initial review.

ADDRESSES: To view Robomart's application materials, you may access the docket identified in the heading of this document at <http://www.regulations.gov>. In the alternative, you may view the docket materials at 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: For legal issues: Callie Roach, Office of the Chief Counsel at Callie.Roach@dot.gov. For technical issues: Andrew Magaletti, Rulemaking Office of Automation Safety at Andrew.Magaletti@dot.gov. Mailing address: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone number: (202) 366-1810.

SUPPLEMENTARY INFORMATION: Robomart has applied for a temporary exemption from certain requirements of FMVSS No. 500, Low-speed vehicles, pursuant to 49 U.S.C. 30113(b) and 49 CFR part 555 to deploy vehicles operated using an ADS without a human driver onboard.

A copy of Robomart's application is available in the docket referenced at the beginning of this notice. In accordance with statutory and administrative provisions, this application contains redactions for portions of information

for which Robomart has requested confidential treatment. *See* 49 CFR part 512.

NHTSA has not yet reached any conclusion on the merits of Robomart's application. During the evaluation process, the agency may request additional information from the applicant. When NHTSA believes it has received adequate information to consider the merits of Robomart's application, it will update the docket with any additional information received from Robomart and will publish a separate notice seeking public comment on all provided materials. After considering public comments and other available information, NHTSA will decide whether to grant or deny the petition and will publish its decision in the **Federal Register**.

Authority: 49 U.S.C. 30113; 49 CFR part 555; delegation of authority at 49 CFR 1.95, 501.5, and 501.8.

Jane Doherty,

Acting Associate Administrator, Rulemaking.

[FR Doc. 2026-15486 Filed 7-30-26; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2026-1552]

AV Framework Updates and Request for Comments on Interim Guidance

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (Department or DOT).

ACTION: Notice of updates; request for comments.

SUMMARY: In April 2025, DOT and NHTSA announced a new automated vehicle framework designed to prioritize safety, promote innovation, foster American ingenuity, and remove regulatory barriers to the advancement of automated driving system technologies. This notice furthers NHTSA's implementation of this framework by requesting public comment on interim guidance for commercial deployment exemptions for automated vehicles. This notice also summarizes NHTSA's other recent activity relating to the AV Framework.

DATES: Comments are requested on or before August 31, 2026.

ADDRESSES: You may submit comments identified by the docket number in the heading of this document through any of the following methods:

- **Electronic submissions:** Go to the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- **Fax:** (202) 493–2251.

- **Mail or Hand Delivery:** Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Suite W58–213, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9826 or (202) 366–9317 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <https://www.transportation.gov/privacy>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets via internet.

Confidential Business Information: If you claim that any of the information in your comment (including any additional documents or attachments) constitutes confidential business information within the meaning of 5 U.S.C. 552(b)(4) or is protected from disclosure pursuant to 18 U.S.C. 1905, please see the detailed instructions given under the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Andrew Magaletti, Rulemaking Office of Automation Safety by email: andrew.magaletti@dot.gov, or phone: (202) 366–2190, 1200 New Jersey Ave. SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On April 24, 2025, DOT and NHTSA announced a new automated vehicle (AV) framework as part of the Department's broader transportation innovation agenda. This framework solidified that advanced vehicle technologies, such as automated driving systems (ADS), are a

key priority of the agency. The framework is rooted in three principles: (1) prioritize the safety of ongoing AV operations on public roads; (2) unleash innovation by removing unnecessary regulatory barriers; and (3) enable the commercial deployment of AVs to enhance safety and mobility for the American public.¹ This notice summarizes NHTSA's work on the AV Framework over the last year and requests comment on interim guidance for commercial deployment exemptions.

I. Interim Guidance Concerning Commercial Deployment Exemptions

On June 13, 2025, NHTSA announced improvements to the process for adjudicating exemptions under 49 U.S.C. 30113 (“General Exemptions”). General Exemptions issued under section 30113 are for more general purposes than exemptions issued under section 30114(a). Specifically, these General Exemptions, which are implemented in NHTSA's regulations in 49 CFR part 555, allow manufacturers to produce and sell vehicles to consumers or otherwise commercially deploy vehicles that do not comply with all applicable FMVSS. Applications for General Exemptions under section 30113 may be made on one or more of four bases specified in the statute. The four bases are: (1) “compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith;” (2) “the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;” (3) “the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle;” or (4) “compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.”² Requests for General Exemptions of ADS-equipped vehicles have typically invoked at least one of the last three bases.

Section 30113 requires specific procedures and findings when administering General Exemptions.

Specifically, NHTSA must publish a notice announcing receipt of an application for exemption, provide an opportunity for public comment, and publish a decision notice. NHTSA may grant a General Exemption on terms it considers appropriate if it finds that the exemption meets one of the four statutory bases and that granting the exemption would be consistent with the public interest and the Safety Act. Both the statute (49 U.S.C. 30113) and NHTSA's implementing regulations (49 CFR part 555) also require specified information to accompany an application for a General Exemption.

In reviewing the exemption process after announcing the AV Framework, NHTSA recognized there are opportunities to expedite the process and streamline reviews for ADS-equipped vehicles. As part of the AV Framework, NHTSA announced two types of improvements to its General Exemption processing times substantially to keep pace with innovation and ensure that General Exemptions remain effective tools.

To modernize the part 555 process, NHTSA focused on key areas that previously have experienced prolonged review times. In particular, because most ADS operations evolve over time as the technology matures, their operations do not easily translate to static terms and conditions for the entire lifespan of an exempted vehicle. In addition, processing applications for ADS-equipped vehicles typically has required extensive follow-up with applicants. NHTSA developed process improvements to mitigate each of these issues.

First, NHTSA adopted a more dynamic and flexible approach to evaluating and overseeing General Exemptions involving ADS. NHTSA's traditional approach to processing part 555 applications has proven inadequate for adjudicating applications involving ADS-equipped vehicles in a timely manner. As announced in the June 2025 letter, NHTSA has adopted a new approach to adjudicating these exemption requests. Under this new approach, the terms and conditions issued at the time of a General Exemption grant will create a foundation for more specific and flexible terms that govern the particular operations of the exempted vehicles.

NHTSA may issue exemptions under 49 U.S.C. 30113 “on terms the Secretary considers appropriate.” Historically, NHTSA has applied terms and conditions to the grant of a General Exemption infrequently and, when it did so, only established a single set of static terms and conditions that would

¹ See U.S. Dept. of Transp., *Trump's Transportation Secretary Sean P. Duffy Unveils New Automated Vehicle Framework as Part of Innovation Agenda* (Apr. 24, 2025), available at <https://www.transportation.gov/briefing-room/trumps-transportation-secretary-sean-p-duffy-unveils-new-automated-vehicle-framework>.

² See 49 U.S.C. 30113(b)(3)(B).

apply for the lifespan of exempted vehicles. However, the statute does not require the terms issued by NHTSA to be static or otherwise prescribe how those terms must be implemented. To the contrary, the statute affords NHTSA the discretion to determine what types of terms and conditions are “appropriate” in satisfying the findings required for an exemption and furthering the purposes of the Safety Act. During the process of applying traditional General Exemption practices to more recent applications involving ADS-equipped vehicles, NHTSA has found that establishing a single set of static terms and conditions that would apply to ADS-equipped vehicles throughout their lifespan is often impractical and inefficient. Static terms also do not always effectively promote motor vehicle safety because they cannot account for the dynamic nature of ADS technologies. Particularly at an early stage in the development of an ADS, capabilities can improve dramatically as the technology improves and operational design domains are updated over the lifespan of a particular vehicle or generation of vehicles. What may start as a small low-speed deployment in a localized area can expand over time to include entirely different capabilities. Therefore, terms and conditions for ADS-equipped vehicles may need to evolve as the technology changes or as safety issues arise.

Accordingly, NHTSA has improved its approach to developing terms that are appropriate for General Exemptions involving ADS-equipped vehicles. This improved oversight structure provides the needed flexibility and can be applied when NHTSA believes that such oversight is necessary or appropriate. This oversight structure would be established via a permanent term or condition in the **Federal Register** decision notice, which subjects the exempted vehicles to continued operational oversight as outlined in operational terms and conditions in an operational authorization.

Within the oversight structure, operational authorizations would be tailored to the individual manufacturer and the ADS’s existing capabilities. The first operational authorization would be issued at the same time that the grant notice is published in the **Federal Register** and would contain initial operational terms and conditions. The manufacturer would be able to begin manufacturing and commercially deploying vehicles immediately consistent with the terms and conditions of the initial authorization. The operational permissions could later

be modified via additional operational authorizations, such as after a manufacturer requests a change. This approach gives NHTSA flexibility to change operational terms quickly, such as by expanding the scope of the operational permission as the ADS continues to develop, and allows the exemption to mirror real-world ADS development, which often starts with smaller, more limited operations, before expanding over time.

This approach also enables NHTSA to process General Exemption applications more quickly by allowing the agency to rely on an adaptable oversight framework. In turn, NHTSA’s initial review can focus on the current capabilities of the vehicles rather than developing specific terms and conditions that anticipate possible future changes. This improvement also builds on processes that have proven effective for ADS in Special Exemptions issued under NHTSA’s Automated Vehicle Exemption Program (AVEP). Because these process improvements relate to the way that NHTSA administers General Exemptions, NHTSA began implementing these improvements immediately upon the June 2025 announcement. Since then, NHTSA has applied these process improvements to the review of General Exemption petitions.

Second, NHTSA has published interim guidance in the docket and on its website that is intended to help prospective applicants better understand the General Exemption process and anticipate the information likely to assist with NHTSA’s review of an application.³ In the past, processing times for applications for ADS-equipped vehicles were often lengthened by extensive follow-up with applicants. To mitigate this, NHTSA developed interim guidance to help manufacturers more clearly understand the type of information that would be most helpful to the agency when evaluating an application. This interim guidance is intended to reduce the need for extensive follow-up, reducing burden on both the applicants and NHTSA.

The interim guidance provides more detail about what types of information would be most helpful to the agency, how NHTSA reviews each of the possible grounds for a General Exemption, and whether the exemption furthers the public interest. Although the interim guidance is intended to help all part 555 applicants, it is expected to

be especially helpful to manufacturers seeking exemptions for ADS-equipped vehicles because it contains a section dedicated to the information likely to be useful in NHTSA’s review of applications for ADS-equipped vehicles.

NHTSA is requesting public comment on the interim guidance and would particularly welcome comments on how the interim guidance could be improved to help prospective applicants understand the types of information that would be most helpful to include in a General Exemption application. NHTSA also welcomes comments on any other aspects of the General Exemption process that could be improved, even if they are not referenced in the interim guidance. In particular, NHTSA is interested in feedback regarding changes that could be made, such as changes in the way that NHTSA adjudicates the applications or changes in its regulations that could be made under NHTSA’s existing statutory authority in section 30113.

II. Additional NHTSA Activities

Since releasing the AV Framework in April 2025, NHTSA has: (1) expanded the Automated Vehicle Exemption Program to include vehicles built in the United States; (2) streamlined its Standing General Order on crash reporting for vehicles equipped with automated driving systems and certain advanced driver assistance systems to sharpen the focus on critical safety information while removing unnecessary and duplicative requirements; (3) launched multiple rulemakings to modernize the Federal Motor Vehicle Safety Standards for ADS-equipped vehicles; (4) announced the commencement of work to establish ADS performance requirements; and (5) engaged extensively with stakeholders to develop a foundation for future updates to the framework.

a. Expanded Exemption Opportunities for Domestic Vehicles

Concurrently with the announcement of the AV Framework, on April 24, 2025, NHTSA expanded the exemption opportunities for vehicles manufactured in the United States by announcing that the agency would consider applications for those vehicles to receive exemptions under 49 U.S.C. 30114(a).⁴ This expansion covers all types of motor vehicles and motor vehicle equipment manufactured in the United States. NHTSA expects the expansion to

³ See NHTSA, *Interim Part 555 Guidance and Enhanced Application Instructions*, available at <https://www.nhtsa.gov/part-555-guidance-and-enhanced-application-instructions>.

⁴ See Open Letter from Peter Simshauser, NHTSA Chief Counsel (Apr. 24, 2025), available at <https://www.nhtsa.gov/sites/nhtsa.gov/files/2025-04/automated-vehicle-exemption-program-domestic-exemptions-2025.pdf>.

promote the development of vehicle automation technology in the United States because these exemptions are particularly well suited for ADS research.

As a result of this expansion, exemptions for ADS-equipped vehicles built in the United States are now available through AVEP, which administers section 30114(a) exemptions (“Special Exemptions”) for ADS-equipped vehicles. Section 30114(a) authorizes NHTSA to administer special exemptions for vehicles that do not comply with Federal Motor Vehicle Safety Standards (FMVSS), as long as they meet one of seven particular purposes: research, investigations, demonstrations, training, competitive racing events, show, or display. Historically, NHTSA only administered these exemptions for vehicles imported into the United States. This is because the regulations NHTSA issued to implement its authority in section 30114(a) are specific to imported vehicles.

At the outset of developing the AV Framework, NHTSA recognized that restricting Special Exemptions to imported vehicles unintentionally provided certain companies who manufacture vehicles abroad with more avenues for innovation than companies that build vehicles in the United States. This is because Special Exemptions are particularly useful for research and development activities, and companies frequently use these exemptions to test novel technologies in prototype vehicles. The AVEP exemption process is designed to be agile and streamlined to facilitate ADS operations that involve vehicles not engaged in commercial deployments. With the growth of vehicle automation in recent years, Special Exemptions have increasingly been used for research and demonstration operations involving imported ADS-equipped vehicles. Through AVEP, from 2016 through 2025, NHTSA processed and issued Special Exemptions for more than 460 imported ADS-equipped vehicles for operations in over 360 projects across 31 States. These exemptions were issued to over 40 applicants operating in more than 130 cities across the United States. As ADS technologies continued to progress, the availability of a streamlined exemption path only for imported vehicles increasingly posed an obstacle to many companies establishing research or manufacturing operations in the United States.

To remove such barriers to American innovation quickly, as a first step of the AV Framework, NHTSA announced that it would begin considering requests for

Special Exemptions for domestic vehicles under section 30114(a). Although NHTSA expects this expansion to promote ADS-equipped vehicles, the expansion applies to all motor vehicles or motor vehicle equipment manufactured in the United States, not just those equipped with an ADS. Since this announcement in April 2025, NHTSA has received and granted Special Exemption requests for ADS-equipped vehicles manufactured in the United States.⁵ NHTSA has also announced the commencement of rulemaking process to codify this domestic exemption pathway.⁶

NHTSA adjudicates domestic applications consistent with how the agency reviews and oversees Special Exemptions under the agency’s AVEP and Box 7 programs. In general, upon receipt of an application, NHTSA typically engages in iterative follow-up with an applicant. At the end of the agency’s review, NHTSA issues a decision to the applicant in the form of a letter. If the exemption is granted, this letter contains the terms and conditions that govern the exemption. Entities interested in submitting such requests are encouraged to contact the Automation Exemptions Division of NHTSA’s Office of Automation Safety at AVExemptions@dot.gov for more information.

In addition, NHTSA has developed an application template to assist with the submission of requests for Special Exemptions for vehicles built in the United States. The template can be found at: https://vpic.nhtsa.dot.gov/mfrportal/SpecialExemptions-Veh_Checklist_2025-05-19.pdf. It lists information that NHTSA has found helpful when reviewing Special Exemptions requests for ADS-equipped vehicles. Although use of the template is not required, providing the listed information may help NHTSA process an application more efficiently. As mentioned previously, NHTSA is also continuing to develop a proposed rule to codify its procedures for Special Exemptions involving vehicles built in the United States.

⁵ See NHTSA, *NHTSA Issues First-Ever Demonstration Exemption to American-Built Automated Vehicles*, (Aug. 6, 2025), available at <https://www.nhtsa.gov/press-releases/nhtsa-issues-first-ever-demonstration-exemption-american-built-automated-vehicles>.

⁶ See Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions, Dept. of Transp., RIN 2127-AM14, *Expansion of Temporary Exemption Program to Domestic Manufacturers for Research, Demonstrations, and Other Purposes*, available at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=2127-AM14>.

b. Streamlined Crash Reporting

Upon the announcement of the AV Framework, on April 24, 2025, NHTSA also issued an amendment to Standing General Order 2021-01 (SGO), which requires specified entities to report alleged crashes involving their ADS or certain Advanced Driver Assistance Systems (ADAS) within a specified amount of time after learning about them.⁷ This amendment took effect starting with the reporting period that began on June 16, 2025.

NHTSA issued the SGO as an enforcement tool, to ensure the agency timely learns of certain crashes involving ADS or ADAS. Prior to the SGO, no such reporting requirement existed, and NHTSA learned of automation crashes in an ad hoc manner, such as through media reports, referrals from law enforcement or other local entities, or companies voluntarily notifying NHTSA of a crash. The SGO provides consistency and timeliness to crash reports, enabling NHTSA to follow-up with companies about incidents quickly, review for trends in crash data, and open formal investigations when necessary. The SGO has been effective in achieving these goals, but after years of reviewing and acting on SGO data, NHTSA identified many aspects of the reporting for which improvements were possible to help NHTSA more efficiently investigate crashes and avoid imposing burdens on companies with little corresponding safety benefit.

NHTSA’s website contains a more detailed summary of the differences between the current and prior versions of the SGO.⁸ In general, the most recent third amendment was designed to streamline and refine some of the SGO’s reporting requirements to help NHTSA focus on the types of crashes most likely to require agency review, as well as to reduce unnecessary and duplicative reporting burdens. The majority of crashes reportable under prior versions of the SGO remain reportable after the latest amendment. However, NHTSA’s experience reviewing prior SGO reports indicated that certain types of crashes seldom led to agency follow-up or otherwise occurred in circumstances in

⁷ See NHTSA, *In re: Third Amended Standing General Order 2021-01, Incident Reporting for Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS)* (Apr. 24, 2025), available at https://www.nhtsa.gov/sites/nhtsa.gov/files/2025-04/third-amended-SGO-2021-01_2025.pdf.

⁸ See NHTSA, *Standing General Order on Crash Reporting, FAQ: What are some of the differences between the second and third amended versions of the General Order?*, available at <https://www.nhtsa.gov/laws-regulations/standing-general-order-crash-reporting>.

which the vehicle automation system was unlikely to have contributed meaningfully to the crash. Removing those types of crashes from the reporting data helps NHTSA to pinpoint the crashes that most necessitate closer review. The third amendment also made other important changes to eliminate certain requirements that imposed reporting burdens with little corresponding safety benefit to the agency from the information. Examples of those include eliminating the need for multiple entities to report the same crash and no longer requiring reports from entities every month even when an entity does not have any crashes to report in the month. Finally, the third amended SGO updated some of the timeframes in which reports were required, to align with the agency's review and follow-up timeframes more effectively, as well as refreshed the list of entities responsible for reporting.

NHTSA began receiving reports under the third amended SGO in June 2025. From this time through the end of 2025, NHTSA received reports of 517 alleged crashes involving ADS and 787 alleged crashes involving Level 2 ADAS. NHTSA regularly follows up with entities about the crashes they report. Since the third amended SGO took effect in June 2025 through July 2026, NHTSA's engagement with entities has contributed to the opening of seven formal investigations and prompted seven recalls. NHTSA publishes on its website the crash reports received under the SGO.⁹ NHTSA is developing a proposed rule to codify the SGO reporting requirements into NHTSA's regulations.¹⁰

c. FMVSS Modernization

As part of the AV Framework, NHTSA has initiated multiple rulemakings to modernize the FMVSS for ADS-equipped vehicles. These regulatory actions are designed to ensure that safety standards, many of which were written decades ago for human-driven vehicles, remain current and do not pose unnecessary regulatory barriers to the development and deployment of innovative new vehicle designs, particularly those lacking traditional manual controls. On March 16, 2026, NHTSA published two NPRMs

proposing to amend the FMVSS to address the applicability of the standards to ADS-equipped vehicles without manual controls. These rulemakings span FMVSS No. 102, "Transmission shift position sequence, starter interlock and transmission braking effect,"¹¹ FMVSS No. 103, "Windshield defrosting and defogging systems," and FMVSS No. 104, "Windshield wiping and washing systems."¹² For FMVSS No. 102, NHTSA is proposing to modify the standard to except vehicles equipped with ADS that do not have manually operated driving controls from the requirement for a transmission shift position display.

In addition, NHTSA proposed modifications to FMVSS Nos. 103 and 104 to except from the standards vehicles equipped with ADS that do not have manually operated driving controls. This latter rulemaking would remove unnecessary regulatory burdens and costs associated with systems intended to provide visibility for a person driving the vehicle. On April 1, 2026, NHTSA published another, similar proposal to amend FMVSS No. 110, "Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less."¹³ The proposed modification would amend a single section of the standard to enable compliance by affixing the required placard on the left side of the vehicle when there is not a "driver's side" for vehicles equipped with ADS that do not have manually operated driving controls. In June 2026, NHTSA proposed to amend FMVSS No. 135, "Light vehicle brake systems" to distinguish how its requirements apply to vehicles with and without manually operated driving controls.¹⁴ These proposed modifications would clarify definitions, telltale requirements, performance requirements, and test procedures in the standard and remove sections that are no longer relevant. Each of these rulemakings would

maintain the level of safety performance required by the current standard. NHTSA has several additional rulemakings underway to maintain safety performance while removing unnecessary regulatory barriers.

d. ADS Performance Requirements

On March 10, 2026, NHTSA announced the commencement of a rulemaking process to establish performance requirements for ADS, which is expected to culminate in establishment of one or more FMVSS. As an FMVSS, performance requirements would need to meet the need for motor vehicle safety, be practicable, and be stated in objective terms.¹⁵ Test procedures for an FMVSS would also need to be objective and enable the manufacturer to ensure that the vehicle meets the standard's requirements.

e. Other Activities

Leading up to and since the announcement of the AV Framework, NHTSA has continuously engaged in a robust dialogue with stakeholders about a wide spectrum of issues pertaining to the advancement and oversight of vehicle automation. Through this dialogue, NHTSA has sought to identify opportunities to encourage vehicle safety improvements and understand potential regulatory barriers to the growth of ADS technologies in the United States. Such engagement has helped NHTSA identify prospective regulatory actions and established a strong foundation upon which future actions under the AV Framework will be charted.

NHTSA's stakeholder engagement in 2025 culminated in a public meeting held from November 20–21, 2025 on NHTSA's safety research portfolio. The first day of the public meeting consisted of an ADS workshop, which included NHTSA overviews of important agency programs and activities involving ADS, as well as roundtable discussions centered around nine topics of interest: (1) exemptions: AVEP and part 555; (2) emergency responder interactions; (3) FMVSS modernization recommendations for ADS purpose-built vehicles (PBVs); (4) incident and data reporting; (5) State and local jurisdictional concerns; (6) near-term ADS performance assessment; (7) safety case components; (8) general desires and concerns relating to ADS regulation; and (9) other DOT modal discussions. NHTSA's website contains more information about this public meeting.

⁹ See NHTSA, *Standing General Order on Crash Reporting: Download Summary Incident Report Data*, available at <https://www.nhtsa.gov/laws-regulations/standing-general-order-crash-reporting>.

¹⁰ See Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions, Dept. of Transp., RIN 2127–AM63, *Incident Reporting Requirements for Automated Driving Systems and Level 2 Advanced Driver Assistance Systems*, available at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=2127-AM63>.

¹¹ NHTSA, *Federal Motor Vehicle Safety Standards; Modernization of FMVSS No. 102 To Accommodate ADS-Equipped Vehicles*, 91 FR 12532 (Mar. 16, 2026).

¹² NHTSA, *Federal Motor Vehicle Safety Standards; Modernization of FMVSS No. 103 and FMVSS No. 104 To Accommodate ADS-Equipped Vehicles; Incorporation by Reference*, 91 FR 12537 (Mar. 16, 2026).

¹³ NHTSA, *Federal Motor Vehicle Safety Standards; Modernization of FMVSS No. 110 To Accommodate ADS-Equipped Vehicles*, 91 FR 16172 (Apr. 1, 2026).

¹⁴ NHTSA, *Federal Motor Vehicle Safety Standards; Modernization of FMVSS No. 135 To Accommodate ADS-Equipped Vehicles*, 91 FR 38593 (Jun. 26, 2026).

¹⁵ See 49 U.S.C. 30111.

including recordings of many of the agency's presentations.¹⁶

On December 11, 2025, NHTSA released the fourth volume of a research effort entitled "FMVSS Considerations for Vehicles with Automated Driving Safety."¹⁷ This research concluded a multi-year initiative to identify existing FMVSS that pose potential obstacles for certain ADS technologies or for which conformity challenges exist for innovative new vehicle designs equipped with ADS. The research presented options for technical translations of select FMVSS and their test procedures to account better for ADS-dedicated vehicles, including those that lack manually operated driving controls. The final report spanned 23 FMVSS including the braking and electronic stability control (ESC) test methods for FMVSS Nos. 135 and 126; the heavy braking and ESC requirements associated with FMVSS Nos. 105, 121, and 136; the technical translations of FMVSS Nos. 122, 122a, 123, 131, 223, 224, 403, 404, and CFR part 571 subpart A; and potential unconventional seating barriers associated with FMVSS Nos. 201, 202a, 207, 209, 210, 214, 216a, 219, and 226. This research built on extensive engagement with a variety of stakeholders, research team experts, and subject matter experts. Upon the publication of this research, NHTSA published a notice in the **Federal Register** requesting comment on whether any changes have occurred in industry, product plans, new concepts that may have impacted the scope of the documented effort, and whether other issues may have been identified or newly emerged since the effort was carried out.¹⁸ The comment period for the technical translation research notice closed on February 13, 2026.

Next, on January 23, 2026, NHTSA published a notice and request for comments on a proposed Global Technical Regulation (GTR) for ADS.¹⁹ The draft GTR included provisions regarding the following:

- General Requirements for ADS-equipped vehicles: including

requirements for the ADS to perform the Dynamic Driving Task, or DDT;

- The safety of interactions between the User and ADS;
- Manufacturer requirements, including the overall Safety Management System under which the ADS was developed;
- The testing system and environment that the manufacturer used to qualify the safe operation of the ADS;
- Requirements for the submission of a valid Safety Case for the ADS; and
- Post-deployment monitoring capabilities.

NHTSA sought comments on the draft GTR to help inform the position of the United States, including how the position could relate to any future actions regarding the safety and performance of ADS. The comment period for the GTR notice closed on March 10, 2026.

The GTR and the complementary U.N. Regulation were adopted on Wednesday, June 24, 2026, with the United States joining China, Japan, and Europe in voting in favor of the measure. This action marks the world's first unified, global regulatory framework for fully driverless, highly automated vehicles (SAE Level 4 and Level 5). Because major markets—including the European Union, China, the United States, Japan, the United Kingdom, and Canada—strongly backed and endorsed this GTR, this action offers stakeholders a standardized global roadmap and offers the potential for manufacturers to scale development pipelines across borders without rebuilding the fundamental safety and validation framework for every country.

Finally, NHTSA held a public meeting on March 10, 2026, to further the agency's dialogue with stakeholders regarding the Automated Vehicle (AV) Framework.²⁰ This meeting built upon the foundational technical discussions from the November 2025 ADS workshop and focused on identifying specific pathways for the domestic development and testing of Automated Driving Systems. The morning session featured keynote addresses from DOT leadership concerning current agency activities and the strategic direction of the AV Framework. The event also featured a robust discussion between NHTSA's administrator and AV CEOs from Aurora, Waymo, and Zoox. The afternoon session transitioned into an interactive workshop where NHTSA obtained granular stakeholder input on three primary pillars: (1) enhancing

public road safety for current ADS operations; (2) identifying and mitigating regulatory barriers to innovation; and (3) establishing frameworks for commercial deployment to improve public mobility. Updates and additional details on the working group topics are posted at <https://www.nhtsa.gov/events/av-public-meeting-2026>. This engagement is designed to inform the agency's future guidance and potential rulemaking actions as it refines its oversight of evolving vehicle technologies. NHTSA opened a public docket (No. NHTSA–2026–0265) to receive written comments through April 10, 2026, ensuring that the insights gathered from both the meeting participants and the broader public are integrated into the agency's next steps under the AV Framework. The feedback received through these forums has informed NHTSA's subsequent engagement with stakeholders, including fostering dialogue with State and local regulators about how to strengthen coordination across the jurisdictional landscapes and minimize burdens from overlapping regulatory requirements.

III. Public Participation

As NHTSA implements its AV Framework, NHTSA will continue to seek out and welcome public input. Although NHTSA is requesting comments on the interim part 555 Guidance and Enhanced Application Instructions specifically, NHTSA also welcomes suggestions for other future actions that will allow the U.S. to continue to lead the way toward the safe deployment of automated vehicles.

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the docket, please include the docket number indicated in this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

If you are submitting comments electronically as a PDF (Adobe) file, NHTSA asks that the documents submitted be scanned using an Optical Character Recognition (OCR) process, thus allowing NHTSA to search and copy certain portions of your submissions.

¹⁶ See NHTSA Safety Research Portfolio Public Meeting: Fall 2025, available at <https://www.nhtsa.gov/events/nhtsa-safety-research-portfolio-public-meeting-fall-2025#6141>.

¹⁷ See Stowe, Loren et al., *FMVSS Considerations for Vehicles With Automated Driving Systems: Volume 4* (2025), available at <https://doi.org/10.21949/hq4a-6m74>.

¹⁸ See NHTSA, *Technical Translation Research: Request for Comment*, 90 FR 58087 (Dec. 15, 2025).

¹⁹ NHTSA, *Notice and Request for Comment: Proposal for a New United Nations Global Technical Regulation on Automated Driving Systems (ADS)*, 91 FR 2994 (Jan. 23, 2026).

²⁰ NHTSA, *NHTSA Automated Vehicle Safety Public Meeting: March 2026*, 91 FR 5801 (Feb. 9, 2026).

How do I submit confidential business information?

You should submit a redacted “public version” of your comment (including redacted versions of any additional documents or attachments) to the docket using any of the methods identified under **ADDRESSES**. This “public version” of your comment should contain only the portions for which no claim of confidential treatment is made and from which those portions for which confidential treatment is claimed has been redacted. See below for further instructions on how to do this.

You also need to submit a request for confidential treatment directly to the Office of Chief Counsel. Requests for confidential treatment are governed by 49 CFR part 512. Your request must set forth the information specified in part 512. This includes the materials for which confidentiality is being requested (as explained in more detail below); supporting information, pursuant to section 512.8; and a certificate, pursuant to section 512.4(b) and part 512, Appendix A.

You are required to submit to the Office of the Chief Counsel one unredacted “confidential version” of the information for which you are seeking confidential treatment. Pursuant to section 512.6, the words “ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION” or “CONFIDENTIAL BUSINESS INFORMATION CONTAINED WITHIN BRACKETS” (as applicable) must appear at the top of each page containing information claimed to be confidential. In the latter situation, where not all information on the page is claimed to be confidential, identify each item of information for which confidentiality is requested within brackets: “[].”

You are also required to submit to the Office of the Chief Counsel one redacted “public version” of the information for which you are seeking confidential treatment. Pursuant to section 512.5(a)(2), the redacted “public version” should include redactions of any information for which you are seeking confidential treatment (*i.e.*, the only information that should be unredacted is information for which you are not seeking confidential treatment).

NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the Agency under part 512. Please do not send a hard copy of a request for confidential treatment to NHTSA’s headquarters. The request should be sent to Dan Rabinovitz in the Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov or

you may contact him for a secure file transfer link. Manufacturers or any companies that already have a Confidential Business Information (CBI) Portal account or an Enterprise Account with NHTSA should use the CBI Portal for their submission. If you submit a CBI request, please also email a courtesy copy of the request to Andrew Magaletti at Andrew.Magaletti@dot.gov.

Will the Agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that the docket receives after that date.

How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (*e.g.*, the comments submitted in response to this document by other interested persons) at any time by going to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Please note that even after the comment closing date, we will continue to file relevant information on the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the docket for new material.

Issued under authority delegated in 49 CFR 1.95.

Jonathan Morrison,
Administrator.

[FR Doc. 2026–15483 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2026–1520]

Updating and Expanding Guidance on Safe Development and Deployment of Automated Driving Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of public availability and request for public comment.

SUMMARY: NHTSA intends to issue comprehensive, updated guidance supporting the safe development and deployment of automated driving systems. The last agency guidance was published in 2017, titled *Automated Driving Systems 2.0: A Vision for Safety* (ADS 2.0). For this initiative, NHTSA will draw on its internal expertise and public feedback gathered through ongoing stakeholder engagement. NHTSA intends to release draft guidance documents on individual topics (or chapters) as they are available. The public is invited to comment on each chapter through this open docket. After reviewing public comments, the agency plans to consolidate all chapters into a final updated guidance document. The public comment period is open for one year and may be extended as necessary.

DATES: Comments must be submitted on or before July 31, 2027.

ADDRESSES: You may submit comments, identified by the docket number at the heading of this document, by one of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Suite W58–213, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For additional information, please contact Ms. Debbie Sweet, Office of Automation Safety; Telephone: 202–366–1810; Email: debbie.sweet@dot.gov. Themailing address for this official is: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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- II. Updating Guidance
- III. Request for Comment

I. Background

In September 2016, NHTSA issued guidance titled, *Federal Automated Vehicles Policy* (FAVP), which offered best practices to guide manufacturers and other entities in the safe design, development, testing, and deployment of highly automated vehicles (HAVs). The FAVP was structured in four sections: Vehicle Performance Guidance for Highly Automated Vehicles, Model State Policy, NHTSA’s Current Regulatory Tools, and Modern Regulatory Tools. The guidance was developed after considerable input from a wide range of stakeholders and the

agency continued to gather feedback on the FAVP through a public docket and public meetings.

NHTSA analyzed the docket comments, public meeting proceedings, and information from stakeholder discussions, Congressional hearings, and State activities as the foundation for its 2017 guidance, *Automated Driving Systems 2.0: A Vision for Safety* (ADS 2.0). This guidance adopted the nomenclature of Automated Driving Systems (ADS) rather than HAVs to align with the taxonomy in the SAE standard J3016, and focused on SAE Automation Levels 3–5. The vehicle guidance from FAVP was updated in a section of ADS 2.0 with a new name, Voluntary Guidance for Automated Driving Systems. The topics included in this section were streamlined into 12 priority safety design elements, eliminating three elements from FAVP that were not performance based. ADS 2.0 clarified the voluntary nature of safety self-assessments and provided greater flexibility in how ADS entities might provide such information to the public. ADS 2.0 also clarified the State and Federal roles through technical assistance to States, a refined version of the Model State Policy from FAVP.

In subsequent years, DOT released *AV 3.0: Preparing for the Future of Transportation* and *AV 4.0: Ensuring American Leadership*, which discussed automation across a wider range of transportation modes, and broader government coordination of automation, respectively. However, ADS 2.0 remains the most recent NHTSA guidance on the safe and transparent development and testing of vehicles equipped with ADS.

II. Updating Guidance

Given the significant advancements in ADS technology and safety knowledge since 2017, NHTSA believes now is an appropriate time to update its technical guidance. To facilitate this update, the agency is committed to gathering broad stakeholder input that promotes the safe development and deployment of ADS-equipped vehicles, provides Federal leadership, and resolves existing industry ambiguities. Engaging with stakeholders representing a wide range of expertise will help NHTSA issue guidance that enhances safety while fostering ADS innovation.

This public docket is opened as the primary means of transparently communicating with the broader public as NHTSA develops the new guidance. The comment period is open for one year, and NHTSA will extend the comment period if necessary. Submissions to the docket will be

reviewed and assessed on a continual basis.

The initial submission to the docket by NHTSA is a list of the potential draft technical chapters the agency is considering including in the new guidance. NHTSA seeks comments on the chapter topics, including whether stakeholders believe the agency should address different or additional topics. NHTSA is also seeking public input on the priority order for developing guidance chapters. NHTSA requests comments on the potential chapter topics and prioritization within 30 days of publication of this notice but will continue to monitor comments received thereafter.

NHTSA currently plans to develop a substantive document for each topic area with in-depth discussion of the technical guidance for that subject matter, which would be included as chapters in a final, collated guidance document. Guidance is not legally binding. Conformity with guidance—as distinct from existing statutes and regulations—is entirely voluntary, and nonconformity will not affect rights and obligations under existing statutes and regulations. See 49 U.S.C. 30111(f); 49 CFR 5.87.

Although the docket is the official record of drafts and comments, NHTSA intends to hold periodic public meetings to discuss technical input for an updated guidance document.

III. Request for Comment

NHTSA seeks public comment on all agency documents submitted to this docket for the duration of the open comment period. Comments on the initial document addressing proposed chapter topics are requested within 30 days of the publication of this notice.

Issued under authority delegated in 49 CFR 1.95.

Jonathan Morrison,

Administrator.

[FR Doc. 2026–15484 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0010; Notice 2]

Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Mercedes-Benz AG (MBAG) and Mercedes-Benz USA, LLC (MBUSA) (collectively, “Mercedes-Benz”) has determined that certain model year (MY) 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 135, *Light Vehicle Brake Systems*. Mercedes-Benz filed a noncompliance report dated January 27, 2020, and subsequently petitioned NHTSA on February 10, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of Mercedes-Benz’s petition.

FOR FURTHER INFORMATION CONTACT:

Vince Williams, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–2319.

SUPPLEMENTARY INFORMATION:

I. Overview: Mercedes-Benz has determined that certain MY 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles do not fully comply with the requirements of paragraph S5.5.5 of FMVSS No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135). Mercedes-Benz filed a noncompliance report dated January 27, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*, and subsequently petitioned NHTSA on February 10, 2020, 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 Mercedes-Benz’s petition was published with a 30-day public comment period, on May 6, 2020, in the **Federal Register** (85 FR 27024). NHTSA received one comment from the general public but the comment was removed because it wasn’t relevant to the noncompliance and didn’t address the petition. To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2020–0010.”

II. Vehicles Involved: Approximately 27,375 of the following MY 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles manufactured between August

20, 2018, and January 16, 2020, are potentially involved:

- Mercedes-Benz A220
- Mercedes-Benz A220 4MATIC
- Mercedes-Benz A35 AMG 4MATIC
- Mercedes-Benz CLA250
- Mercedes-Benz CLA250 4MATIC
- Mercedes-Benz CLA35 AMG 4MATIC
- Mercedes-Benz CLA45 AMG 4MATIC
- Mercedes-Benz GLA250 4MATIC
- Mercedes-Benz GLB250
- Mercedes-Benz GLB250 4MATIC

III. Relevant FMVSS Requirements:

Paragraph S5.5.5 of FMVSS No. 135, includes the requirements relevant to this petition. Each visual indicator shall display a word or words in accordance with the requirements of FMVSS No. 101 and S5.5 of FMVSS 135, which shall be legible to the driver under all daytime and nighttime conditions when activated. Unless otherwise specified, the words shall have letters not less than 3.2 mm ($\frac{1}{8}$ inch) high.

IV. *Noncompliance:* Mercedes-Benz explains that the noncompliance is that the instrument panel in the subject vehicles display the braking indicators in a slightly smaller size than required by paragraph S5.5.5 of FMVSS No. 135. Specifically, the size of the text for the brake indicators in the subject vehicles ranges between 2.92 mm to 3.17 mm when the minimum required is 3.2 mm.

V. *Summary of Mercedes-Benz's Petition:* The following views and arguments presented in this section, "V. Summary of Mercedes-Benz's Petition," are the views and arguments provided by Mercedes-Benz and do not reflect the views of the Agency. In its petition, Mercedes-Benz describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Mercedes-Benz offers the following reasoning:

1. Mercedes-Benz believes that the letter height of the braking indicators, which in this instance is slightly smaller than the requirement, does not expose an occupant to any greater risk of injury than an occupant in a vehicle with slightly larger font size.

2. Mercedes-Benz alleges that the purpose of the standardized size requirement for the brake system warning indicators is to ensure they are visually perceptible to drivers under all operating conditions. Mercedes-Benz says that the Agency has a long and consistent history of granting petitions for inconsequentiality for discrepancies involving a letter height requirement where the text appeared somewhat smaller than required. Mercedes-Benz says that NHTSA has granted petitions where the indicators displayed included

lettering that was as much as a full millimeter less than the minimum size. See 47 FR 31347 (July 19, 1982) (granting a petition of Subaru of America, Inc., where the brake system indicator lettering was only 2.2 mm high, but the ISO symbol indicators were located within the driver's line of sight and continued to be "easily identifiable and very readable").

3. Mercedes-Benz asserts that in addressing similar noncompliances in the past, the Agency has determined that "it is very unlikely that a vehicle user would either fail to see or fail to understand the meaning of the brake . . . warning light" where the "information presented by the telltales is correct." See 81 FR 92963 (December 20, 2016) (granting General Motors' petition of over 46,000 vehicles where the "Park" indicator displayed at 2.44 mm). In the General Motors decision, the Agency found the discrepancy "pose[d] little, if any, risk to motor vehicle safety" where all other braking indicator requirements were met and the indicators were located in the instrument cluster, adjacent to the speedometer and in direct view of the driver); 69 FR 41568 (July 9, 2004) (granting a petition of Hyundai Motor Company involving more than 237,000 vehicles, where the FMVSS No. 105 braking system indicator letter height varied from 2.5 mm to 3.1 mm).

4. In subject noncompliance, the letter height for the braking indicators is only slightly smaller than the 3.2 mm minimum. Depending on the particular indicator, the text size can be smaller by a range of 0.03 mm up to a maximum of .28 mm. The electronic instrument cluster is located within the driver's direct field of vision, and the braking indicators are located adjacent to the speedometer and, therefore, remain within the driver's direct line of sight. Mercedes-Benz claims that this slight difference in size is not visually perceptible and does not affect the driver's ability to read or understand the indicators. Mercedes-Benz further asserts that the indicators are clearly illuminated and remain visible under all driving conditions.

5. Mercedes-Benz states that all of the indicators at issue here are accurately depicted and are displayed in the correct colors, consistent with FMVSS No. 101, Table 1. Thus, there should not be any confusion about the meaning of the indicators, and the standard symbol that is displayed continues to convey the intended meaning of the indicator. Further, although the lettering that appears below the ISO symbols is slightly smaller than 3.2 mm minimum height, the overall height of the ABS

and Parking Brake symbols is more than 3.2 mm and exceeds the height requirement of the standard. Finally, the functionality of the brake indicators themselves is not affected by the software issue. The indicators properly display during both the instrument cluster warning lamp operation check and in the event a brake malfunction were to occur.

6. Mercedes-Benz says that it has not received any reports related to the performance of the indicators included on the 10.25-inch displays in the subject vehicles. Nor has it received any reports related to customers' inability to read or decipher the brake telltales.

Mercedes-Benz concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that 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.

Mercedes-Benz's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov> and by following the online search instructions to locate the docket number as listed in the title of this notice.

VI. *Public Comment:* NHTSA received one comment from the general public. While the Agency takes great interest in the public's concerns and appreciates the commenter's feedback, the comment does not address the purpose of this particular petition.

VI. *NHTSA's Analysis:* The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in a standard—as opposed to a *labeling requirement with no performance implications*—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.¹ Potential performance failures of safety-critical equipment, like seat belts or air bags, are rarely deemed inconsequential.

An important issue to consider in determining inconsequentiality based upon NHTSA's prior decisions on noncompliance issues was the safety risk to individuals who experience the type of event against which the recall would otherwise protect.² In general,

¹ Cf. *Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

² See *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR

NHTSA does not consider the absence of complaints or injuries to show that the issue is inconsequential to safety. “Most importantly, the absence of a complaint does not mean there have not been any safety issues, nor does it mean that there will not be safety issues in the future.”³ “[T]he fact that in past reported cases good luck and swift reaction have prevented many serious injuries does not mean that good luck will continue to work.”⁴

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected have also not justified granting an inconsequentiality petition.⁵ Similarly, NHTSA has rejected petitions based on the assertion that only a small percentage of vehicles or items of equipment are likely to actually exhibit a noncompliance. The percentage of potential occupants that could be adversely affected by a noncompliance does not determine the question of inconsequentiality. Rather, the issue to consider is the consequence to an occupant who is exposed to the consequence of that noncompliance.⁶ These considerations are also relevant when considering whether a defect is inconsequential to motor vehicle safety.

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).

³ *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016).

⁴ *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”).

⁵ See *Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance*, 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

⁶ See *Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance*, 64 FR 29408, 29409 (June 1, 1999).

While reviewing this petition, NHTSA contacted Mercedes to find out if there were additional warnings messages that triggered along with the brake indicator. Mercedes provided several screenshots that show supplemental warning messages that activate along with brake indicator and help convey the required brake warnings to the driver. Taking into consideration all the information provided and the oversized height of the additional information, the Agency agrees with Mercedes-Benz that this noncompliance will not have an adverse effect on vehicle safety. Despite the letter height of the braking indicators being slightly smaller than the 3.2 mm requirement, the overall height of the adjacent ABS and Parking Brake ISO symbols is more than 3.2 mm. Additionally, the location of the braking indicators within the electronic instrument cluster are positioned within the driver's direct field of vision as they are situated adjacent to the speedometer and therefore always remain visible. The aforementioned factors make it very unlikely for a driver to fail to read and understand the meaning of the braking indicators. Because the symbols are accurately depicted and are displayed in the correct colors, consistent with FMVSS No. 101, Table 1, there should not be any confusion about the meaning of the indicators, and the standard symbol that is displayed continues to convey the intended meaning of the indicator.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Mercedes-Benz has met its burden of persuasion that the subject FMVSS No. 135 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, Mercedes-Benz's petition is hereby granted, and Mercedes-Benz is consequently exempted from the obligation of providing notification of, and a free remedy for that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in section 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that Mercedes-Benz no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers

of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Mercedes-Benz notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8.)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2025–0523]

Zoox—Grant of Temporary Exemption From Portions of Various Requirements of the Federal Motor Vehicle Safety Standards for an Automated Driving System-Equipped Vehicle

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (Department or DOT).

ACTION: Notice of grant of application for temporary exemption from portions of eight Federal Motor Vehicle Safety Standards (FMVSS).

SUMMARY: NHTSA is granting an exemption to Zoox, Inc. (Zoox) to allow it to manufacture and deploy commercially a passenger car, which is equipped with an Automated Driving System (ADS), that does not comply with certain requirements in the Federal Motor Vehicle Safety Standards (FMVSS). Specifically, NHTSA grants Zoox an exemption for its Zoox sedan from certain requirements in eight FMVSS: FMVSS No. 103, Windshield defrosting and defogging systems; FMVSS No. 104, Windshield wiping and washing systems; FMVSS No. 108, Lamps, reflective devices, and associated equipment; FMVSS No. 111, Rear visibility; FMVSS No. 135, Light vehicle brake systems; FMVSS No. 201, Occupant protection in interior impact; FMVSS No. 205, Glazing materials; and FMVSS No. 208, Occupant crash protection. NHTSA is granting Zoox's application on the basis that compliance with these requirements would prevent Zoox from selling, or otherwise commercially deploying, a motor vehicle with an overall safety level at least equal to the overall safety level of a vehicle that complies with all

applicable FMVSS. NHTSA grants Zoox an exemption subject to certain specified terms and conditions, including the application of an enhanced oversight condition. Under this condition, NHTSA will issue Operational Authorizations that may update and expand as Zoox's ADS technology matures.

DATES: NHTSA grants Zoox's exemption effective from July 31, 2026 through July 31, 2028.

FOR FURTHER INFORMATION CONTACT:

For legal issues: Callie Roach, Office of the Chief Counsel, callie.roach@dot.gov.

For technical issues: Emily Shull, Rulemaking Office of Automation Safety, emily.shull@dot.gov. *Mailing address:* National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

- I. Executive Summary
- II. Authority and Procedures for General Exemptions
- III. Zoox's Application
- IV. Receipt Notice, Request for Additional Information From Zoox, and Comment Summary
- V. Framework for Analyzing Zoox's Application
- VI. FMVSS-Specific Analysis of Zoox's Application
- VII. Compliance With the FMVSS From Which Zoox Seeks Exemption Would Prevent Zoox From Selling the Robotaxis
- VIII. Analysis of Whether Granting Zoox's Application Is in the Public Interest and Consistent With the Objectives of the Safety Act
- IX. Conclusion
- X. Terms and Conditions

I. Executive Summary

NHTSA is granting an application submitted by Zoox for an exemption from certain requirements in eight FMVSS for its "Zoox sedan" model (referred to as the "Zoox robotaxi"). The Zoox robotaxi is a passenger car that is equipped with an ADS¹ and lacks manually operated driving controls. In its application, Zoox stated that the robotaxi was designed specifically for autonomous ride hailing. The vehicle is symmetrical longitudinally, meaning its front and rear are identical. The interior is configured in a carriage-style arrangement with two rows of seating facing each other toward the center of

the vehicle. The Zoox robotaxi can be operated with input by a remote assistant.² Such inputs include requests to pull over, contextual scene information, a suggested path, or help with assessing a scenario. It also can be remotely driven,³ if necessary, at low speeds within line of sight using a handheld controller. Zoox stated that it will not sell the robotaxi but will instead maintain ownership and be responsible for daily operations, including fleet management, maintenance and repair, fleet routing and optimization, remote operations support, and customer service.

NHTSA is granting Zoox an exemption on the basis that "compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles."⁴ Under this exemption, Zoox is permitted to manufacture vehicles that do not need to comply with portions of: FMVSS No. 103, Windshield defrosting and defogging systems; FMVSS No. 104, Windshield wiping and washing systems; FMVSS No. 108, Lamps, reflective devices, and associated equipment; FMVSS No. 111, Rear visibility; FMVSS No. 135, Light vehicle brake systems; FMVSS No. 201, Occupant protection in interior impact; FMVSS No. 205, Glazing materials; and FMVSS No. 208, Occupant crash protection. Zoox is permitted to manufacture vehicles pursuant to this exemption for two years, provided that not more than 2,500 exempted vehicles are introduced into interstate commerce for commercial deployment in any 12-month period.

As discussed below, NHTSA finds that a Zoox robotaxi that does not comply with the FMVSS for which this exemption is being granted would provide an equivalent level of safety to a nonexempt vehicle. Further, NHTSA finds that requiring compliance with those specific requirements would render Zoox unable to deploy commercially a motor vehicle with an overall safety level at least equal to that of a nonexempt vehicle. In view of the terms and conditions discussed in this notice and to which this exemption is subject, NHTSA also finds that granting this exemption is consistent with the Safety Act, which requires a finding that the exemption is in the public interest and that compliance with the standard

would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

The Zoox robotaxi is the first passenger-carrying ADS-equipped vehicle to be granted an exemption under NHTSA's general exemption authority.⁵ It is also the first exemption to be issued since NHTSA introduced process improvements under the Department's Automated Vehicle (AV) Framework.⁶ These process improvements have been made in accordance with the AV Framework's three core principles: (1) prioritize the safety of ongoing AV operations on public roads; (2) unleash innovation by removing unnecessary regulatory barriers; and (3) enable the commercial deployment of AVs to enhance safety and mobility for the American public.⁷ As described in more detail in Section V, NHTSA's new approach for processing part 555 exemptions for ADS-equipped vehicles enhances the agency's ability to process applications efficiently and exercise appropriate oversight of the exempt vehicles.

There are currently no requirements under the Safety Act that prohibit the operation of ADS-equipped vehicles on public roads if the vehicle has been self-certified by its manufacturer that it complies with all applicable FMVSS and the system does not present an unreasonable risk to motor vehicle safety. NHTSA's analysis of whether Zoox's vehicle provides an overall safety level at least equal to the overall safety level of a vehicle that complies with all applicable FMVSS compares Zoox's vehicle to a vehicle that would be identical except for compliance with the standards for which Zoox sought exemption. NHTSA finds that requiring compliance with the portions of the standards listed above is unnecessary to achieve an overall level of safety at least equal to that of a nonexempt vehicle because most of those provisions require certain features to be provided to assist a human and do not provide a safety benefit in a vehicle designed never to be driven by a human occupant. The remaining provisions require certain

⁵ The first exemption under this authority for an ADS-equipped vehicle was granted to Nuro for an occupantless low-speed delivery vehicle. See 85 FR 7826.

⁶ See June 13, 2025 letter to manufacturers at <https://www.nhtsa.gov/sites/nhtsa.gov/files/2025-06/part-555-letter-june-2025.pdf>.

⁷ See U.S. Dept. of Trans., *Trump's Transportation Secretary Sean P. Duffy Unveils New Automated Vehicle Framework as Part of Innovation Agenda* (Apr. 24, 2025), available at <https://www.transportation.gov/briefing-room/trumps-transportation-secretary-sean-p-duffy-unveils-new-automated-vehicle-framework>.

¹ For purposes of this Grant Notice, the term Automated Driving System and the abbreviation "ADS" are used as defined in SAE International J3016, "Taxonomy and Definitions for Terms Related to On-Road Motor Vehicle Automated Driving Systems" (April 2021), available at https://www.sae.org/standards/j3016_202104-taxonomy-definitions-terms-related-driving-automation-systems-road-motor-vehicles. This standard is hereafter referred to as "SAE J3016."

² For purposes of this Grant Notice, the terms "remote assistant" and "remote assistance" are used as defined in SAE J3016.

³ For purposes of this Grant Notice, the term "remote driving" is used as defined in SAE J3016.

⁴ 49 U.S.C. 30113 (b)(3)(B)(iv).

features and performance that are unnecessary or do not accommodate the Zoox robotaxi's novel design.

NHTSA's safety equivalency analysis is limited to the specific requirements under the FMVSS for which Zoox sought an exemption. In processing Zoox's application, NHTSA has not made any conclusions regarding whether the vehicle otherwise complies with all other applicable FMVSS requirements. It remains the manufacturer's responsibility to perform a complete analysis of the vehicle's compliance with FMVSS requirements.

Although NHTSA did not consider Zoox's ADS in its safety equivalency analysis beyond functional performance that may be directly related to a particular exemption, NHTSA has considered the safety and maturity of Zoox's ADS in its determination of whether granting the exemption would be in the public interest and consistent with the objectives of the Safety Act. This consideration informed development of operational oversight conditions for this exemption.

NHTSA is granting this exemption subject to several terms and conditions that provide increased transparency of operations and allow NHTSA to exercise increased oversight, including to ensure that the exempted vehicles do not undermine the public's interest in safe operations. In its June 13, 2025 letter to manufacturers, NHTSA stated that it was adopting a more dynamic and flexible approach to evaluating and overseeing exemptions for ADS-equipped vehicles.⁸ NHTSA has used this new approach to process Zoox's application. In granting Zoox's exemption, NHTSA is establishing a permanent term that subjects the exempted vehicles to continued operational oversight implemented through Operational Authorizations. Operational Authorizations prescribe specific operating conditions for exempted vehicles and may be tailored to different operating environments. The Operational Authorizations offer flexibility because they allow NHTSA to oversee more dynamically the operations of the exempted vehicles by allowing the agency to modify or expand the authorizations as appropriate. The first Operational Authorization is being issued concurrently with this decision notice and is tailored to Zoox, its robotaxi, and the ADS's existing capabilities. NHTSA is placing a copy of the Operational

Authorization in the docket for this notice.

II. Authority and Procedures for General Exemptions

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified at 49 U.S.C. ch. 301, *et seq.*, provides the Secretary of Transportation with broad authority to exempt motor vehicles from an FMVSS or bumper standard on a temporary basis, under specified circumstances, and on terms the Secretary deems appropriate. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority for implementing this section to NHTSA.⁹

In exercising this authority, NHTSA must look comprehensively at the request for exemption and find that an exemption would be consistent with the public interest and with the objectives of the Safety Act.¹⁰ In addition, NHTSA must make at least one of the following more-focused findings, which NHTSA commonly refers to as the "basis" for the exemption:

(i) compliance with the standard[s] [from which exemption is sought] would cause substantial economic hardship to a manufacturer that has tried to comply with the standard[s] in good faith;

(ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;

(iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or

(iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.¹¹

NHTSA established 49 CFR part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards*, to implement the statutory provisions concerning temporary exemptions. The requirements in 49 CFR 555.5 state that the applicant must set forth the basis of the application by providing the information required under 49 CFR 555.6, and the reasons why the exemption would be in the public interest and consistent with the objectives of the Safety Act.

III. Zoox's Application

On August 22, 2025, Zoox submitted an application for exemption from

portions of eight FMVSS for its ADS-equipped robotaxi. Zoox cited two bases for exemption, section 30113(b)(3)(B)(iv) and section 30113(b)(3)(B)(ii), stating that compliance with these FMVSS would prevent Zoox from offering a motor vehicle "with an overall safety level at least equal to the overall safety level of nonexempt vehicles" and that granting the exemption would permit Zoox to introduce new motor vehicle safety features "providing a safety level at least equal to the safety level of the standard."

Zoox requested an exemption from portions of the following FMVSS:

- FMVSS No. 103: Windshield defrosting and defogging systems.
- FMVSS No. 104: Windshield wiping and washing systems.
- FMVSS No. 108: Lamps, reflective devices, and associated equipment.
- FMVSS No. 111: Rear visibility.
- FMVSS No. 135: Light vehicle brake systems.
- FMVSS No. 201: Occupant protection in interior impact.
- FMVSS No. 205: Glazing materials.
- FMVSS No. 208: Occupant crash protection.

Zoox's application provided an overview of the robotaxi, a description of each of the specified FMVSS requirements for which Zoox is seeking an exemption, and its arguments supporting the required statutory findings. NHTSA notes that any of the descriptions provided in this section of its application are Zoox's characterizations and do not necessarily reflect the views of NHTSA. The application included Zoox's claims regarding the safety of the Zoox robotaxi compared to nonexempt vehicles and its arguments that granting this exemption would be in the public interest.¹² In addition, Zoox's application stated that it anticipates it will comply with all applicable FMVSS at the end of the exemption period based on future anticipated regulatory changes that account for ADS-equipped vehicles.¹³

Zoox describes the robotaxi as a purpose-built, fully autonomous, all-electric vehicle optimized for ride hailing in cities. It is classified as a passenger car and has a top speed of 75 mph. The vehicle seats a maximum of four passengers and has a gross vehicle weight rating (GVWR) of 3,000 kilograms (6,614 pounds). Zoox states that its ADS is developed entirely in-house and consists of the hardware and

¹² Redacted versions of Zoox's application and supporting documents are available in the docket (<https://www.regulations.gov/docket/NHTSA-2025-0523>).

¹³ 49 CFR 555.6(d)(3).

⁸ <https://www.nhtsa.gov/sites/nhtsa.gov/files/2025-06/part-555-letter-june-2025.pdf>.

⁹ 49 CFR 1.95.

¹⁰ 49 U.S.C. 30113(b)(3)(A).

¹¹ 49 U.S.C. 30113(b)(3)(B).

software collectively capable of performing the entire dynamic driving task and fallback on a sustained basis within a specified operational design domain (ODD), without any expectation that a passenger will need to intervene. Zoox states that, therefore, their system meets the description of a Level 4 ADS under SAE J3016: Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles (April 2021).

Unlike conventional human-driven cars, the Zoox robotaxi is symmetrical, meaning its front and rear are identical. Rather than forward-facing rows, the Zoox robotaxi's seats are configured in a carriage-style arrangement where seated occupants face the center of the cabin. Zoox states that the primary difference between the Zoox robotaxi and a nonexempt vehicle is that the Zoox robotaxi is not capable of being driven by a human.¹⁴ Instead, the Zoox robotaxi is equipped with lidar, radar, cameras, long-wave infrared cameras, microphones, and other sensors that perceive the environment with custom perception software. This information is then fed into planner and control systems which plan and execute the driving maneuvers autonomously. Zoox explains that, therefore, the Zoox robotaxi is not equipped with:

- Manually operated driving controls as defined by 571.3 (*i.e.*, “system of controls that are used by an occupant for real-time, sustained, manual manipulation of the motor vehicle’s heading (steering) and/or speed (accelerator and brake)”);
- Manually operated “non-driving” controls (*i.e.*, a turn signal operating unit that is capable of “cancellation by a manually operated control,” a headlamp beam switching device that is “designed and located so that it may be operated conveniently by a simple movement of the driver’s hand or foot,” or a parking brake control that “may be either a hand or foot control”); or
- Human driver visibility aids (*i.e.*, windshield wipers and defrosters, sun visors, abrasion-resistant glazing, rearview and side mirrors, or a rearview image display).

Although the Zoox robotaxi lacks manually operated driving controls, Zoox personnel (“the Zoox Support Team”) are capable of limited, manual, low-speed operation of the robotaxi, with direct and constant line of sight, through an industrial handheld

“remote” control.¹⁵ Zoox also states that other Zoox personnel (“TeleGuidance tacticians”) can provide remote guidance to the ADS, and the ADS then determines when and how it is appropriate to execute that guidance. Zoox states that the tacticians do not have direct control of the motion of the robotaxi.¹⁶

Zoox’s arguments and rationale supporting granting their exemption are discussed in the relevant sections below.

IV. Receipt Notice, Request for Additional Information From Zoox, and Comment Summary

NHTSA published a Notice of Receipt of Zoox’s application in the **Federal Register** on September 25, 2025.¹⁷ The Notice of Receipt stated that NHTSA had received an application for exemption from Zoox and listed the FMVSS containing the requirements for which Zoox sought an exemption. The notice told the public that NHTSA made a copy of Zoox’s application available in the docket and that it would separately publish a notice seeking public comment on Zoox’s application after determining that the agency had received adequate information to consider the merits of the request.

After conducting an initial evaluation of Zoox’s application and requesting and receiving additional information from Zoox, NHTSA published a notice requesting public comment on March 11, 2026, and noted that copies of Zoox’s application, appendices, and responses to NHTSA’s questions were placed in the docket, with redactions of information for which Zoox sought confidential treatment.¹⁸

NHTSA received 119 public comments in response to the request for comment. NHTSA received one request to extend the 30-day comment period from the Transportation Trades Department,¹⁹ which requested a 90-day extension. Before responding to the request, NHTSA received a comment from the Transportation Trades Department submitted via email one day after the comment period closed, which

was added to the docket.²⁰ Because Zoox’s application was made available in September 2025 and the emailed comment from the Transportation Trades Department did not reference the extension request nor needing additional time for review, NHTSA did not extend or re-open the comment period.

NHTSA received comments both in support and in opposition to granting Zoox’s application for exemption. NHTSA identified several recurring themes among the supportive comments, including discussion of transportation infrastructure, accessibility and inclusivity, economic benefit, safety, American technological advancement, data gathering, and overcoming regulatory hurdles. Some commenters expressed support for granting the exemption if subject to certain conditions, such as a variety of safety reporting requirements, limitations on the number of vehicles, and oversight of the operational domain. Some organizations and individuals opposed granting Zoox’s application, with comments focused on occupant safety, crashworthiness concerns, vehicle testing, limited transparency, and Zoox’s failure to meet statutory requirements. More detailed discussion of specific comments is included in the relevant sections that follow.

V. Framework for Analyzing Zoox’s Application

NHTSA’s determination of whether to grant a part 555 exemption application relies on two analyses: (1) an analysis of whether at least one of the four statutory bases for an exemption is met; and (2) an analysis of whether granting the exemption would be in the public interest and consistent with the objectives of the Safety Act.

A. Selection of Statutory Basis on Which To Analyze Zoox’s Application

Zoox cited two bases for exemption in its application, section 30113(b)(3)(B)(iv) and section 30113(b)(3)(B)(ii), stating that compliance with the specified FMVSS would prevent Zoox from offering a motor vehicle “with an overall safety level at least equal to the overall safety level of nonexempt vehicles” and that granting the exemption would permit Zoox to introduce new motor vehicle safety features “providing a safety level at least equal to the safety level of the standard.” NHTSA has decided to consider only the first of these bases. Although Zoox’s ADS is a new vehicle

¹⁴ In the context of this statement, we understand Zoox to be referring to the vehicle not being able to be driven by a human occupant.

¹⁵ NHTSA considers operation via the “remote” control to be remote driving as defined in SAE J3016.

¹⁶ NHTSA considers this remote guidance to be remote assistance as defined in SAE J3016 and understands Zoox’s remote assistants can initiate the vehicles to stop, remain stopped, or pull over, as well as provide suggested paths or contextual scene information.

¹⁷ 90 FR 46300.

¹⁸ 91 FR 04730.

¹⁹ Transportation Trades Department, Docket No. NHTSA–2025–0523–0064.

²⁰ Transportation Trades Department, Docket No. NHTSA–2025–0523–0130.

feature that may perform functions related to the exemptions sought, NHTSA does not believe they are replacement for those features because almost all those features are provided to assist a human driver performing the driving task.²¹ In the Zoox robotaxi, the ADS is replacing the human driver, not the features designed to assist human drivers. Instead, the ADS renders those features superfluous. In this situation, because the ADS is not performing the same safety function as the features required by the FMVSS for which they are seeking an exemption, NHTSA believes the equivalent overall level of safety (“EOS”) basis is the appropriate standard under which to evaluate Zoox’s application.

To examine the effects of the requested exemptions and make the EOS finding, NHTSA compared the Zoox robotaxi to a nearly identical compliant vehicle. NHTSA believes this is the appropriate comparison for an EOS analysis based on its interpretation of the statute. NHTSA interprets the EOS statutory finding to be narrowed to an analysis of the impact on features and performance directly related to the exemption requested. In this case, NHTSA views the appropriate comparison vehicle to be a hypothetical compliant version of the Zoox robotaxi, which is also designed to be exclusively driven by an ADS during normal operations. Many of the exemptions sought by Zoox pertain to features and performance that assist a human driver in performing the driving task. Because the comparison compliant vehicle would also be driven exclusively by an ADS during normal operations, the absence of those features or that performance would not impact safety if the only safety benefit of the requirements is derived from assisting a human driver.

Although not part of its EOS analysis, NHTSA did consider the information provided by Zoox about its ADS’s ability to perform the function of a human driver as it relates to each of the requested exemptions as part of the agency’s determination of whether granting the exemption is in the public interest. The Agency notes, however, that there are no performance requirements for an ADS that is replacing a human driver performing the dynamic driving task and NHTSA has no authority to require a higher level of safety performance in the context of deciding whether to grant an

exemption. As explained above, NHTSA believes the statutory analysis of whether the EOS finding is met should be based on the impacts of the specific exemptions sought. Because a compliant vehicle may be operated on public roads with Zoox’s ADS, presuming that it is free from safety-related defects, NHTSA’s consideration of the ADS’s performance is limited. In light of this, NHTSA believes that the maturity of the Zoox robotaxi’s ADS is best considered in the context of an adaptable oversight condition.

B. New Approach to Processing Exemption Applications for ADS-Equipped Vehicles

The Safety Act grants the Secretary, as delegated to NHTSA, discretion to condition the grant of an exemption “on terms [NHTSA] considers appropriate.”²² Historically, NHTSA has applied terms and conditions to the grant of a General Exemption infrequently and, when it did so, only established a single set of static terms and conditions that would apply for the lifespan of exempted vehicles. However, the statute does not require the terms issued by NHTSA to be static nor prescribe how those terms must be implemented. Instead, the statute affords NHTSA discretion to apply “appropriate” terms and conditions.

These terms and conditions are applied on a case-by-case basis and tailored to the particular exempted vehicles. When evaluating the merits of an application, NHTSA may consider whether applying terms and conditions are appropriate to ensure that granting the exemption is in the public interest or to ensure that the statutory basis on which the exemption is granted is met. To enable both better oversight and a quicker assessment of the threshold question of whether to grant an exemption, NHTSA is adopting a more dynamic and flexible approach to applying terms and conditions.

Because ADS-equipped vehicles are capable of changing performance and extending operational design domains over time, NHTSA has found that establishing a single set of static terms and conditions for such vehicles throughout their lifespan is often impractical and inefficient. Static terms also do not always effectively promote motor vehicle safety because they cannot account for the dynamic nature of ADS technologies. Particularly at an early stage in the development of an ADS, capabilities can improve dramatically as the technology improves

and operational design domains are updated over the lifespan of a particular vehicle or generation of vehicles.

NHTSA announced process improvements in June 2025, one of which is the adoption of a dynamic approach for evaluating exemptions for ADS-equipped vehicles. This approach includes an improved oversight structure that provides needed flexibility and can be applied when NHTSA believes that such oversight is necessary or appropriate. This oversight structure would be established via a permanent term or condition in the Grant Notice, which subjects the exempted vehicles to continued operational oversight as outlined in operational terms and conditions in permission letters.

NHTSA determined that it would be appropriate to apply the operational oversight structure to Zoox’s exemption if granted and evaluated the merits of Zoox’s application with this in mind. Zoox’s application is the first to be evaluated since NHTSA announced the process improvements in June 2025 and, as predicted, NHTSA has found that the application of the dynamic oversight structure allows the agency to process and evaluate applications more efficiently and effectively.

Within the oversight structure, Operational Authorizations are tailored to the individual manufacturer and the ADS’s existing capabilities. If an exemption is granted, the manufacturer is able to begin manufacturing and/or commercially deploying vehicles immediately consistent with the terms and conditions of the Operational Authorization, which may be modified via subsequent Authorizations, such as after a manufacturer requests a change. This approach gives NHTSA flexibility to change operational terms quickly, such as by expanding the scope of the operational permission as the ADS continues to develop.

This approach also enables NHTSA to process General Exemption applications more quickly by allowing the agency to rely on an adaptable oversight framework. In turn, NHTSA’s initial review can focus on the current capabilities of the vehicles, rather than needing to develop specific terms and conditions that anticipate possible future changes. This process improvement also builds on processes that have proven effective for ADS in Special Exemptions issued under NHTSA’s Automated Vehicle Exemption Program.

²¹ Zoox is also seeking exemption from requirements on the basis that the design of the vehicle renders those requirements unnecessary or inapplicable.

²² 49 U.S.C. 30113(b)(1) (delegation of authority at 49 CFR 1.95).

VI. FMVSS-Specific Analysis of Zoox's Application

This section provides a detailed discussion of Zoox's application for exemption from specific portions of eight FMVSS, Zoox's arguments of safety equivalency, relevant public comments, NHTSA's analyses, and NHTSA's determinations regarding safety equivalency for each of the requirements for which an exemption is sought. Seven of the eight FMVSS for which Zoox requested exemptions assume the presence of a human driver and the availability of manually operated driving controls. In each FMVSS-specific section, NHTSA also discusses any related issues that were considered in NHTSA's analysis of whether granting Zoox's exemption is in the public interest and consistent with the objectives of the Safety Act.

A. Analysis of Zoox's Request for Exemption From the Windshield Defrosting and Defogging Systems Requirements in FMVSS No. 103 and the Windshield Wiping and Washing Systems Requirements in FMVSS No. 104

Zoox sought exemption from the windshield defrosting and defogging systems requirements in FMVSS No. 103 and the windshield wiping and washing systems requirements in FMVSS No. 104. Section 4.1 of FMVSS No. 103 requires each vehicle to have windshield defrosting and defogging systems. Sections 4.1 and 4.2.1 of FMVSS No. 104 require each vehicle to have a power-driven windshield wiping system and a windshield washing system that meets the requirements of SAE Recommended Practice J903a and J942, respectively. The Zoox robotaxi is not equipped with any windshield defrosting, defogging, wiping, or washing system because the vehicle is designed to be operated exclusively by an ADS, which perceives the driving environment through exterior-mounted sensors rather than through a windshield as a human driver would.

NHTSA did not receive any specific comments regarding Zoox's request for exemption from the requirements in FMVSS Nos. 103 and 104. Consistent with the agency's position expressed in the Notice of Proposed Rulemaking (NPRM) on modernizing FMVSS Nos. 103 and 104 to accommodate ADS-equipped vehicles, NHTSA finds that granting an exemption from these requirements would not have a substantive adverse safety effect.²³ Therefore, NHTSA finds that the Zoox

robotaxi has an overall safety level equivalent to a nonexempt vehicle.

Zoox also provided additional information that is relevant to NHTSA's determination of whether granting the application is in the public interest and consistent with the objectives of the Safety Act. Zoox states that the vehicle's exterior-mounted sensors serve as the foundation of the ADS's visibility and that the vehicle is equipped with sensor cleaning and clearing systems that remove water, debris, and frost from the critical viewing surfaces of the sensors. Zoox asserts that the performance requirements for the sensor systems were derived from the performance requirements of FMVSS Nos. 103 and 104 and exceeds these standards, stating that their system must clean or clear the entire critical sensing surface whereas FMVSS Nos. 103 and 104 only require cleaning or clearing of a percentage of the critical area. In assessing the performance of the sensor cleaning and clearing system, Zoox stated that it used the test procedures and conditions specified in FMVSS Nos. 103 and 104 and SAE Recommended Practice J942 (1965) with the only modification being the pass/fail criteria (100% clearance for Zoox). NHTSA reviewed test reports provided by Zoox regarding defogging, defrosting, and cleansing for critical sensor areas and found the performance to be indicative of performance that serves a safety purpose analogous to the safety purpose of requirements in FMVSS Nos. 103 and 104 for which Zoox sought an exemption.

B. Analysis of Zoox's Request for Exemption From Various Portions of FMVSS No. 108 That Reference Turn Signal Operating Units and Headlamp Beam Switching Devices

Zoox sought exemption from Section 9.1.1 of FMVSS No. 108, which requires that all vehicles be equipped with a turn signal operating unit that is self-canceling by steering wheel rotation and capable of cancellation by a manually operated control. Zoox states that there is no need for a manually operated (*i.e.*, human operated) turn signal operating unit. Instead, based on the vehicle's location and trajectory, the ADS's planning system sends a command requesting the activation or deactivation of a turn signal. If a command from a remote assistant requires the (de)activation of a turn signal, the ADS will (de)activate the turn signal as appropriate once the ADS has confirmed a path.

Zoox also sought exemption from S9.4, which requires each vehicle to have a means of switching between lower and upper beam headlamps

designed and located so that it may be operated conveniently by a simple movement of the driver's hand or foot. In supplemental information submitted by Zoox on May 6, 2026, Zoox explained that it has developed and implemented autonomous beam switching.

NHTSA did not receive any specific comments regarding Zoox's request for exemption from the requirements in FMVSS No. 108.

NHTSA finds that granting an exemption from these requirements would not impact safety because the requirements for manually operated turn signals and manually operated beam switching devices do not provide a safety benefit in a vehicle that would never be driven by a human occupant. Therefore, NHTSA finds that the Zoox robotaxi has an overall safety level equivalent to a nonexempt vehicle.

C. Analysis of Zoox's Request for Exemption From Various Portions of FMVSS No. 111 That Require Interior and Exterior Mirrors and Rearview Image Display

Zoox sought exemptions from requirements in sections 5.1.1 and 5.2.1 of FMVSS No. 111, which require that all passenger cars be equipped with a unit-magnification inside rearview mirror providing a 20-degree horizontal field of view and a unit-magnification driver's side outside mirror, both of which must utilize a film-based or silvered-glass reflective surface meeting specified reflectance criteria to ensure image clarity and minimize glare.

Zoox also sought exemption from requirements in section 5.5 of FMVSS No. 111 which requires that all passenger cars display a rearview image meeting requirements for field of view, size, response time, linger time, deactivation, default view, and durability.

In its application, Zoox states that the safety problem addressed by FMVSS No. 111 (*i.e.*, that the "driver does not have a clear and reasonably unobstructed view to the rear") does not exist in the Zoox robotaxi. Instead, the Zoox robotaxi is equipped with a sensor suite, including multiple cameras, lidar, and radar, that creates a 360-degree field of view with redundancy that, according to Zoox, exceeds the field of view specified by FMVSS No. 111 Sections 5.1.1, 5.2.1, and 5.5 and provides much better total visibility than a human would have in any vehicle.

²³ 91 FR 12537 (March 16, 2026).

The Advocates for Highway and Auto Safety²⁴ (“Advocates”) commented on the lack of evidence in terms of test results or analyses about how the Zoxx robotaxi perceives and responds to pedestrians within the target range for a sensor or camera used for compliance with FMVSS No. 111’s rear visibility requirements. The Advocates cited NHTSA’s recognition that in order for the requirement to meet the need for safety the driver needed to both perceive and respond appropriately before impact with the pedestrian.

Although the Advocates are correct that NHTSA established the requirement for a rear-view image based on information about how human drivers would respond to the presence of objects within the field of view, the standard itself does not require a particular response. Although the ADS in the Zoxx robotaxi will be performing the dynamic driving task, NHTSA has not regulated that aspect of motor vehicle performance. Accordingly, NHTSA cannot require a higher level of vehicle safety performance in the context of evaluating whether to grant an exemption simply because a vehicle is being operated by an ADS as opposed to a human driver.

NHTSA also received a comment from the American Automobile Association (AAA)²⁵ expressing concern with the lack of outside mirrors, stating that passengers’ exiting the vehicle may have limited visibility of approaching cyclists or vehicles.

In the Nuro, Inc. grant notice, NHTSA identified potential ancillary benefits that mirrors provide, such as providing a warning to vehicle occupants exiting vehicles (or opening doors) about approaching traffic and persons in the vicinity of the vehicle. An example would be a passenger exiting a vehicle without mirrors while also failing to look both ways to avoid an oncoming cyclist. Although the outside mirror can serve a potential ancillary purpose for exiting passengers and oncoming cyclists, FMVSS No. 111 was not designed or drafted with this in mind. NHTSA considers these ancillary benefits important, but notes that other features may also provide these benefits.

In supplemental information submitted by Zoxx on January 28, 2026,²⁶ Zoxx stated that it addresses safe passenger loading and unloading by opening only the doors on the side closest to the road edge (e.g., curb).

Additionally, an audio prompt reminds occupants to check for traffic once they arrive at their drop-off location. In addition, because the doors pop out slightly and slide along the body of the robotaxi, occupants can look both ways with the doors open before exiting the vehicle.

After considering the information provided by Zoxx and the public comments, NHTSA finds that the Zoxx robotaxi provides an equivalent level of safety to a vehicle that complies with the rear visibility requirements in sections 5.1.1 and 5.2.1, as well as section 5.5. First, NHTSA finds that mirrors do not address the safety problem of drivers not having a clear and reasonably unobstructed view to the rear in vehicles that will never be driven by a human. Likewise, NHTSA also finds that displaying a rearview image that meets the requirements for size, response time, linger time, deactivation, and default view do not provide a safety benefit for a vehicle that will not be driven by a human occupant. We note that Zoxx provided test reports demonstrating that their vehicle’s cameras meet certain requirements in sections 5.2.1 and 5.5. However, because Zoxx requested exemption from sections 5.2.1 and 5.5 in their entirety, NHTSA evaluated each as such and found that the vehicle’s rearview image provides an overall safety level equivalent to a nonexempt vehicle. Further, while not required for an exemption, NHTSA finds that Zoxx’s approach to ensuring safe passenger unloading, by unloading curb side and providing reminders to passengers can even substitute for the ancillary benefit provided by exterior mirrors.

D. Analysis of Zoxx’s Request for Exemption From the Manual Brake Control Requirements in FMVSS No. 135

Section 5.3.1 of FMVSS No. 135 requires the service brakes to be activated by means of a foot control. In addition, the control of the parking brake must be independent of the service brake control and may be either a hand or foot control. The Zoxx ADS uses control functions, carried out through actuators and their associated control systems, to activate the service and parking brakes. The ADS then uses a series of electronic messages that are relayed to the brake controller to request negative torque, similar to a human driver applying the brake pedal or pressing a parking brake button.

AAA²⁷ expressed concern with the lack of sufficient public details regarding system behavior under cascading failures, performance in degraded environments, and robustness of fallback strategies in dense urban settings. NHTSA notes that FMVSS No. 135 prescribes minimum foundational brake performance requirements. Zoxx’s application asserts that the Zoxx robotaxi has been tested and complies with the equipment, performance, and warning requirements in FMVSS No. 135, specifically the requirements in S5.1, S5.2, S5.4, S5.5, S5.6, and S7.

Consistent with the agency’s position expressed in the NPRM on modernizing FMVSS No. 135 to accommodate ADS-equipped vehicles,²⁸ NHTSA finds that requiring manual controls for the activation of the service and parking brakes is unnecessary for operation of a vehicle by ADS. Accordingly, NHTSA finds that a Zoxx robotaxi exempt from the manual brake control requirements in FMVSS No. 135 would have an overall safety level equivalent to a nonexempt vehicle.

E. Analysis of Zoxx’s Request for Exemption From the Sun Visor Requirements in FMVSS No. 201

Section 5.4 of FMVSS No. 201 requires each front outboard designated seating position to be provided with a sun visor that is constructed of or covered with energy-absorbing material. The sun visors must also be designed and mounted such that they do not present sharp edges or rigid projections that could increase the risk of injury during an occupant’s head impact.

In a notice from 1982 that granted an exemption from the requirement to provide sun visors, NHTSA stated that sun visors function as an occupant protection device by providing impact absorbing material in the windshield header area in addition to keeping the sun from interfering with the vision of the operator.²⁹ Zoxx’s application addresses both of these purposes. Regarding the occupant protection function of sun visors, Zoxx states that it believes rationale for the sun visor requirements is to “minimize the risk of injury from contacting the sun visor” and argues that because the Zoxx robotaxi is not equipped with sun visors, there is no need to protect the occupants from the sun visors. Regarding the purpose of reducing sun glare for human drivers, Zoxx notes that

²⁴ Advocates for Highway and Auto Safety, Docket No. NHTSA–2025–0523–0104 at 4.

²⁵ American Automobile Association, Docket No. NHTSA–2025–0523–0121 at 4.

²⁶ <https://www.regulations.gov/document/NHTSA-2025-0523-0004> at 8.

²⁷ American Automobile Association, Docket No. NHTSA–2025–0523–0121 at 3.

²⁸ 91 FR 38593 (June 26, 2026).

²⁹ 47 FR 34071 (August 5, 1982), Anden Holdings Ltd., Grant of Petition for Temporary Exemption From Federal Motor Vehicle Safety Standards.

the ADS is not affected by the presence or absence of a sun visor because it does not view the roadway through a windshield.

NHTSA did not receive any public comments regarding Zoxx's request for exemption from the sun visor requirement. After consideration, NHTSA believes that the Zoxx robotaxi provides an overall level of safety equal to that of a vehicle that is not exempt from the sun visor requirement because of the positioning of the seats in the Zoxx robotaxi. Because the seating positions are facing inward, toward the center of the vehicle, the header area in which the sun visors would be installed is behind the passengers' heads and head restraints. Based on the design configuration of the vehicle, NHTSA finds that providing sun visors would not provide an occupant protection benefit. Regarding the secondary function of sun visors, NHTSA finds that there is no safety need to block sun glare for a human driver for a vehicle that will never be driven by a human occupant. Therefore, NHTSA finds that the Zoxx robotaxi provides an equivalent level of safety to a vehicle that complies with the sun visor requirement. Inasmuch as the padding on a sun visor may provide additional occupant protection when the sun visor is in certain positions, the level of energy absorption and volume padding in an FMVSS No. 201-compliant sun visor is not defined and will vary with different vehicles, different occupant sizes, the positioning of the sun visor and various other factors. We note that there have been significant improvements in motor vehicle safety since the requirement was first issued, including improvements to FMVSS No. 201 issued in 1995 that established performance requirements for impact area inclusive of the area in which sun visors are stowed, thus reducing any incremental benefit associated with providing energy-absorbing sun visors. Zoxx stated that the robotaxi has been tested and complies with all other relevant components required by FMVSS No. 201. For the same reasons, NHTSA believes granting Zoxx and exemption from portions of FMVSS No. 201 is in the public interest.

F. Analysis of Zoxx's Request for Exemption From the Windshield Abrasion Resistance and Deviation and Distortion Requirements in FMVSS No. 205

Section 5.1 of FMVSS No. 205 requires that glazing materials used in motor vehicles conform to the ANSI/SAE Z26.1–1996 standard, which dictates specific performance and

testing criteria based on the glazing's location and designation as a particular 'Item' type. The purpose of FMVSS No. 205 is to reduce injuries (e.g., lacerations) resulting from impact to glazing surfaces, to ensure a necessary degree of transparency in motor vehicle windows for driver visibility, and to minimize the possibility of occupants being thrown through the windows in collisions. Zoxx is requesting an exemption from the requirements for their vehicle's windshields to be AS1 glazing.

Zoxx states that none of the glazing in the robotaxi is necessary for driving visibility as there is no driver seat and the ADS views the world through the sensors mounted on the exterior of the vehicle, not through the windows. Zoxx states that the glazing at either end of the robotaxi (referred to as "service bays" by Zoxx) is marked "AS4" and satisfies the associated requirements for Item 4 glazing. In addition, Zoxx states that the glazing was tested and met the occupant safety tests for AS1 glazing. Zoxx submitted test reports indicating that the glazing used in the service bays on the robotaxis meets the requirements for AS4 glazing as well as tests 9, 12, and 26 for AS1 glazing.

NHTSA did not receive any public comments about Zoxx's request for exemption from the requirements for windshields to use AS1 glazing.

After considering the information provided by Zoxx, NHTSA finds that glazing used for the service bays is not requisite for driving visibility. Accordingly, NHTSA finds that exempting the Zoxx robotaxi from the requirements for AS1 glazing that relate to driving visibility would not have an adverse impact on safety. However, because NHTSA believes that the glazing in the service bays should still provide the same level of occupant protection as a compliant windshield, NHTSA is conditioning Zoxx's exemption from the requirement that windshields be comprised of AS1 glazing on the glazing meeting AS4 requirements as well as tests 9, 12, and 26 for AS1 glazing. Subject to this condition, NHTSA finds that the Zoxx robotaxi would provide an equivalent level of safety to a nonexempt vehicle.

G. Analysis of Zoxx's Request for Exemption From the Air Bag Warning Label Requirements in FMVSS No. 208

Section 4.5.1 of FMVSS No. 208 requires each vehicle to have a label permanently affixed to either side of the sun visor at each front outboard seating position equipped with an inflatable restraint and the content must conform with the standard. Zoxx reasoned that

since the robotaxi is not equipped with sun visors, the vehicle cannot comply with the requirements of the standard. Instead, Zoxx argued that since an air bag warning label is conspicuously located adjacent to each seating position, the vehicle provides an equivalent level of safety to a nonexempt vehicle. Zoxx's approach to the air bag warning label content and pictogram strays slightly from what is required by 4.5.1(b), but Zoxx argued that the differences more accurately represent the design of the vehicle. For example, the Zoxx air bag warning label references the Zoxx App containing the Rider Manual rather than the owner's manual,³⁰ and the pictogram displays the Zoxx bespoke air bag design compared to traditional air bags. NHTSA agrees that Zoxx's approach of relocating the air bag warning labels to a location at each seating position, as well as altering the contents of the warning label to represent the unique vehicle design accurately while still conveying safety information to the occupants, adequately addresses the safety need met by S4.5.1(b). Therefore, NHTSA finds that the Zoxx robotaxi provides an equivalent level of safety to a vehicle that complies with the sun visor labeling requirements in FMVSS No. 208.

VII. Compliance With the FMVSS From Which Zoxx Seeks Exemption Would Prevent Zoxx From Selling the Robotaxis

As noted above, NHTSA evaluated Zoxx's application on the statutory basis that the manufacturer would be otherwise unable to sell a motor vehicle with an overall level of safety at least equal to that of a nonexempted vehicle. Although the statutory language for equivalent overall safety states that NHTSA must find that compliance with the FMVSS would prevent Zoxx from "selling" the robotaxi, this language does not limit the application of the statutory basis to only vehicles that will be offered for sale (which Zoxx states the robotaxi will not). Rather, to grant an exemption under the equivalent overall safety basis, NHTSA must find that compliance with the standard would prevent Zoxx from selling the robotaxi *regardless* of whether Zoxx actually intends to sell the robotaxi. Section 30113 of the Vehicle Safety Act does not require that a vehicle exempted

³⁰ Because Zoxx will maintain ownership of its vehicles under this exemption, as stated in Zoxx's application and in this Grant Notice, certain information often found in an owner's manual that is relevant to the occupants of the exempted vehicles will be provided in a Rider Manual which is accessible via Zoxx's website and app.

under the equivalent overall safety basis enter interstate commerce only through a sale, and NHTSA declines to read such a limitation into the statute. Accordingly, we have determined that Zoox may introduce the robotaxi into interstate commerce by means other than selling, even if the vehicle is exempted under this basis.

Based on its expertise and the information available to it, NHTSA finds that granting Zoox's application for its robotaxi would result in a vehicle that has an overall level of safety equivalent to a nonexempt version of the vehicle. As discussed above, NHTSA has evaluated each of the exemptions sought and has determined that exempting the Zoox robotaxi from those requirements would not decrease safety. Although evaluated individually above, NHTSA also finds that the Zoox robotaxi, as exempt from those requirements, provides an overall equivalent level of safety to an otherwise identical compliant vehicle that is also operated by an ADS. Most of the exemptions sought are for features designed to assist human drivers and therefore are unnecessary for a vehicle that will not be operated by a human occupant, with the remaining exemptions being sought for requirements that are incompatible or unnecessary for the Zoox robotaxi's carriage seating design.

VIII. Analysis of Whether Granting Zoox's Application Is in the Public Interest and Consistent With the Objectives of the Safety Act

The Safety Act and its implementing regulations provide the Secretary and, by delegation, NHTSA with broad authority and discretion in determining whether granting the application for temporary exemption is consistent with the public interest and objectives of the Safety Act. Here, NHTSA finds that granting Zoox's exemption is consistent with the public interest and 49 U.S.C. Chapter 301 because doing so furthers the Federal Government's interest in facilitating the safe development and deployment of innovative transportation technologies, which is enabled through NHTSA's oversight authority and conditions the agency is placing on Zoox. Given the innovative nature of the Zoox robotaxi and the agency's determination that the exemption will not lower the safety of the robotaxi as compared to a nonexempt version of the vehicle, the agency believes that these reasons are more than sufficient to justify this finding.

A. Zoox's Public Interest Argument

Zoox argued that granting its application for exemption for the robotaxi is consistent with the public interest and the objectives of the Safety Act for several reasons. Zoox stated that introducing an automated robotaxi that meets or exceeds the performance of a human driver would enhance the overall safety of the transportation system and would directly support the U.S. economy by supporting existing businesses and offering consumers additional transportation mobility. Zoox also argued the exemption would be in the public interest as it would further advance and solidify U.S. standing and leadership in AI and automated vehicle technology, as well as signal to the industry and global competitors this administration's commitment to ensuring American companies can achieve and maintain the lead in automated vehicle innovation. Specific to the Safety Act, Zoox argued that safety is maintained because the robotaxi provides at least an overall level of safety equivalent to nonexempt vehicles. In addition, Zoox asserted that the standards from which it seeks exemptions are predicated on the presence of physical controls and equipment intended for use by a human driver and, therefore, do not improve the safety of a vehicle designed to be operated exclusively by an ADS. Zoox also contended that, notwithstanding the absence of such driver-related equipment, the robotaxi satisfies the underlying performance objectives and safety functions embodied in the standards for which exemptions are sought.

More specifically, allowing for the introduction of the robotaxi as it has been designed by Zoox to optimize its performance as a highly automated passenger car could further the development of new and innovative vehicle automation technologies, which may in turn lead to future benefits for vehicle safety and the economy. Although NHTSA cannot fully predict the extent to which these benefits will materialize in the future and, more specifically, the effect that granting this exemption would have on those benefits, the agency recognizes that development of the ADS technology necessary to make these potential benefits possible is supported by use on vehicles that are designed to be automated.

However, the agency recognizes some of the concerns raised by some commenters about ADS and passenger safety, and has imposed conditions upon this exemption grant to mitigate

safety risks and provide enhanced oversight to respond to issues that may arise.

B. Public Interest Issues Raised by Commenters

NHTSA requested comment from the public on the merits of Zoox's application and potential terms and conditions that should be applied to the exemption, if granted.

(1) Supportive Comments

An overwhelming majority of the public comments supported NHTSA granting Zoox's exemption, particularly as it relates to public interest, though many commenters did not elaborate on their reasoning for certain supportive comments. Although NHTSA appreciates public participation and takes such comments into consideration, the agency will not respond to non-substantive comments in this notice.

In terms of safety benefits, the Southern Nevada Bicycle Coalition³¹ noted that automated vehicles have the potential to eliminate common causes of crashes (e.g., distraction, speeding) due to advanced sensing, situational awareness, predictive algorithms, and adherence to traffic laws. Transform³² and the California Bicycle Coalition³³ expressed similar sentiments in terms of safety benefits for vulnerable road users.

In addition, some commenters³⁴ agreed that granting Zoox's exemption was in the public interest because of NHTSA's oversight authority, specifically citing that exempting 2,500 vehicles per year for two years allows NHTSA to monitor operations closely while allowing Zoox to run a commercial service.

(2) Child Ridership

S.D. Thomas LLC³⁵ suggested several reporting requirements, primarily related to child ridership. For example, reporting on the presence of observed children generally and who are incorrectly restrained in a child restraint or booster seat was suggested, as well as requiring Zoox to provide instructions on properly attaching a child restraint to the vehicle and properly restraining a child in a child restraint seat. At the

³¹ Southern Nevada Bicycle Coalition, Docket No. NHTSA-2025-0523-0029 at 1.

³² Transform, Docket No. NHTSA-2025-0523-0041 at 1.

³³ California Bicycle Coalition, Docket No. NHTSA-2025-0523-0073 at 1.

³⁴ Robo Shepherd Inc, Docket No. NHTSA-2025-0523-0015 at 1; Corporation for Automated Road Transportation Safety, Docket No. NHTSA-2025-0523-0061 at 2.

³⁵ S.D. Thomas LLC, Docket No. NHTSA-2025-0523-0124 at 8.

time of granting Zoox's exemption, riders under the age of eight are not permitted. Therefore, NHTSA expects to review relevant materials from Zoox and consider incorporating conditions into Operational Authorizations, should Zoox seek to expand eligible ridership. Although ridership is currently restricted to certain ages, NHTSA acknowledges that the seat belts in the robotaxi may not properly fit all children ages 8 and above. Zoox's Rider Manual states that parents and guardians are responsible for ensuring that children riding with them are safely and properly belted, using a booster seat if necessary.

(3) Passenger Egress

Several commenters³⁶ raised concerns about the safety of the Zoox robotaxi. One common theme among safety concerns was passenger egress.³⁷ Specifically, SMART-TD³⁸ and the Transportation Trades Department³⁹ expressed concern over passenger egress since the robotaxi does not have manual door controls. NHTSA notes that, while the emergency door handle (EDH) equipped on the robotaxi is not a traditional handle commonly seen in conventional vehicles, the robotaxi has two methods to open the doors manually. For passengers, a lever is located on either side of the interior that, while pulled, allows passengers to push the door open. If air bags are deployed, the passenger-facing side of the horseshoe air bag provides instructions for locating and using the EDH. For first responders located outside the vehicle, an exterior door button is available. In the event of a severe crash resulting in a non-functioning door button, instructions are shown on the exterior of the horseshoe air bag instructing first responders where to break the glass to access the EDH.

³⁶ Cristina Perez Hesano, Docket No. NHTSA-2025-0523-0034 at 1; Donald Slavik, Docket No. NHTSA-2025-0523-0035 at 1; Delaney Howard, Docket No. NHTSA-2025-0523-0052 at 1; Anonymous, Docket No. NHTSA-2025-0523-0083 at 1; Advocates for Highway and Auto Safety, Docket No. NHTSA-2025-0523-0104 at 3-4; Transport Workers Union of America, Docket No. NHTSA-2025-0523-0105 at 3; SMART-TD, Docket No. NHTSA-2025-0523-0107 at 3; American Automobile Association, Docket No. NHTSA-2025-0523-0121 at 4; Transportation Trades Department, Docket No. NHTSA-2025-0523-0130 at 2.

³⁷ SMART-TD, Docket No. NHTSA-2025-0523-0107 at 3; American Automobile Association, Docket No. NHTSA-2025-0523-0121 at 4; Transportation Trades Department, Docket No. NHTSA-2025-0523-0130 at 2.

³⁸ SMART-TD, Docket No. NHTSA-2025-0523-0107 at 3.

³⁹ Transportation Trades Department, Docket No. NHTSA-2025-0523-0130 at 2.

AAA⁴⁰ expressed concern over the lack of side mirrors and the implication on passenger safety during loading and unloading. Although Zoox does not have side mirrors, the vehicle incorporates several precautionary measures to support safe loading and unloading. At a pick-up/drop-off, only the door closest to the road edge will be opened. When a pick-up/drop-off occurs outside a parking spot or parking lane, the hazard warning signal flasher is activated, causing the required turn signals to flash providing a visual indicator to external parties the presence of a vehicular hazard and to use caution. Finally, upon exiting the robotaxi, an auditory prompt reminds passengers to check for traffic.

(4) Workforce Requirements

NHTSA received several comments expressing concern over the qualifications and training of remote operators. Particularly, the Advocates⁴¹ and SMART-TD⁴² questioned the sufficiency of remote operator training and qualifications as details were not provided in the public-facing materials. Specifically, both commenters expressed concern over the lack of detail provided on workforce training and certification standards, communication requirements, location, and latency. NHTSA has evaluated Zoox's materials on these matters and has found them to be sufficient. Further, NHTSA has placed certain conditions in the Grant Notice and Operational Authorization for these reasons.

(5) Crashworthiness Testing

Another common theme among commenters was Zoox's lack of crashworthiness testing and data. The Consortium for Constituents with Disabilities⁴³ and the American Foundation for the Blind⁴⁴ both noted that they would like to see testing for people with disabilities, as both passengers and pedestrians, before the exemption is granted. Although the Americans with Disabilities Act does not require accessibility for passenger vehicles not operating on a fixed route, NHTSA strongly supports the use of automated driving system technologies to expand mobility for people with disabilities. While not included as a

⁴⁰ American Automobile Association, Docket No. NHTSA-2025-0523-0121 at 4.

⁴¹ Advocates for Highway and Auto Safety, Docket No. NHTSA-2025-0523-0104 at 4.

⁴² SMART-TD, Docket No. NHTSA-2025-0523-0107 at 3-4.

⁴³ Consortium for Constituents with Disabilities, Docket No. NHTSA-2025-0523-0120 at 3.

⁴⁴ American Foundation for the Blind, Docket No. NHTSA-2025-0523-0126 at 3.

condition to this exemption, the agency encourages the development of safety measures designed to enable safe transportation of people with physical and other disabilities, including wheelchair securement mechanisms.

AAA⁴⁵ and the Service Employees International Union⁴⁶ argued that Zoox's safety claims should be supported by scenario-based evaluations and independent validation rather than internal metrics. NHTSA notes that Zoox provided a significant amount of Zoox's crash test data, which were redacted because Zoox claimed those data constitute confidential business information (CBI). Although the specific information cannot be shared with the public, the CBI provided to NHTSA addressed the concerns raised by public commenters in sufficient detail for NHTSA to find equivalent or greater overall safety.

A comment submitted by S.D. Thomas LLC⁴⁷ asked numerous questions concerning Zoox's seating configurations and crash testing. However, most questions were addressed previously in Zoox's materials while others were out of scope in finding equivalent overall safety. The commenter questioned whether Zoox had any additional information on equivalent performance evaluations for several crashworthiness standards. Zoox confirmed in its application that the Zoox robotaxi met all requirements for the remaining applicable FMVSSs. Accordingly, the company is not required to provide additional information related to the requirements for the standards which they did not seek exemptions. The commenter also asked whether the robotaxis meet certain requirements⁴⁸ unrelated to the applicable FMVSS, but such requirements are not relevant to the requisite FMVSS-specific safety equivalence determination.

C. Additional Issues Raised by Commenters

(1) Confidential Business Information Claims

Several commenters expressed disagreement with Zoox's CBI claims, commonly stating that an application seeking exemption for noncompliance should be scrutinized by the public, and that the lack of transparency in Zoox's

⁴⁵ American Automobile Association, Docket No. NHTSA-2025-0523-0121 at 3.

⁴⁶ Service Employees International Union, Docket No. NHTSA-2025-0523-0103 at 2.

⁴⁷ S.D. Thomas LLC, Docket No. NHTSA-2025-0523-0124 at 5-7.

⁴⁸ DOT HS 813 716; DOT HS 813 755; 2026-01-0578; and 2026-01-0576.

application and supplemental materials prevents such scrutiny. Further, commenters⁴⁹ recommended that NHTSA require full public disclosure as a condition, including remote operations requirements and training, performance tests supporting the equivalent level of safety claims, and incident data.

Zoox has requested that the information in question be treated as CBI. Federal law requires NHTSA to protect CBI, including trade secrets. *See* 49 U.S.C. 30167(a). *See also* 5 U.S.C. 552(b)(4); 18 U.S.C. 1905; *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356 (2019). NHTSA regulations afford entities like Zoox an opportunity to request that certain material submitted to the agency be afforded CBI status. *See* 49 CFR part 512. These regulations require NHTSA to keep such information confidential until the agency makes a determination regarding its confidentiality. *See* 49 CFR 512.20. Thus far, NHTSA has not reached any determination that the information subject to Zoox's request is not entitled to confidential treatment or otherwise necessary to disclose. *See id.* *See also* 49 U.S.C. 30167. Thus, the statutes, regulations, and Supreme Court precedent governing the agency prohibit the disclosure of this information. Nevertheless, at various places in this notice, NHTSA has sought to describe confidential information more broadly to help the public understand the general nature of the withheld information.

(2) Regulatory Structure of Part 555

Several commenters⁵⁰ expressed concern with NHTSA's handling of Zoox's exemption more generally. The most common theme mentioned was that, if granted, Zoox's exemption may be interpreted as a de facto safety standard for future automated vehicles.⁵¹ NHTSA notes that it

evaluates all part 555 applicants on a case-by-case basis. Therefore, all vehicles are evaluated against the basis, or bases, chosen by the applicant.

Several commenters⁵² argued that NHTSA should prioritize the development of standards applicable to ADS-equipped vehicles like the Zoox robotaxi instead of considering individual exemptions on a case-by-case basis. NHTSA acknowledges the need to amend its standards to apply to innovative designs and is in the process of modernizing several FMVSSs to account for the lack of manually operated driving controls in such vehicles. The agency notes the Vehicle Safety Act was designed to provide flexibility for manufacturers developing vehicles with advancing technology through exemptions that allow for limited deployments of non-conforming vehicles. Such exemptions are not intended to provide a permanent deployment pathway, which requires rulemaking.

The Advocates⁵³ raised concern over Zoox's lack of compliance in the past, citing Zoox's claims of self-certification and NHTSA's Special Order and Audit Query. NHTSA notes that a part 555 exemption allows NHTSA to maintain enhanced oversight over the exempted vehicles and operations.

D. Discussion of Conditions

NHTSA grants this exemption subject to a number of terms, violation of which enables the agency to take appropriate action, up to and including a determination that the exemption is no longer in the public interest, which is a ground for the agency to terminate the exemption under 49 CFR 555.8(d). NHTSA may also take appropriate enforcement action under its broad defect authorities. Further, NHTSA may—and has—established terms that continue to apply to the vehicles throughout their service life where it determines such continued application is necessary, considering the public interest and the objectives of the Safety Act.

(1) Number of Vehicles

The Safety Act limits exemptions granted under the equivalent level of

safety basis to a maximum of 2,500 vehicles to be sold in any 12-month period.⁵⁴ Consistent with this statutory provision, NHTSA is granting Zoox an exemption to manufacture and introduce into interstate commerce for commercial deployment up to 2,500 vehicles. However, the total number of exempted vehicles that may be simultaneously operated is limited to the maximum number of vehicles permitted in the initial Operational Authorization, which may be modified in subsequent Authorizations.

(2) Oversight Condition

The terms of this exemption are designed in consideration of the public interest and include both grant and operational conditions. The grant conditions are considered fixed conditions because they contributed to NHTSA's overall safety finding and therefore cannot be changed without a modification to this exemption. Zoox must comply with the grant conditions for the life of the exempted vehicles. They are detailed in Section X of this Grant Notice.

In addition, NHTSA anticipates that Zoox's operations, ODD, and use case will change over time. Therefore, NHTSA believes the public interest is best served through a condition that requires continuing NHTSA oversight of the operation of the exempted vehicles. This oversight is most consistent with the public interest when exercised through a set of operational conditions that can be updated over time to remain relevant to Zoox's evolving technology and operational use case. These conditions are set forth in an Operational Authorization. The operational conditions are intended to be adaptable to the changing ADS and operations and therefore, may be modified, added, or removed throughout the lifecycle of the vehicle. The operational conditions must be followed by Zoox and all parties involved.

NHTSA notes that many of the terms the agency has involved in this Grant Notice and the Operational Authorization are similar to those NHTSA has previously imposed on the importation of noncompliant ADS vehicles under 49 CFR part 591, though, consistent with the differing requirements of part 591, Zoox's exemption will allow for commercial deployment, rather than only testing and demonstration.

⁴⁹ Ross Templeton, Docket No. NHTSA–2025–0523–0108 at 2–5; S.D. Thomas LLC, Docket No. NHTSA–2025–0523–0124 at 2.

⁵⁰ Cristina Perez Hesano, Docket No. NHTSA–2025–0523–0034; Donald Slavik, Docket No. NHTSA–2025–0523–0035; Delaney Howard, Docket No. NHTSA–2025–0523–0052 at 1; Anonymous, Docket No. NHTSA–2025–0523–0083 at 1; Advocates for Highway and Auto Safety, Docket No. NHTSA–2025–0523–0104 at 2; Transport Workers Union of America, Docket No. NHTSA–2025–0523–0105 at 2; SMART–TD, Docket No. NHTSA–2025–0523–0107 at 2–3; Ross Templeton, Docket No. NHTSA–2025–0523–0108 at 1; S.D. Thomas LLC, Docket No. NHTSA–2025–0523–0124 at 2; Transportation Trades Department, Docket No. NHTSA–2025–0523–0130 at 2.

⁵¹ Cristina Perez Hesano, Docket No. NHTSA–2025–0523–0034 at 1; Transport Workers Union of America, Docket No. NHTSA–2025–0523–0105 at 2; SMART–TD, Docket No. NHTSA–2025–0523–0107 at 2–3; Ross Templeton, Docket No. NHTSA–2025–

0523–0108 at 1; S.D. Thomas LLC, Docket No. NHTSA–2025–0523–0124 at 2; Transportation Trades Department, Docket No. NHTSA–2025–0523–0130 at 2.

⁵² Transport Workers Union of America, Docket No. NHTSA–2025–0523–0105 at 1; SMART–TD, Docket No. NHTSA–2025–0523–0107 at 3; Ross Templeton, Docket No. NHTSA–2025–0523–0108 at 1; Transportation Trades Department, Docket No. NHTSA–2025–0523–0130 at 2.

⁵³ Advocates for Highway and Auto Safety, Docket No. NHTSA–2025–0523–0104 at 2.

⁵⁴ 49 U.S.C. 30113(d).

(3) Labeling

Under 49 CFR 555.9(b), a manufacturer of an exempted vehicle must securely affix to the windshield or side window of each exempted vehicle a label containing a statement that the vehicle meets all applicable FMVSS in effect on the date of manufacture “except for Standard Nos. [Listing the standards by number and title for which an exemption has been granted] exempted pursuant to NHTSA Exemption No. ____.” This label is intended to notify prospective purchasers about the exemption and its subject. Under § 555.9(c)(2), this information must also be included on the vehicle’s certification label.

The text of § 555.9 does not expressly indicate how the required statement on the two labels should read in situations in which an exemption covers a portion of an FMVSS. In this case, NHTSA believes that a blanket statement that the vehicle has been exempted from each of the standards in its entirety, without an indication that the exemption is limited to specific provisions, could lead to confusion about the nature of Zoxx’s exemption.

Accordingly, with regard to the requirement in 49 CFR 555.9(c), NHTSA is adding a condition that Zoxx must affix to each exempt Zoxx robotaxi a label that meets all applicable requirements of 49 CFR part 567 and that ends with the phrase “except for specific requirements within Standard No. 103—Windshield defrosting and defogging systems; Standard No. 104—Windshield wiping and washing systems; Standard No. 108—Lamps, reflective devices, and associated equipment; Standard No. 111—Rear visibility; Standard No. 135—Light vehicle brake systems; Standard No. 201—Occupant protection in interior impact; Standard No. 205—Glazing materials; and Standard No. 208—Occupant crash protection, exempted pursuant to NHTSA Exemption No. 2026–01.”

Further, because the Zoxx robotaxi will not be sold to consumers but will instead be operated by Zoxx for ride hailing services, NHTSA is adding a condition that would require Zoxx to provide language about Zoxx’s exemption in its Rider Manual in lieu of affixing a temporary label to the windshield or side window as specified in § 555.9(b). The purpose of the requirement to affix a label to the window or side window is to inform prospective purchasers about a vehicle’s exemption. Because the Zoxx robotaxi will not be sold to consumers, NHTSA finds that it would be in the public

interest to provide information to consumers via alternative means. Zoxx suggested the inclusion of language in their Rider Manual and NHTSA agrees that would be appropriate and would better fulfill the purpose of the requirement in § 555.9(b). Accordingly, NHTSA is establishing a condition that would require Zoxx to provide the required language in its Rider Manual and include brief, plain language descriptions of the requirements from which the Zoxx robotaxi is exempt. NHTSA is also requiring Zoxx to provide sample language for its Rider Manual within 30 days of publication of this Grant Notice.

(4) Conditions Suggested by Commenters

Several commenters⁵⁵ recommended conditions that NHTSA should put in place before granting Zoxx’s part 555 exemption. NHTSA incorporated a number of commenters’ suggestions into Zoxx’s initial set of conditions. However, NHTSA also determined many of the commenters’ suggestions to be out of scope for the purpose of this exemption or already addressed in Zoxx’s application and supplemental materials.

The Advocates,⁵⁶ SMART–TD,⁵⁷ and the Transportation Trades Department⁵⁸ suggested NHTSA require full public disclosure of various aspects of Zoxx’s operation, including incident data and workforce management. Although NHTSA has determined it unnecessary for Zoxx to disclose all aspects of its operations, Zoxx has said it intends to disclose aspects of its safety clearance process in the future.

The Advocates⁵⁹ recommended NHTSA require Zoxx to coordinate with State and local authorities and communicate effectively with the public in all localities where Zoxx operates. NHTSA agrees with the value of public disclosure and has included Condition X.J in this Grant Notice to require disclosure of Zoxx’s operating areas. In addition, NHTSA expects to request

Zoxx’s coordination plans prior to expansion to new operational areas. The Advocates⁶⁰ also suggested NHTSA condition Zoxx’s exemption on making all exempted vehicles readily and individually identifiable. However, NHTSA has determined this condition to be unnecessary as the robotaxis are currently labeled clearly with Zoxx markings, license plates, and VINs on either end of the vehicle.

Several commenters also suggested that NHTSA implement certain reporting requirements. The Transport Workers Union of America,⁶¹ SMART–TD,⁶² and Ross Templeton⁶³ suggested Zoxx be required to report on the number of personnel employed, both by Zoxx and contractors, including the location of workers, relevant qualifications, and total hours spent performing duties. Certain aspects of this request are incorporated into Zoxx’s reporting requirements at the time of granting (see Condition X.I), while other aspects like total hours spent performing duties are unnecessary for compliance with other conditions relevant to safety performance which are included in the initial Operational Authorization (*e.g.*, remote assistance performance, fleet operations personnel roles and responsibilities). Additional suggested reporting requirements included the number of “floaters” who may be reassigned or called upon to do remote operations duties, the total number of exempted vehicles removed from service due to safety-related maintenance issues, median hourly compensation and employee benefits, and the annualized turnover rate. NHTSA does not believe details like these are necessary for the agency’s safety-focused operational oversight at the time of granting this exemption. In the future, reporting requirements may be added should NHTSA deem them necessary.

Finally, three commenters⁶⁴ suggested NHTSA place a condition on Zoxx’s exemption prohibiting any use that would require additional exemptions from Federal agencies and from marketing for use by public transportation agencies, though they did not specify the reasons for such

⁵⁵ Advocates for Highway and Auto Safety, Docket No. NHTSA–2025–0523–0104 at 4–5; Transport Workers Union of America, Docket No. NHTSA–2025–0523–0105 at 4–5; SMART–TD, Docket No. NHTSA–2025–0523–0107 at 4–5; Ross Templeton, Docket No. NHTSA–2025–0523–0108 at 2–5; S.D. Thomas LLC, Docket No. NHTSA–2025–0523–0124 at 8–9; Transportation Trades Department, Docket No. NHTSA–2025–0523–0130 at 3.

⁵⁶ Advocates for Highway and Auto Safety, Docket No. NHTSA–2025–0523–0104 at 5.

⁵⁷ SMART–TD, Docket No. NHTSA–2025–0523–0107 at 4.

⁵⁸ Transportation Trades Department, Docket No. NHTSA–2025–0523–0130 at 3.

⁵⁹ Advocates for Highway and Auto Safety, Docket No. NHTSA–2025–0523–0104 at 5.

⁶⁰ Advocates for Highway and Auto Safety, Docket No. NHTSA–2025–0523–0104 at 5.

⁶¹ Transport Workers Union of America, Docket No. NHTSA–2025–0523–0105 at 4–5.

⁶² SMART–TD, Docket No. NHTSA–2025–0523–0107 at 2–5.

⁶³ Ross Templeton, Docket No. NHTSA–2025–0523–0108 at 2–5.

⁶⁴ Transport Workers Union of America, Docket No. NHTSA–2025–0523–0105 at 4; SMART–TD, Docket No. NHTSA–2025–0523–0107 at 5; Transportation Trades Department, Docket No. NHTSA–2025–0523–0130 at 3.

conditions. NHTSA has included a term requiring compliance with all Federal, State and Local laws (see Condition X.E) and determined additional conditions unnecessary as the other agencies have authority to administer their respective exemptions.

E. Conclusion That Granting Zoxx an Exemption Is in the Public Interest and Consistent With the Objectives of the Safety Act

Based upon the Federal government's interest in facilitating the safe deployment of innovative transportation technologies, and public interest arguments raised by Zoxx and commenters, NHTSA has determined that granting Zoxx a temporary exemption, subject to the terms and conditions established in this notice (Section X) and the Operational Authorization letter, is in the public interest. Although Zoxx and public commenters offer a variety of reasons for why granting Zoxx's exemption is in the public interest, NHTSA's analyses primarily turn on questions of motor vehicle safety.

NHTSA believes that ADS technology has the potential to improve safety and mobility in the transportation of both people and goods. While these benefits are still largely aspirational and unquantifiable, they provide reasons to grant the exemption, especially after finding that exempt Zoxx robotaxis have an equivalent or greater level of motor vehicle safety compared to an otherwise identical FMVSS-compliant vehicle. NHTSA also notes that ADS technology is being deployed on public roads and the agency does not believe that exempt Zoxx robotaxis would pose additional risks to motor vehicle safety compared to a compliant vehicle using the same ADS. The difference in safety, however, between granting or denying Zoxx's application is that with this grant, as NHTSA has formulated it, NHTSA has more direct and tailored oversight. With this increased oversight, NHTSA finds that granting the exemption would be net positive for safety. Accordingly, because of the other benefits associated with facilitating Zoxx's deployment of a vehicle with a novel design with requiring unnecessary features, NHTSA also finds that, overall, granting Zoxx's exemption is consistent with the public interest and the objectives of the Safety Act.

IX. Conclusion

Pursuant to 49 U.S.C. 30113(b)(3)(B)(iv), NHTSA is granting Temporary Exemption No. 2026–01 to Zoxx for the production of its “Zoxx sedan” model vehicle from paragraph

S4.1 of FMVSS No. 103; paragraphs S4.1 and S4.2.1 of FMVSS No. 104; paragraphs S9.1.1 and S9.4 of FMVSS No. 108; paragraphs S5.1, S5.2.1, and S5.5 of FMVSS No. 111; paragraph S5.3.1 of FMVSS No. 135; paragraph S5.4 of FMVSS No. 201; the requirement of FMVSS No. 205 that windshields be comprised of AS1 glazing; and paragraph S4.5.1 of FMVSS No. 208, subject to the condition provided that Zoxx complies with the terms described in Section X. The exemption shall be effective from July 31, 2026 through July 31, 2028.

X. Terms and Conditions

The terms set out in this grant notice are specific to Zoxx's “Zoxx sedan” model, a robotaxi vehicle, based on information provided by Zoxx in its application and supplemental information provided to NHTSA. These terms include an Operational Authorization, which governs the public road operation of the exempted vehicles. In general, the Operational Authorization describes processes for reporting changes to vehicle operations and capabilities and requesting to operate under changed conditions. If NHTSA finds that a change to the vehicle affects the overall equivalent level of safety finding by which this exemption was granted, NHTSA may require Zoxx to request a modification to the exemption, which would require notice and public comment and would be processed under 49 CFR 555.8. Violation of any of the terms included in this notice or the associated Operational Authorization are grounds for NHTSA action, up to and including termination of the exemption.

A. Operational Authorization

Zoxx must comply with all terms and conditions in the applicable Operational Authorization(s). The Operational Authorization will govern the operation of the exempted vehicles on public roads and may be modified by NHTSA as appropriate or necessary. NHTSA may issue additional Operational Authorizations that contain specific conditions on an operation-to-operation basis, and therefore, multiple Authorizations may exist concurrently depending on operating areas, locations, or routes. Zoxx must be able to access and provide vehicle, ADS, and other data to NHTSA as required by the reporting conditions specified in the Authorization. The Operational Authorizations will be made publicly available in the docket for this exemption notice (NHTSA–2025–0523).

B. Vehicles Permitted Under the Current Exemption

The current exemption applies exclusively to the Zoxx sedan model vehicle described in Zoxx's application and supplemental documentation.

C. Labeling

In accordance with 49 CFR 555.9(c), Zoxx must affix to each exempt Zoxx sedan vehicle a label that meets all applicable requirements of 49 CFR part 567 and that ends with the phrase “except for specific requirements within Standard No. 103—Windshield defrosting and defogging systems; Standard No. 104—Windshield wiping and washing systems; Standard No. 108—Lamps, reflective devices, and associated equipment; Standard No. 111—Rear visibility; Standard No. 135—Light vehicle brake systems; Standard No. 201—Occupant protection in interior impact; Standard No. 205—Glazing materials; and Standard No. 208—Occupant crash protection, exempted pursuant to NHTSA Exemption No. 2026–01.”

In lieu of affixing securely to the windshield or side window of each exempted vehicle a label in the English language containing the statement required by 49 CFR 567.4(g)(5) and including the language specified above in accordance with § 555.9(c), Zoxx may instead provide the required language in its Rider Manual and include brief, plain language descriptions of the requirements from which the Zoxx sedan is exempt. Zoxx must provide sample language for its Rider Manual within 30 days of publication of this Grant Notice.

D. Equipment Requirement for the Vehicles

The glazing in the Zoxx robotaxi's “service bays” must meet all requirements for AS4 glazing as well as tests 9, 12, and 26 for AS1 glazing.

E. Compliance With Federal, State, and Local Laws

Zoxx, the robotaxis, and their operation must comply with all Federal, State, and local laws and requirements. Each vehicle must be duly permitted, if applicable, and authorized to operate upon all roadways traversed in the manner and conditions described in the associated Operational Authorization. Zoxx remains responsible for communicating, cooperating, and coordinating with law enforcement personnel as may be necessary in the deployment regions. This exemption does not supplant or affect any recall or reporting obligations that may arise

under the Safety Act for the subject vehicles.

F. Inspection

The Zoox robotaxi must be made available for inspection by NHTSA upon request.

G. Sale and Transfer of Possession

Zoox must maintain operational control of all vehicles under this exemption for the entire life of the vehicles. Zoox shall not sell, or transfer possession of, or title to, any vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions authorized by NHTSA.

H. Modification, Suspension, or Revocation of an Exemption

NHTSA may modify, suspend, or revoke an exemption, in its discretion and as appropriate, including upon determining that:

a. The exemption is no longer consistent with the public interest and the objectives of the Act, for example if NHTSA determines that the robotaxi(s) or its operation(s) presents an unreasonable risk to safety, which may include if the robotaxi contains safety-related defects that NHTSA determines cannot be satisfactorily remedied or otherwise mitigated; or

b. The exemption was granted on the basis of false, fraudulent, or misleading representation or information.

I. Location of Personnel Involved in Safety-Critical Tasks

Zoox shall ensure that all personnel involved in safety-critical tasks (*e.g.*, remote assistants) are located in jurisdictions within the Continental United States such that the location of remote personnel does not degrade system safety, data integrity, or regulatory accountability. To mitigate the risks associated with signal degradation, Zoox must ensure that these locations provide a communication environment where geographic distance does not introduce prohibitive latency or jitter. Performance for these operations must be validated against Zoox's safety clearance process to ensure that the vehicle remains within a safe, controllable state at all times, with the burden on Zoox to ensure that the chosen remote architecture maintains a level of safety according to its process.

Beyond technical performance, the location of remote personnel must allow the chain of accountability to remain intact regardless of physical jurisdiction. All remote assistants must comply with Zoox's training

requirements and procedures. Zoox must verify that the chosen geographic distribution ensures all remote personnel remain reachable and legally accountable to U.S. law enforcement and regulatory bodies.

J. Disclosure of Operating Areas

To ensure transparency regarding where exempted vehicles are operating on public roads, Zoox must publish maps of current operating areas indicating where the vehicles operate on public roads in each city, county, or State. The maps must be made available to the public on Zoox's website and must be updated no later than 14 days after any substantive change in the operating area.

K. Reporting Manufactured Vehicles

Zoox must submit an Annual Report to NHTSA identifying the VINs of all vehicles manufactured under the exemption. The report should identify, by VIN, whether each vehicle is continuing to operate on public roads. If none of the vehicles have operated on public roads for more than two (2) consecutive years, you are no longer required to submit an Annual Report until operation resumes, if applicable. In addition, the Annual Report should include a list of the geographic locations of all remote assistance centers involved in operation of the vehicles on public roads.

Authority: 49 U.S.C. 30113 and 49 U.S.C. 30166; delegations of authority at 49 CFR 1.95 and 49 CFR 501.5.

Issued on July 28, 2026 under authority delegated in 49 CFR 1.95 and 501.5.

Jonathan Morrison,

Administrator.

[FR Doc. 2026–15485 Filed 7–30–26; 8:45 am]

BILLING CODE 4910–59–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meetings

TIME AND DATE: August 5, 2026, 10:30 a.m.–2:30 p.m., Eastern time.

PLACE: This meeting will be held at the Residence Inn Downtown Hotel, 100 Sabin Street, Providence, RI 02903.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Governance Task Force (the “Task Force”) will conduct a meeting to continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—UCR Plan Governance Task Force Chair

The UCR Governance Task Force Chair will welcome attendees, call the meeting to order, call roll for the task force, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Task Force Agenda and Setting of Ground Rules—UCR Plan Governance Task Force Chair

For Discussion and Possible Task Force Action

The Governance Task Force Agenda will be reviewed, and the Task Force will consider adoption.

Ground Rules

➤ Task Force action only to be taken in designated areas on agenda

IV. Approval of Minutes of the May 27, 2026, Task Force Meeting—UCR Governance Task Force Chair

For Discussion and Possible Task Force Action

Draft Minutes from the May 27, 2026 UCR Task Force meeting will be reviewed. The Task Force will consider action to approve.

V. Conflict of Interest Acknowledgement Form Discussion—UCR Governance Task Force Chair

For Discussion and Possible Task Force Action

The UCR Governance Task Force Chair will lead a discussion on a proposed UCR Plan Board member Conflict of Interest Acknowledgement Form. The Task Force may take action to recommend to the UCR Plan Board a specific Conflict of Interest form and that the Board require each individual Board member to read, complete, and sign such form.

VI. UCR Plan Subcommittee Charters—UCR Governance Task Force Chair

For Discussion and Possible Task Force Action

The UCR Governance Task Force Chair will lead a discussion on

proposed charters for all UCR Plan Subcommittees. The Task Force may take action to recommend to the UCR Plan Board proposed charter language for all UCR Plan Subcommittees.

VII. Other Business—UCR Plan Governance Task Force Chair

The UCR Plan Governance Task Force Chair will call for any other business, old or new, from the floor, including items from the previous Task Force meeting.

VIII. Adjournment—UCR Plan Governance Task Force Chair

The UCR Plan Governance Task Force Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, July 27, 2026 at: <https://plan.ucr.gov>.

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305-3783, eleaman@board.ucr.gov.

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2026-15595 Filed 7-29-26; 4:15 pm]

BILLING CODE 4910-YL-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0850]

Agency Information Collection Activity: Requirements for Recognition as a VA Accredited Organization

AGENCY: Office of General Counsel, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of General Counsel (OGC), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before September 29, 2026.

ADDRESSES: Comments must be submitted through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Jonathan Taylor, 202-461-7650, Jonathan.Taylor2@va.gov.

VA PRA information: Dorothy Glasgow, 202-461-1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OGC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of OGC's functions, including whether the information will have practical utility; (2) the accuracy of OGC's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Requirements for Recognition as a VA Accredited Organization.

OMB Control Number: 2900-0850
<https://www.reginfo.gov/public/do/PRAsearch> (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Extension of a currently approved collection.

Abstract: In order for an organization to provide representation to claimants before VA regarding claims for VA benefits, the organization must be recognized by VA for that purpose. Section 5902(a) of title 38, United States Code, authorizes VA to recognize organizations for the limited purpose of ensuring competent representation of veterans in claims for benefits administered by VA. VA implemented this authority in 38 CFR 14.628. An organization must apply for VA recognition, supplying information as specified in section 14.628 to demonstrate that it satisfies the legal requirements for recognition. (Organizations may provide services to veterans without VA recognition if the services do not include the preparation, presentation, and prosecution of claims for VA benefits.) The information submitted by the organizations in conjunction with a request for recognition is used by VA in reviewing accreditation applications to determine whether organizations meet the requirements for VA recognition under section 14.628. VA relies on this

information to ensure that it is granting recognition only to organizations that can provide long-term, competent representation to VA claimants.

Affected Public: Individuals, not-for-profit institutions, and state, local, or tribal governments.

Estimated Annual Burden: 50 hours.

Estimated Average Burden per

Respondent: 5 hours.

Frequency of Response: One time.

Estimated Number of Respondents: 10.

Authority: 44 U.S.C. 3501 et seq.

Shunda Willis,

Alternate, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026-15452 Filed 7-30-26; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0770]

Agency Information Collection Activity: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (VBA, VHA, NCA)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before September 29, 2026.

ADDRESSES: Comments must be submitted through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202-461-1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's

functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (VBA, VHA, NCA).

OMB Control Number: 2900-0770. <https://www.reginfo.gov/public/do/PRASearch> (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Revision of a currently approved collection.

Abstract: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, the Department of Veterans Affairs (VA) seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on our service delivery for Veterans Benefits Administration (VBA); Veterans Health Administration (VHA); and National Cemetery Administration (NCA). By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but not statistical surveys that yield quantitative results that can be generalized to the population of study.

The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between the VA and its customers and stakeholders. They will also provide feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as timeliness,

appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the provision of services will be unavailable to the Agency.

The Agency will only submit information collections for approval under this generic clearance if they meet the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are noncontroversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

The types of collections that this generic clearance covers include, but are not limited to, Program Satisfaction Surveys; Focus Groups; Customer Comment Cards; Small Discussion Groups of customers, potential customers, delivery partners, or other stakeholders; Qualitative Customer Satisfaction Surveys, such as post-transaction surveys and opt-out web surveys; In-person Observation Testing, such as website or software usability tests; and Patient Surveys. As a general matter, information collections under this clearance will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs,

and other matters that are commonly considered private. There is an overall decrease in the anticipated number of respondents and burden hours due to adjustments based on agency program data.

Affected Public: Individuals or Households; Businesses and Organizations; State, Local or Tribal Government.

Estimated Annual Burden: 201,250 total hours.

Program Satisfaction Surveys: 62,500.

Focus Groups: 35,000.

Customer Comment Cards: 3,750.

Small Discussion Groups: 5,000.

Qualitative Customer Satisfaction Surveys: 62,500.

In-Person Observation Testing: 7,500.

Patient Surveys: 25,000.

Estimated Average Burden per

Respondent:

Program Satisfaction Surveys: 30 minutes.

Focus Groups: 60 minutes.

Customer Comment Cards: 15 minutes.

Small Discussion Groups: 30 minutes.

Qualitative Customer Satisfaction

Surveys: 30 minutes.

In-Person Observation Testing: 30 minutes.

Patient Surveys: 15 minutes

Frequency of Response: Once.

Estimated Number of Responses:

425,000 total.

Program Satisfaction Surveys:

125,000.

Focus Groups: 35,000.

Customer Comment Cards: 15,000.

Small Discussion Groups: 10,000.

Qualitative Customer Satisfaction Surveys: 125,000.

In-Person Observation Testing:

15,000.

Patient Surveys: 100,000.

(Authority: 44 U.S.C. 3501 *et seq.*)

Shunda Willis,

Alternate, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026-15456 Filed 7-30-26; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0829]

Agency Information Collection

Activity: Income and Asset Statement in Support of Claim for Pension or Parents' Dependency and Indemnity Compensation (D.I.C.)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.**SUMMARY:** Veterans Benefits

Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before September 29, 2026.

ADDRESSES: Comments must be submitted through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Kendra McCleave, 202-461-9568, kendra.mccleave@va.gov.

VA PRA information: Dorothy Glasgow, 202-461-1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA. With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: 21P-0969, Income and Asset Statement in Support of Claim for Pension or Parents' Dependency and Indemnity Compensation (D.I.C.).

OMB Control Number: 2900-0829. <https://www.reginfo.gov/public/do/PRASearch> (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21P-0969 allows claimants and beneficiaries to report unreimbursed medical expenses to reduce their countable income for

needs-based benefit programs, such as VA Pension and Parents' Dependency and Indemnity Compensation (DIC). These expenses are deducted from otherwise countable income to determine eligibility for income-based benefits and the rate payable. Veteran Service Representatives use the information on the form to adjust benefits.

Affected Public: Individuals and households.

Estimated Annual Burden: 22,917 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 55,000.

(Authority: 44 U.S.C. 3501 *et seq.*)

Shunda Willis,

Alternate, VA PRA Clearance Officer, Office of Information Technology/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026-15453 Filed 7-30-26; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research, Development, and Translation (RRDT) Scientific Merit Review Board; Federal Register Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, as amended, 5 U.S.C. Ch. 10, that a meeting of the RRDT Scientific Merit Review Board (Board) will be held August 19, 2026, from 1-1:30 p.m. Eastern Standard Time (EST), via Webex. The meeting will be open to the public from 1-1:10 p.m. EST. The remainder of the meeting, from 1:10-1:30 p.m. EST, will be closed to the public and used for scientific review and discussion, examination of, and reference to the research applications. Discussions will involve staff and consultant critiques of research proposals. Discussions will also cover the scientific merit of each proposal and the qualifications of the personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research proposals. Therefore, portions of the Board meeting will be closed to the public in accordance with 5 U.S.C. 552b(c)(4), (6), and (9)(B).

The objective of the Board is to provide for the impartial selection of the most meritorious research projects for

support by VA research funds and to offer advice for research program officials on program priorities and policies. The ultimate objective of the Board is to ensure through recommendations that the VA Office of Research and Development (ORD) RRDT portfolio advances scientific knowledge and fosters innovations to maximize Veterans' functional independence, quality of life, and participation in their lives and community.

The Board evaluates and advises the Acting Deputy Chief Research and Development Officer (Deputy CRADO) for Investigators, Scientific Review, and Management, and the Acting ORD CRADO, on strategies, goals, and direction to support emerging issues and topics in Veteran health care through research and the scientific and technical merit, mission relevance, and protection of human and animal subjects of rehabilitation research proposals. The Board does not consider grants, contracts, or other forms of extramural research.

Members of the public may attend the open portion of the meeting from 1-1:10 p.m. EST via Webex (in listen-only mode, as the time-limited agenda does not allow for public comment or presentations). To attend the open portion of the meeting, the public may dial the Webex phone number (1-833-558-0712) and enter the meeting access code (2825 167 1146).

Written comments from members of the public should be sent to Kristy Benton-Grover, Designated Federal Officer, RRDT, U.S. Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, or to Kristy.Benton-Grover@va.gov, at least 5 days before the meeting. The written public comments will be shared with the Board members. The public may not attend the closed portion of the meeting.

Dated: July 29, 2026.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2026-15489 Filed 7-30-26; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0059]

Agency Information Collection Activity: Statement of Person Claiming to Have Stood in Relation of Parent

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before September 29, 2026.

ADDRESSES: Comments must be submitted through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Kendra Mccleave, 202–461–9568, kendra.mccleave@va.gov.

VA PRA information: Dorothy Glasgow, 202–461–1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of

Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA. With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: 21P–524, Statement of Person Claiming to Have Stood in Relation of Parent.

OMB Control Number: 2900–0059.
<https://www.reginfo.gov/public/do/PRASearch> (Once at this link, you can enter the OMB Control Number to find

the historical versions of this Information Collection).

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21P–524 is used to gather the necessary information to determine a claimant's parental relationship to a deceased Veteran when the claimant is not the Veteran's natural mother or father or adopted mother or father. Without this information, determination of entitlement would not be possible.

Affected Public: Individuals and households.

Estimated Annual Burden: 42 hours.

Estimated Average Burden per Respondent: 2 hours.

Frequency of Response: One time.

Estimated Number of Respondents: 21.

Authority: 44 U.S.C. 3501 *et seq.*

Shunda Willis,

Alternate, VA PRA Clearance Officer, Office of Information Technology/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026–15454 Filed 7–30–26; 8:45 am]

BILLING CODE 8320–01–P



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Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Part 412

Medicare Program; FY 2027 Inpatient Psychiatric Facilities Prospective
Payment System—Rate Update; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS–1847–F]

RIN 0938–AV77

Medicare Program; FY 2027 Inpatient Psychiatric Facilities Prospective Payment System—Rate Update

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule updates the prospective payment rates, the outlier threshold, and the wage index for Medicare inpatient hospital services provided by Inpatient Psychiatric Facilities (IPFs), which include psychiatric hospitals and excluded psychiatric units of an acute care hospital or critical access hospital. This final rule also refines the Inpatient Psychiatric Facilities Prospective Payment System (IPF PPS) outlier policy. These changes will be effective for IPF discharges occurring during the fiscal year beginning October 1, 2026, through September 30, 2027. We are also finalizing the implementation of a standardized IPF patient assessment instrument, and removing two measures used in the Inpatient Psychiatric Facilities Quality Reporting Program.

DATES: These regulations are effective October 1, 2026.

FOR FURTHER INFORMATION CONTACT:

The IPF Payment Policy mailbox at IPFPaymentPolicy@cms.hhs.gov, for general information.

Nick Brock, (410) 786–5148, for information regarding the inpatient psychiatric facilities prospective payment system (IPF PPS) and regulatory impact analysis.

Kaleigh Emerson, kaleigh.emerson1@cms.hhs.gov, for information regarding the IPF Quality Reporting Program.

SUPPLEMENTARY INFORMATION:

Availability of Certain Tables Exclusively Through the Internet on the CMS Website

Addendum A to this final rule summarizes the fiscal year (FY) 2027 IPF PPS payment rates, outlier threshold, cost of living adjustment factors (COLA) for Alaska and Hawaii, national and upper limit cost-to-charge ratios, and adjustment factors. In addition, Addendum B to this final rule shows the complete listing of ICD–10 Clinical Modification (CM) and Procedure Coding System (PCS) codes, the FY 2027 IPF PPS comorbidity adjustment, and electroconvulsive therapy (ECT) procedure codes. Addenda A and B to this final rule are available on the CMS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility-pps/tools-and-worksheets>.

Tables setting forth the FY 2027 Wage Index for Urban and Rural Labor Market Areas (based on Core Based Statistical Area (CBSA) delineations) are available exclusively through the internet, on the CMS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility/wage-index>.

I. Executive Summary

A. Purpose

This final rule updates the prospective payment rates, the outlier threshold, and the wage index for Medicare inpatient hospital services provided by Inpatient Psychiatric Facilities (IPFs) for discharges occurring during fiscal year (FY) 2027 (beginning October 1, 2026, through September 30, 2027). This rule also limits an IPF’s outlier payments to no more than 20 percent of its total IPF PPS payments in a year, effective October 1, 2027, and provides for an exemption to that limit for IPFs with fewer than 50 stays per year. Lastly, this final rule implements a standardized IPF patient assessment instrument and removes two quality measures.

B. Summary of the Major Provisions

1. Inpatient Psychiatric Facilities Prospective Payment System (IPF PPS)

For the IPF PPS, we are finalizing our proposals to:

- Establish a 20 percent cap on outlier payments under the IPF PPS. As discussed in section IV.E.c. of this final rule, we are modifying the effective date of this policy and limiting it to IPFs with 50 or more stays per year.
- Make technical rate setting updates: The IPF PPS payment rates will be adjusted annually for input price inflation, as well as statutory and other policy factors.

This rule updates:
++ The IPF PPS Federal per diem base rate from \$892.87 to \$912.40.
++ The IPF PPS Federal per diem base rate for providers who failed to report quality data to \$894.56.
++ The electroconvulsive therapy (ECT) payment per treatment from \$673.85 to \$688.59.
++ The ECT payment per treatment for providers who failed to report quality data to \$675.13.
++ The labor-related share from 79.0 percent to 78.9 percent.
++ The wage index budget neutrality factor to 0.9989.
++ The fixed dollar loss threshold amount from \$39,360 to \$40,750, to maintain estimated outlier payments at 2 percent of total estimated aggregate IPF PPS payments.

2. Inpatient Psychiatric Facilities Quality Reporting Program

For the IPF Quality Reporting Program, we are implementing a standardized IPF patient assessment instrument (IPF–PAI), as mandated by section 4125(b)(1) of the Consolidated Appropriations Act of 2023 (CAA, 2023) (Pub. L. 117–328), and removing two measures from the program: Alcohol Use Brief Intervention Provided or Offered and Alcohol Use Brief Intervention (SUB–2/2a) and Tobacco Use Treatment Provided or Offered at Discharge (TOB–3/3a).

C. Summary of Impacts

Provision Description	Total Transfers & Cost Reductions
FY 2027 IPF PPS payment update	The overall economic impact of this final rule is an estimated \$60 million in increased payments to IPFs during FY 2027.
IPF Quality Reporting Program update	We estimate a net increase of \$1,080,697 in costs associated with the IPF Quality Reporting Program due to policies finalized in this rule.

II. Background

A. Overview of the Legislative Requirements of the IPF PPS

Section 124 of the Medicare, Medicaid, and State Children's Health Insurance Program Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106–113) required the establishment and implementation of an IPF PPS in a budget neutral manner. Specifically, section 124 of the BBRA mandated that the Secretary of Health and Human Services (the Secretary) develop a per diem prospective payment system for inpatient hospital services furnished in psychiatric hospitals and excluded psychiatric units including an adequate patient classification system that reflects the differences in patient resource use and costs among psychiatric hospitals and excluded psychiatric units. “Excluded psychiatric unit” means a psychiatric unit of an acute care hospital or of a Critical Access Hospital (CAH), which is excluded from payment under the Inpatient Prospective Payment System (IPPS) or CAH payment system, respectively. These excluded psychiatric units will be paid under the IPF PPS.

Section 405(g)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) extended the IPF PPS to psychiatric distinct part units of CAHs.

Sections 3401(f) and 10322 of the Patient Protection and Affordable Care Act (Pub. L. 111–148) as amended by section 10319(e) of that Act and by section 1105(d) of the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (hereafter referred to jointly as “the Affordable Care Act”) added subsection (s) to section 1886 of the Social Security Act (the Act).

Section 1886(s)(1) of the Act titled “Reference to Establishment and Implementation of System,” refers to section 124 of the BBRA, which relates to the establishment of the IPF PPS.

Section 1886(s)(2)(A)(i) of the Act requires the application of the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act to the IPF PPS for the rate year (RY) beginning in 2012 (that is, a RY that coincides with a FY) and each subsequent RY.

Section 1886(s)(2)(A)(ii) of the Act required the application of an “other adjustment” that reduced any update to an IPF PPS base rate by a percentage point amount specified in section 1886(s)(3) of the Act for the RY beginning in 2010 through the RY beginning in 2019. As noted in the FY 2020 IPF PPS final rule (84 FR 38424), for the RY beginning in 2019, section

1886(s)(3)(E) of the Act required that the other adjustment reduction be equal to 0.75 percentage point; that was the final year the statute required the application of this adjustment. Because FY 2021 was a RY beginning in 2020, FY 2021 was the first year that section 1886(s)(2)(A)(ii) of the Act did not apply since its enactment.

Sections 1886(s)(4)(A) through (D) of the Act require that for RY 2014 and each subsequent RY, IPFs that fail to report required quality data with respect to such a RY will have their annual update to a standard Federal rate for discharges reduced by 2.0 percentage points. This may result in an annual update being less than 0.0 for a RY, and may result in payment rates for the upcoming RY being less than such payment rates for the preceding RY. Any reduction for failure to report required quality data will apply only to the RY involved, and the Secretary will not consider such reduction in computing the payment amount for a subsequent RY. Additional information about the specifics of the current IPF Quality Reporting Program is available in the FY 2020 IPF PPS final rule (84 FR 38459 through 38468).

Section 4125 of the Consolidated Appropriations Act, 2023 (CAA, 2023) (Pub. L. 117–328), which amended section 1886(s) of the Act, requires CMS to revise the Medicare prospective payment system for psychiatric hospitals and psychiatric units. Specifically, section 4125(a) of the CAA, 2023 added section 1886(s)(5)(A) of the Act to require the Secretary to collect data and information, as the Secretary determines appropriate, to revise payments under the IPF PPS. CMS discussed this data collection in the FY 2024 IPF PPS final rule (88 FR 51054), as CMS was required to begin collecting this data and information not later than October 1, 2023. As discussed in that rule, the agency has already been collecting data and information consistent with the types set forth in the CAA, 2023 as part of our extensive and years-long analyses and consideration of potential payment system refinements. We refer readers to the FY 2024 IPF PPS final rule (88 FR 51095 through 51098) where we discussed existing data collection and requested information to inform future IPF PPS revisions.

In addition, section 1886(s)(5)(D) of the Act, as added by section 4125(a) of the CAA, 2023 required that the Secretary implement revisions to the methodology for determining the payment rates under the IPF PPS for psychiatric hospitals and psychiatric units, effective for RY 2025 (FY 2025). Section 1886(s)(5)(D) of the Act

provided that these revisions may be based on a review of the data and information collected under section 1886(s)(5)(A) of the Act. For a detailed discussion on the revisions implemented for FY 2025, we refer readers to the FY 2025 IPF PPS final rule (89 FR 64590 through 64636).

Section 4125(b) of the CAA, 2023 amended section 1886(s)(4) of the Act by inserting a new subparagraph (E) and redesignating the existing subparagraph (E) as subparagraph (F) which requires IPFs participating in the IPF Quality Reporting Program to collect and submit to the Secretary standardized patient assessment data, using a standardized patient assessment instrument, for RY 2028 (FY 2028) and each subsequent rate year. IPFs must submit such data with respect to at least the admission and discharge of an individual, or more frequently as the Secretary determines appropriate. For IPFs to meet this new data collection and reporting requirement for RY 2028 and each subsequent rate year, the Secretary must implement a standardized patient assessment instrument that collects data with respect to the following categories: functional status; cognitive function and mental status; special services, treatments, and interventions; medical conditions and comorbidities; impairments; and other categories as determined appropriate by the Secretary. This patient assessment instrument must enable comparison of such patient assessment data that IPFs submit across all such IPFs to which such data are applicable.

Section 4125(b) of the CAA, 2023 further amended section 1886(s) of the Act by adding a new subparagraph (6) that requires the Secretary to implement revisions to the methodology for determining the payment rates for psychiatric hospitals and psychiatric units (that is, payment rates under the IPF PPS), effective for RY 2031 (FY 2031), as the Secretary determines to be appropriate, to take into account the patient assessment data described in paragraph (4)(E)(ii).

To implement and periodically update the IPF PPS, we have published various proposed and final rules and notices in the **Federal Register**. For more information regarding these documents, we refer readers to the CMS website at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/index.html?redirect=/InpatientPsychFacilPPS/>.

B. Overview of the IPF PPS

We issued the rate year (RY) 2005 IPF PPS final rule that appeared in the

November 15, 2004 **Federal Register** (69 FR 66922). The RY 2005 IPF PPS final rule established the IPF PPS, as required by section 124 of the BBRA and codified at 42 CFR part 412, subpart N. The RY 2005 IPF PPS final rule set forth the Federal per diem base rate for the implementation year (the 18-month period from January 1, 2005, through June 30, 2006) and provided payment for the inpatient operating and capital costs to IPFs for covered psychiatric services they furnish (that is, routine, ancillary, and capital costs, but not costs of approved educational activities, bad debts, and other services or items that are outside the scope of the IPF PPS). Covered psychiatric services include services for which benefits are provided under the fee-for-service Part A (Hospital Insurance Program) of the Medicare program.

The IPF PPS established the Federal per diem base rate for each patient day in an IPF derived from the national average daily routine operating, ancillary, and capital costs in IPFs in FY 2002. The average per diem cost was updated to the midpoint of the first year under the IPF PPS, standardized to account for the overall positive effects of the IPF PPS payment adjustments, and adjusted for budget neutrality.

The Federal per diem payment under the IPF PPS is comprised of the Federal per diem base rate described previously and certain patient- and facility-level payment adjustments for characteristics that were found in the regression analysis to be associated with statistically significant per diem cost differences, with statistical significance defined as p less than 0.05. A complete discussion of the regression analysis that established the IPF PPS adjustment factors can be found in the RY 2005 IPF PPS final rule (69 FR 66933 through 66936).

The patient-level adjustments include age, Diagnosis-Related Group (DRG) assignment, and comorbidities, as well as adjustments to reflect higher per diem costs at the beginning of a patient's IPF stay and lower costs for later days of the stay. Facility-level adjustments include adjustments for the IPF's wage index, rural location, teaching status, a cost-of-living adjustment for IPFs located in Alaska and Hawaii, and an adjustment for the presence of a qualifying emergency department (ED).

The IPF PPS provides additional payment policies for outlier cases, interrupted stays, and a per-treatment payment for patients who undergo ECT. During the IPF PPS mandatory 3-year transition period, stop-loss payments were also provided; however, since the

transition ended as of January 1, 2008, these payments are no longer available.

C. Annual Requirements for Updating the IPF PPS

Section 124 of the BBRA did not specify an annual rate update strategy for the IPF PPS and was broadly written to give the Secretary discretion in establishing an update methodology. Therefore, in the RY 2005 IPF PPS final rule, we implemented the IPF PPS using the following update strategy:

- Calculate the final Federal per diem base rate to be budget neutral for the 18-month period of January 1, 2005, through June 30, 2006.
- Use a July 1 through June 30 annual update cycle.
- Allow the IPF PPS first update to be effective for discharges on or after July 1, 2006, through June 30, 2007.

The RY 2005 final rule (69 FR 66922) implemented the IPF PPS. In developing the IPF PPS, and to ensure that the IPF PPS can account adequately for each IPF's case-mix, we performed an extensive regression analysis of the relationship between the per diem costs and certain patient and facility characteristics to determine those characteristics associated with statistically significant cost differences on a per diem basis. That regression analysis is described in detail in our RY 2004 IPF proposed rule (68 FR 66923; 66928 through 66933) and our RY 2005 IPF final rule (69 FR 66933 through 66960). For characteristics with statistically significant cost differences, we used the regression coefficients of those variables to determine the size of the corresponding payment adjustments.

In the RY 2005 IPF final rule, we explained the reasons for delaying an update to the adjustment factors, derived from the regression analysis, including waiting until we have IPF PPS data that yields as much information as possible regarding the patient-level characteristics of the population that each IPF serves. We indicated that we did not intend to update the regression analysis and the patient-level and facility-level adjustments until we complete that analysis. Until that analysis is complete, we stated our intention to publish a notice in the **Federal Register** each spring to update the IPF PPS (69 FR 66966).

We issued a final rule which appeared in the May 6, 2011 **Federal Register** titled, "Inpatient Psychiatric Facilities Prospective Payment System—Update for Rate Year Beginning July 1, 2011 (RY 2012)" (76 FR 26432), which changed the payment rate update period to a RY that coincides with a FY update.

Therefore, final rules are now published in the **Federal Register** in the summer to be effective on October 1st of each year. When proposing changes in IPF payment policy, a proposed rule is issued in the spring, and the final rule in the summer to be effective on October 1st. For a detailed list of updates to the IPF PPS, we refer readers to our regulations at 42 CFR 412.428. Beginning October 1, 2012, we finalized that we would refer to the 12-month period from October 1 through September 30 as a "fiscal year" (FY) rather than a RY (76 FR 26435). Therefore, in this final rule we refer to rules that took effect after RY 2012 by the FY, rather than the RY, in which they took effect.

The most recent IPF PPS annual update, the FY 2026 IPF PPS final rule (90 FR 37628), appeared in the **Federal Register** on August 5, 2025. The FY 2026 IPF PPS final rule revised the payment adjustment factors for teaching status and for IPFs located in rural areas in accordance with section 1886(s)(5)(D)(i) of the Act. That final rule also updated the IPF PPS Federal per diem base rates that were published in the FY 2025 IPF PPS final rule (89 FR 64582). In revising the IPF PPS adjustment factors, we performed an extensive regression analysis of the relationship between the per diem costs and facility characteristics to determine those characteristics associated with statistically significant cost differences on a per diem basis. That regression analysis is described in detail in our FY 2026 IPF PPS proposed rule (90 FR 18503 through 18507) and our FY 2026 IPF PPS final rule (90 FR 37639 through 37644).

As required by section 1886(s)(5)(D)(iii) of the Act, we finalized a refinement standardization factor for the FY 2026 IPF PPS payment rates to maintain budget neutrality for FY 2026. The application of the FY 2026 standardization factor is described in detail in our FY 2026 IPF PPS proposed rule (90 FR 18513 and 18514) and our FY 2026 IPF PPS final rule (90 FR 37652 and 37653). For FY 2027, we did not propose a refinement standardization factor.

III. Analysis of and Responses to the Public Comments

We received 176 public comments that pertain to proposed IPF PPS payment policies, requests for information, and the proposed updates to the IPFQR Program. Comments were from inpatient psychiatric facilities, health systems, national and state level providers and patient advocacy organizations, health information

technology providers, and individuals. We reviewed each comment and grouped related comments, after which we placed them in categories based on subject matter or section(s) of the regulation affected. Summaries of the public comments received and our responses to those comments are provided in the appropriate sections in the preamble of this final rule.

In addition, we received a few comments that were out of the scope of the FY 2027 IPF PPS proposed rule. We appreciate these comments but note that, because they fall outside the scope of this rulemaking, we do not address them in this rule. We may consider these comments as we continue to develop policies for future rulemaking, as applicable.

IV. Provisions of the FY 2027 IPF PPS Final Rule and Responses to Comments

A. FY 2027 Market Basket Increase and Productivity Adjustment for the IPF PPS

1. Background

Originally, the input price index used to develop the IPF PPS was the Excluded Hospital with Capital market basket. This market basket was based on 1997 Medicare cost reports for Medicare-participating inpatient rehabilitation facilities (IRFs), IPFs, long-term care hospitals (LTCHs), cancer hospitals, and children's hospitals. Although "market basket" technically describes the mix of goods and services used in providing health care at a given point in time, this term is also commonly used to denote the input price index (that is, cost category weights and price proxies) derived from that market basket. Accordingly, the term "market basket," as used in this document, refers to an input price index.

Since the IPF PPS inception, the market basket used to update IPF PPS payments has been rebased and revised to reflect more recent data on IPF cost structures. We last rebased and revised the IPF market basket in the FY 2024 IPF PPS rule, where we adopted a 2021-based IPF market basket, using Medicare cost report data for both Medicare-participating freestanding psychiatric hospitals and psychiatric units. We refer readers to the FY 2024 IPF PPS final rule for a detailed discussion of the 2021-based IPF market basket and its development (88 FR 51057 through 51081). Prior to the 2021-based IPF market basket, we used the 2016-based IPF market basket that was adopted in the FY 2020 IPF PPS final rule (84 FR 38426 through 38447). References to the historical market baskets used to update IPF PPS payments prior to the FY 2020

IPF PPS rule are listed in the FY 2016 IPF PPS final rule (80 FR 46656).

2. FY 2027 IPF Market Basket Update

For FY 2027 (beginning October 1, 2026, and ending September 30, 2027), we are updating the IPF PPS payments by a market basket increase factor, with a productivity adjustment as required by section 1886(s)(2)(A)(i) of the Act. Consistent with historical practice, we proposed to estimate the market basket update for the IPF PPS based on the most recent forecast available at the time of rulemaking. For the proposed rule, based on IHS Global Inc.'s (IGI) fourth quarter 2025 forecast with historical data through the third quarter of 2025, the proposed 2021-based IPF market basket increase factor for FY 2027 was 3.1 percent. IGI is a nationally recognized economic and financial forecasting firm with which CMS currently contracts to forecast the components of the market baskets and productivity adjustment.¹

Section 1886(s)(2)(A)(i) of the Act requires that, after establishing the increase factor for a FY, the Secretary shall reduce such increase factor for FY 2012 and each subsequent FY by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. Section 1886(b)(3)(B)(xi)(II) of the Act sets forth the definition of this productivity adjustment. The statute defines the productivity adjustment to be equal to the 10-year moving average of changes in annual economy-wide, private nonfarm business multifactor productivity (as projected by the Secretary for the 10-year period ending with the applicable FY, year, cost reporting period, or other annual period) (the "productivity adjustment"). The United States Department of Labor's Bureau of Labor Statistics (BLS) publishes the official measures of productivity for the U.S. economy. The productivity measure referenced in section 1886(b)(3)(B)(xi)(II) of the Act is published by BLS as private nonfarm business total factor productivity ((TFP) previously referred to as multifactor productivity).² We refer readers to www.bls.gov/productivity for the BLS historical published TFP data. A complete description of IGI's TFP projection methodology is available on the CMS website at <https://www.cms.gov/data-research/statistics-trends-and-reports/medicare-program-rates-statistics/market-basket-research-and-information>.

¹ <https://www.spglobal.com/en>.

² <https://www.bls.gov/productivity/notices/2021/mfp-to-tfp-term-change.htm>.

Section 1886(s)(2)(A)(i) of the Act requires the application of the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act to the IPF PPS for the RY beginning in 2012 (a RY that coincides with a FY) and each subsequent RY. For the FY 2027 IPF PPS proposed rule, based on IGI's fourth quarter 2025 forecast, the proposed productivity adjustment for FY 2027 (the 10-year moving average change of TFP for the period ending FY 2027) was projected to be 0.8 percentage point. Accordingly, we proposed to reduce the proposed 3.1 percent IPF market basket increase by the proposed 0.8 percentage point productivity adjustment, as mandated by the Act. This resulted in a proposed FY 2027 IPF PPS payment rate update of 2.3 percent (3.1 percent – 0.8 percentage point = 2.3 percent). We also proposed that if more recent data became available, we would use such data, if appropriate, to determine the FY 2027 IPF market basket increase and productivity adjustment for the final rule.

We solicited comments on the proposed IPF market basket increase and productivity adjustment for FY 2027. The following is a summary of the comments we received and our responses.

Comment: Several commenters expressed appreciation for the FY 2027 IPF payment update; however, many commenters stated that the proposed payment update is inadequate to address the current cost pressures IPFs are facing, and is below current inflation data (as measured by the Consumer Price Index (CPI)). Commenters noted that IPFs continue to face significant and sustained cost pressures, including rising labor costs driven by behavioral health workforce shortages, increased reliance on contract staffing, escalating pharmaceutical and supply costs, and growing administrative burdens associated with prior authorization. A commenter cited American Hospital Association data showing total hospital expenses, drug costs, and supply costs increased by more than the proposed update. Multiple commenters noted that MedPAC had reported negative Medicare margins for IPFs over the 2016 through 2021 time period.

Commenters urged CMS to use the most current available data when finalizing the FY 2027 market basket update and to consider all available policy options to ensure the final update more accurately reflects the cost of furnishing inpatient psychiatric care.

Response: We appreciate the commenters' concerns regarding cost pressures facing IPFs and the proposed FY 2027 market basket update.

As stated in the FY 2024 IPF final rule (88 FR 541057), FY 2025 IPF final rule (89 FR 64586), and the FY 2026 IPF final rule (90 FR 37632), the 2021-based IPF market basket is a fixed-weight, Laspeyres-type index that measures price changes over time. Any changes in the quantity or mix of goods and services (that is, intensity) purchased over time relative to the base period are not measured. Since the inception of the IPF PPS, the IPF payment rates (with the exception of statutorily-mandated updates) have been updated by a projection of the market basket's percentage increase, consistent with other CMS PPS updates (including IPPS, SNF, and HHA). Additionally, the market basket updates appropriately differ from other payment updates (such as the projected increase in the average per capita payments to Medicare Advantage organizations) that are not consistent in concept with the statutory requirement as they would reflect anticipated volume and intensity of services.³ Likewise, the market basket updates may differ from other overall inflation indexes (such as the CPI) as it measures different mixes of products and services.

As is our general practice, we proposed in the FY 2027 IPF proposed rule that if more recent data became available, we would use such data, if appropriate, to derive the final FY 2027 IPF market basket update for the final rule. The projection of the 2021-based IPF market basket is based on the most recent forecast from IHS Global Inc., a nationally recognized economic and financial forecasting firm with which CMS contracts to forecast the price proxies of the market baskets. We also note that when developing its forecast for labor prices, IHS Global Inc. considers overall labor market conditions (including rise in contract labor employment due to tight labor market conditions) as well as trends in contract labor wages, which both have an impact on wage pressures for workers employed directly by the hospital. For this final rule, based on IHS Global Inc.'s second quarter 2026 forecast with historical data through the first quarter of 2026, the projected 2021-based IPF market basket increase factor for FY 2027 is 3.2 percent, which is 0.1 percentage point higher than the projected FY 2027 market basket increase factor in the proposed rule.

Comment: Several commenters conveyed concerns regarding the

ongoing application of the productivity adjustment to IPFs. Several commenters stated that they believe the productivity adjustment to be inappropriate and unrealistic when applied to inpatient psychiatric providers. Commenters stated that the productivity adjustment is based on economy-wide private nonfarm business total factor productivity (TFP), which does not reflect the operational realities of IPFs. They explain that inpatient psychiatric care is highly labor-intensive, relies on direct human interaction, and is subject to strict staffing, safety, and regulatory requirements that leave little opportunity to achieve productivity gains comparable to those in the broader economy. A couple of commenters further noted that CMS's Office of the Actuary (OACT) has found that hospital sector productivity growth ranges from 0.2 percent to 0.5 percent annually, roughly half the rate used in the proposed adjustment, making the 0.8 percentage point offset inconsistent with CMS's own analytical findings.⁴ A few other commenters specifically urged CMS to invoke its "special exceptions and adjustments" authority to waive or reduce the productivity adjustment for FY 2027 and called on CMS to work with the Congress to modify the statutory framework to base the productivity adjustment on hospital sector productivity rather than private non-farm business productivity.

A commenter also stated that they find it especially troubling that the productivity adjustment appears to be applied only when it reduces Medicare payments.

Response: Section 1886(s)(2)(A)(i) of the Act requires the application of the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act to the IPF PPS for the rate year (RY) beginning in 2012 (that is, a RY that coincides with a FY) and each subsequent RY. Therefore, as required by statute, the FY 2027 productivity adjustment is derived based on the 10-year moving average growth in economy-wide private nonfarm business total factor productivity for the period ending FY 2027. We recognize the concerns of the commenters regarding the appropriateness of the productivity adjustment; however, section 1886(s)(2)(A)(i) of the Act requires us to apply the specific productivity adjustment described here.

We have always made available on the CMS website the general method for

calculating the productivity adjustment. This includes providing a link to the most recent BLS historical TFP data, which allows interested parties to obtain historical TFP annual index levels for 1987 through 2025. We also provide the IGI projection model (https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/medicareprogram-ratesstats/downloads/tfp_methodology.pdf), which is used to derive annual TFP growth rates for 2026 and 2027. The annual index level derived from this method is then interpolated to quarterly levels, and the FY 2027 productivity adjustment is equal to the percent change in the 40-quarter moving average projected level for the period ending September 30, 2027, relative to the 40-quarter moving average projected level for the period ending September 30, 2026. We believe our methodology for the productivity adjustment is consistent with section 1886(b)(3)(B)(xi)(II) of the Act which states that the productivity adjustment is equal to the 10-year moving average of changes in annual economy-wide private nonfarm business multi-factor productivity (as projected by the Secretary for the 10-year period ending with the applicable fiscal year, year, cost reporting period, or other annual period).

At the time of this final rule, the 2027 productivity adjustment reflects BLS historical TFP data through 2025 (released on March 19, 2026) and IGI's forecasted TFP growth for 2026 and 2027. The average annual growth rate of historical TFP published by BLS for 2018 through 2025 is currently 1.0 percent and IGI is projecting average TFP growth of about 0.7 percent for 2026 and 2027 based on IGI's second-quarter 2026 forecast. Combining the historical and projected TFP data over the entire 10-year time period and interpolating into quarterly index levels results in a 10-year moving average growth rate of TFP of 0.9 percent for FY 2027. The productivity adjustment (based on the 10-year period ending with FY 2027) for the FY 2027 final rule is 0.1 percentage point higher than the FY 2027 IPF proposed rule mainly due to the incorporation of updated BLS historical data.

In response to commenters' concerns about the productivity adjustment only being applied if it reduces the payment update, and as noted in the FY 2026 IPF final rule (90 FR 37628), we note that the productivity adjustment was established under the Affordable Care Act with a specific policy intent to encourage efficiency improvements in healthcare delivery by linking Medicare

³ Announcement of Calendar Year 2027 Medicare Advantage Capitation Rates and Part C and Part D Payment Policies. <https://www.cms.gov/files/document/2027-announcement.pdf>.

⁴ Paul Spitalnic, Stephen Heffler, Bridget Dickensheets and Mollie Knight, "Hospital Multifactor Productivity: An Update Presentation of Two Methodologies Using Data through 2019."

payment updates to economy-wide productivity gains. The statutory language in section 1886(b)(3)(B)(xi)(II) of the Act requires that the Secretary reduce (not increase) the market basket percentage increase by changes in economy-wide productivity; therefore, only positive productivity adjustments are applied.

Comment: Several commenters have noted concerns about CMS's estimation of the IPF market basket updates since the COVID-19 pandemic, stating that it has resulted in several consecutive years of underpayments to IPF health care providers since the COVID-19 pandemic. A few commenters cited CMS Office of the Actuary data showing that market basket forecasts used in the final rules for FY 2021 through FY 2024 understated actual IPF inflation by a cumulative 4.2 percentage points. They argue that these understatements are now permanently embedded in the IPF PPS base rate and continue to compound year over year, widening the gap between Medicare payment rates and the actual cost of care. Several commenters urged CMS to adopt a one-time forecast error adjustment to correct for this cumulative underestimation, and for it to be added to the to the currently proposed 2.3 percent increase for FY 2027. A couple of commenters noted that CMS's reliance on lagged cost data has caused payment updates to persistently trail actual cost growth, and urged CMS to use the most current available data, and to work with the Congress where necessary, to ensure the FY 2027 update more accurately reflects the inflationary environment IPFs are operating in.

Response: The IPF market basket updates are set prospectively, which means that the update relies on a mix of both historical data for part of the period for which the update is calculated and forecasted data for the remainder. For instance, the FY 2027 market basket update in this final rule reflects historical data through the first quarter of CY 2026 and forecasted data for the second quarter of CY 2026 through the third quarter of CY 2027. While there is no precedent to adjust for market basket forecast error in the IPF payment update, a forecast error can be calculated by comparing the actual market basket increase for a given year less the forecasted market basket increase. Due to the uncertainty regarding future price trends, forecast errors can be both positive and negative. The forecast error has been both positive and negative during past years, and over longer periods of time the cumulative forecast hasn't deviated significantly from the historical measures. Only

considering the forecast error for years when the IPF market basket update was lower than the actual market basket update does not consider the full experience and impact of the cumulative forecast error.

Final Decision: After consideration of the comments received, we are finalizing our proposal to update IPF PPS payment rates using the latest available productivity-adjusted market basket increase factor. Based on IGI's second quarter 2026 forecast, the 2021-based IPF market basket percentage increase for FY 2027 is 3.2 percent and the projected FY 2027 productivity adjustment is 0.9 percentage point. Therefore, the final FY 2027 IPF market basket update is equal to 2.3 percent (3.2 percent market basket percentage increase reduced by the 0.9 percentage point productivity adjustment).

3. FY 2027 IPF Labor-Related Share

Due to variations in geographic wage levels and other labor-related costs, we believe that payment rates under the IPF PPS should continue to be adjusted by a geographic wage index, which will apply to the labor-related portion of the Federal per diem base rate (hereafter referred to as the "labor-related share"). The labor-related share is determined by identifying the national average proportion of total costs that are related to, influenced by, or vary with the local labor market. We proposed to continue to classify a cost category as labor-related if the costs are labor-intensive and vary with the local labor market.

Based on our definition of the labor-related share and the cost categories in the 2021-based IPF market basket, we proposed to continue to include in the labor-related share the sum of the relative importance of Wages and Salaries; Employee Benefits; Professional Fees; Labor-Related; Administrative and Facilities Support Services; Installation, Maintenance, and Repair Services; All Other: Labor-Related Services; and a portion of the Capital-Related relative importance from the 2021-based IPF market basket. For more details regarding the methodology for determining specific cost categories for inclusion in the labor-related share based on the 2021-based IPF market basket, we refer readers to the FY 2024 IPF PPS final rule (88 FR 51078 through 51081).

The relative importance reflects the different rates of price change for these cost categories between the base year (FY 2021) and FY 2027. Based on IGI's fourth quarter 2025 forecast of the 2021-based IPF market basket, the sum of the FY 2027 relative importance moving average of Wages and Salaries;

Employee Benefits; Professional Fees; Labor-Related; Administrative and Facilities Support Services; Installation, Maintenance, and Repair Services; All Other: Labor-Related Services is 76.0 percent. We proposed, consistent with prior rulemaking, that the portion of Capital-Related costs that are influenced by the local labor market is 46 percent. Since the relative importance for Capital-Related costs is 6.7 percent of the 2021-based IPF market basket for FY 2027, we proposed to take 46 percent of 6.7 percent to determine a labor-related share of Capital-Related costs for FY 2027 of 3.1 percent. Therefore, we proposed a total labor-related share for FY 2027 of 79.1 percent (the sum of 76.0 percent for the labor-related share of operating costs and 3.1 percent for the labor-related share of Capital-Related costs). We also proposed that if more recent data became available, we would use such data, if appropriate, to determine the FY 2027 labor-related share for the final rule. For more information on the labor-related share and its calculation, we refer readers to the FY 2024 IPF PPS final rule (88 FR 51078 through 51081).

We solicited comments on the proposed labor-related share for FY 2027. The following is a summary of the comments we received and our responses.

Comment: A few commenters expressed support for the increase in the labor-related share from 79.0 percent to 79.1 percent for FY 2027, noting that while CMS estimates a labor-related share of approximately 79 percent for IPFs, they continue to face workforce challenges including shortages of psychiatrists, behavioral health nurses, and support personnel that the labor-related share does not adequately reflect.

Response: We appreciate the commenters' support for the FY 2027 IPF labor-related share. As described above, we define the labor-related share as those expenses that are labor-intensive and vary with, or are influenced by, the local labor market. Each year, we calculate a revised labor-related share based on the relative importance of labor-related cost categories in the input price index. For the 2021-based IPF market basket, those cost categories are: (1) Wages and Salaries (including allocated contract labor costs); (2) Employee Benefits (including allocated contract labor costs); (3) Professional Fees: Labor-Related; (4) Administrative and Facilities Support Services; (5) Installation, Maintenance, and Repair Services; (6) All Other: Labor-Related Services; and (7) a proportion of capital-

related expenses. The full methodology for determining the labor-related share of the 2021-based IPF market basket is detailed in the FY 2024 IPF PPS Final Rule (88 FR 51078).

We proposed to use the FY 2027 relative importance values for the labor-related cost categories from the 2021-based IPF market basket because it accounts for more recent data regarding price pressures and cost structure of IPFs. This methodology is consistent with the determination of the labor-related share since the implementation of the IPF PPS. As stated in the FY 2027 IPF proposed rule, we also proposed that if more recent data became available, we would use such data, if appropriate, to determine the FY 2027

labor-related share for the final rule. Based on IHS Global Inc.'s second quarter 2026 forecast with historical data through the first quarter of 2026, the FY 2027 labor-related share for the final rule is 78.9 percent.

Final Decision: After consideration of the comments, we are finalizing a FY 2027 labor-related share based on the latest available data. Based on IGI's second quarter 2026 forecast of the 2021-based IPF market basket, the sum of the FY 2027 relative importance moving average of Wages and Salaries; Employee Benefits; Professional Fees: Labor-Related; Administrative and Facilities Support Services; Installation, Maintenance, and Repair Services; All Other: Labor-Related Services is 75.8

percent. Since the relative importance for Capital-Related costs is 6.7 percent of the 2021-based IPF market basket for FY 2027, we take 46 percent of 6.7 percent to determine a labor-related share of Capital-Related costs for FY 2027 of 3.1 percent. Therefore, the total labor-related share for FY 2027 is 78.9 percent (the sum of 75.8 percent for the labor-related share of operating costs and 3.1 percent for the labor-related share of Capital-Related costs).

Table 1 shows the final FY 2027 labor-related share and the final FY 2026 labor-related share using the 2021-based IPF market basket relative importance.

TABLE 1: FY 2027 FINAL IPF LABOR-RELATED SHARE AND FY 2026 IPF LABOR-RELATED SHARE

	Relative importance, labor-related share FY 2026 ¹	Relative importance, labor-related share FY 2027 ²
Wages and Salaries	53.7	53.6
Employee Benefits	14.2	14.2
Professional Fees: Labor-Related	4.7	4.7
Administrative and Facilities Support Services	0.6	0.6
Installation, Maintenance and Repair Services	1.2	1.2
All Other Labor-Related Services	1.5	1.5
Subtotal	75.9	75.8
Labor-related portion of Capital-Related (.46)	3.1	3.1
Total Labor-Related Share	79.0	78.9

1. Based on the 2nd quarter 2025 IGI forecast of the 2021-based IPF market basket.
2. Based on the 2nd quarter 2026 IGI forecast of the 2021-based IPF market basket.

B. Updates to the IPF PPS Rates for FY Beginning October 1, 2026

The IPF PPS is based on a standardized Federal per diem base rate calculated from the IPF average per diem costs and adjusted for budget neutrality in the implementation year. The Federal per diem base rate is used as the standard payment per day under the IPF PPS and is adjusted by the patient-level and facility-level adjustments that are applicable to the IPF stay. A detailed explanation of how we calculated the average per diem cost appears in the RY 2005 IPF PPS final rule (69 FR 66926).

1. Determining the Standardized Budget Neutral Federal per Diem Base Rate

Section 124(a)(1) and (c) of the BBRA requires that we implement the IPF PPS in a budget neutral manner. In other words, the amount of total payments under the IPF PPS, including any payment adjustments, must be projected to be equal to the amount of total payments that would have been made if the IPF PPS were not implemented. Therefore, we calculated the budget neutrality factor by setting the total estimated IPF PPS payments to be equal to the total estimated payments that would have been made under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (Pub. L. 97–248) methodology had the IPF PPS not been implemented. A step-by-step

description of the methodology used to estimate payments under the TEFRA payment system appears in the RY 2005 IPF PPS final rule (69 FR 66926).

Under the IPF PPS methodology, we calculated the final Federal per diem base rate to be budget neutral during the IPF PPS implementation period (that is, the 18-month period from January 1, 2005, through June 30, 2006) using a July 1 update cycle. We updated the average cost per day to the midpoint of the IPF PPS implementation period (October 1, 2005), and this amount was used in the payment model to establish the budget neutrality adjustment.

Next, we standardized the IPF PPS Federal per diem base rate to account for the overall positive effects of the IPF PPS payment adjustment factors by

dividing total estimated payments under the TEFRA payment system by estimated payments under the IPF PPS. The information concerning this standardization can be found in the RY 2005 IPF PPS final rule (69 FR 66932) and the RY 2006 IPF PPS final rule (71 FR 27045). We then reduced the standardized Federal per diem base rate to account for the outlier policy, the stop loss provision, and anticipated behavioral changes. A complete discussion of how we calculated each component of the budget neutrality adjustment appears in the RY 2005 IPF PPS final rule (69 FR 66932 and 66933) and in the RY 2007 IPF PPS final rule (71 FR 27044 through 27046). The final standardized budget neutral Federal per diem base rate established for cost reporting periods beginning on or after January 1, 2005 was calculated to be \$575.95.

The Federal per diem base rate has been updated in accordance with applicable statutory requirements and 42 CFR 412.428 through publication of annual notices or proposed and final rules. A detailed discussion on the standardized budget neutral Federal per diem base rate and the ECT payment per treatment appears in the FY 2014 IPF PPS update notice (78 FR 46738 through 46740). These documents are available on the CMS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility>.

2. Determining the Electroconvulsive Therapy (ECT) Payment per Treatment

In the RY 2005 IPF PPS final rule (69 FR 66951), we analyzed the costs of IPF stays that included ECT treatment using the FY 2002 Medicare Provider and Analysis Review (MedPAR) data based on comments we received on the RY 2005 IPF PPS proposed rule. Consistent with the comments we received about ECT, our analysis and review indicated that cases with ECT treatment are substantially more costly than cases without ECT treatment. Based on this analysis, in that final rule we finalized an additional payment for each ECT treatment furnished during the IPF stay. This ECT payment per treatment is made in addition to the per diem and outlier payments under the IPF PPS. To receive the payment per ECT treatment, IPFs must indicate on their claims the revenue code and procedure code for ECT (Rev Code 901; procedure code 90870) and the number of units of ECT, that is, the number of ECT treatments the patient received during the IPF stay.

To establish the ECT per treatment payment, we used the pre-scaled and pre-adjusted median cost for procedure

code 90870 developed for the Hospital Outpatient Prospective Payment System (OPPS), based on hospital claims data. We explained in the RY 2005 IPF PPS final rule that we used OPPS data because after careful review and analysis of IPF claims, we were unable to separate out the cost of a single ECT treatment (69 FR 66922). We used the unadjusted hospital claims data under the OPPS because we did not want the ECT payment under the IPF PPS to be affected by factors that are relevant to OPPS, but not specifically applicable to IPFs. The median cost was then standardized and adjusted for budget neutrality. We also adjusted the ECT rate for wage differences in the same manner that we adjust the per diem rate.

Most recently, as we explained in the FY 2025 IPF PPS proposed rule (89 FR 23146), we analyzed recent data from both the IPF PPS and the OPPS. Findings revealed that costs for IPF stays involving ECT were significantly more costly than stays without ECT, with cost driven primarily by longer stays and higher ancillary expenses. To address this, we finalized a new ECT payment calculation based on the pre-scaled and pre-adjusted CY 2024 OPPS geometric mean cost, adjusted by the market basket update and wage index budget neutrality factor. A complete discussion of the final FY 2025 ECT payment per treatment can be found in the FY 2025 IPF PPS final rule (89 FR 64591 through 64593).

Since the ECT payment rate was established in the RY 2005 IPF PPS rule, it has been updated annually by application of each year's market basket, productivity adjustment, and wage index budget neutrality factor to the previous year's ECT payment rate (referred to as our "standard methodology" in this section).

3. Update of the Federal per Diem Base Rate and Electroconvulsive Therapy Payment per Treatment

The current (FY 2026) Federal per diem base rate is \$892.87 and the ECT payment per treatment is \$673.85. For the final FY 2027 Federal per diem base rate, we applied the final IPF market basket update of 2.3 percent (that is, the 2021-based IPF market basket percentage increase for FY 2027 of 3.2 percent reduced by the productivity adjustment of 0.9 percentage point), and the final wage index budget neutrality factor of 0.9989 (as discussed in section IV.D.1.c. of this final rule) to the final FY 2026 Federal per diem base rate of \$892.87, yielding a final Federal per diem base rate of \$912.40 for FY 2027. We applied the final IPF market basket update of 2.3 percent and the wage

index budget neutrality factor of 0.9989 to the final FY 2026 ECT payment per treatment of \$673.85, yielding a final ECT payment per treatment of \$688.59 for FY 2027.

Section 1886(s)(4)(A)(i) of the Act requires that for RY 2014 and each subsequent RY, in the case of an IPF that fails to report required quality data with respect to such RY, the Secretary will reduce any annual update to a standard Federal rate for discharges during the RY by 2.0 percentage points. Therefore, we applied a 2.0 percentage point reduction to the final annual update to the Federal per diem base rate and the final ECT payment per treatment as follows:

- For IPFs that fail to report required data under the IPF Quality Reporting Program, we will apply a 0.3 percent payment rate update—that is, the final IPF market basket increase for FY 2027 of 3.2 percent reduced by the final productivity adjustment of 0.9 percentage point for an update of 2.3 percent, and further reduced by 2.0 percentage points in accordance with section 1886(s)(4)(A)(i) of the Act. We also applied the wage index budget neutrality factor of 0.9989 to the FY 2026 Federal per diem base rate of \$892.87, yielding a Federal per diem base rate of \$894.56 for FY 2027.

- For IPFs that fail to report required data under the IPF Quality Reporting Program, we will apply the 0.3 percent payment rate update and the 0.9989 wage index budget neutrality factor to the FY 2026 ECT payment per treatment of \$673.85, yielding an ECT payment per treatment of \$675.13 for FY 2027.

C. Updates to the IPF PPS Patient-Level Adjustment Factors

1. Overview of the IPF PPS Adjustment Factors

The IPF PPS payment adjustment factors were originally derived from a regression analysis of 100 percent of the FY 2002 MedPAR data file, which contained 483,038 cases. For a more detailed description of the data file used for this regression analysis, we refer readers to the RY 2005 IPF PPS final rule (69 FR 66935 and 66936).

In FY 2025, we implemented revisions to the methodology for determining payment rates under the IPF PPS, as required by section 1886(s)(5)(D) of the Act. We developed the FY 2025 adjustment factors based on a regression analysis of IPF cost and claims data. The primary sources of this analysis were CY 2019 through 2021 MedPAR files and Medicare cost report data (CMS Form 2552–10, OMB No. 0938–0050) from the FY 2019 through

2021 Hospital Cost Report Information System (HCRIS). For a more detailed description of the data files used for this regression analysis, we refer readers to the FY 2025 IPF PPS final rule (89 FR 64593 through 64601).

For FY 2027, we proposed to use the existing regression-derived patient-level adjustment factors established for FY 2025. We did not propose any changes to the patient-level adjustment factors for FY 2027; however, we used more recent claims data to simulate payments, to finalize the outlier fixed dollar loss threshold amount, and to assess the impact of the IPF PPS updates.

2. IPF PPS Patient-Level Adjustments

The IPF PPS includes payment adjustments for the following patient-level characteristics: Medicare Severity Diagnosis Related Groups (MS-DRGs) assignment of the patient's principal diagnosis, selected comorbidities, patient age, and the variable per diem adjustments.

a. Update to MS-DRG Assignment

We believe it is important to maintain for IPFs the same diagnostic coding and DRG classification used under the IPPS for providing psychiatric care. For this reason, when the IPF PPS was implemented for cost reporting periods beginning on or after January 1, 2005, we adopted the same diagnostic code set (ICD-9 Clinical Modification (CM)) and DRG patient classification system (MS-DRGs) that were utilized at the time under the IPPS. In the RY 2009 IPF PPS notice (73 FR 25709), we discussed CMS's effort to better recognize resource use and the severity of illness among patients. CMS adopted the new MS-DRGs for the IPPS in the FY 2008 IPPS final rule with comment period (72 FR 47130). In the RY 2009 IPF PPS notice (73 FR 25716), we provided a crosswalk to reflect changes that were made under the IPF PPS to adopt the new MS-DRGs. For a detailed description of the mapping changes from the original DRG adjustment categories to the current MS-DRG adjustment categories, we refer readers to the RY 2009 IPF PPS notice (73 FR 25714).

The IPF PPS includes payment adjustments for designated psychiatric DRGs assigned to the claim based on the patient's principal diagnosis. The DRG adjustment factors were expressed relative to the most frequently reported psychiatric DRG in FY 2002, that is, DRG 430 (psychoses). The coefficient values and adjustment factors were derived from the regression analysis discussed in detail in the RY 2004 IPF proposed rule (68 FR 66923; 66928

through 66933) and the RY 2005 IPF final rule (69 FR 66933 through 66960). Mapping the DRGs to the MS-DRGs resulted in 17 IPF MS-DRGs, instead of the original 15 DRGs, for which the IPF PPS provides an adjustment.

In the FY 2015 IPF PPS final rule (79 FR 45945 through 45947), we finalized conversions of the ICD-9-CM-based MS-DRGs to ICD-10-CM/Procedure Coding System (PCS)-based MS-DRGs, which were implemented on October 1, 2015. Further information on the ICD-10-CM/PCS MS-DRG conversion project can be found on the CMS ICD-10-CM website at <https://www.cms.gov/medicare/coding-billing/icd-10-codes/icd-10-ms-drg-conversion-project>.

In the FY 2025 IPF PPS final rule (89 FR 64602 through 64606), we revised the payment adjustments for designated psychiatric DRGs assigned to the claim based on the patient's principal diagnosis, following our longstanding policy of using the ICD-10-CM/PCS-based MS-DRG system. In that final rule, we identified 19 DRGs for which the IPF PPS adjusts payment. In addition, we implemented a sub-regulatory process to adopt routine coding updates that incorporate new or revised codes with an April 1 effective date (89 FR 64602 and 64603).

For FY 2027, we proposed to continue making the existing payment adjustments for psychiatric diagnoses that group to one of the existing 19 IPF MS-DRGs listed in Addendum A. We did not receive any comments on this proposal, and we are finalizing it as proposed. Addendum A to this final rule is available on our website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility-pps/tools-and-worksheets>. Psychiatric principal diagnoses that do not group to one of the 19 designated MS-DRGs would still receive the Federal per diem base rate and all other applicable adjustments, but the payment would not include an MS-DRG adjustment.

The diagnoses for each IPF MS-DRG will be updated as of October 1, 2026, using the final IPPS FY 2027 ICD-10-CM/PCS code sets. The FY 2027 IPPS/LTCH PPS final rule will include tables of the changes to the ICD-10-CM/PCS code sets that underlie the final FY 2027 IPF MS-DRGs. Both the FY 2027 IPPS/LTCH PPS final rule and the tables of final changes to the ICD-10-CM/PCS code sets, which underlie the FY 2027 MS-DRGs, will be available on the CMS IPPS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/acute-inpatient-pps>.

Additionally, as discussed in the ICD-10-CM Official Guidelines for Coding

and Reporting, certain conditions have both an underlying etiology and multiple body system manifestations due to the underlying etiology. For such conditions, the ICD-10-CM has a coding convention that requires the underlying condition be sequenced first, followed by the manifestation.

Wherever such a combination exists, there is a "use additional code" note at the etiology code, and a "code first" note at the manifestation code. These instructional notes indicate the proper sequencing order of the codes (etiology followed by manifestation). In accordance with the ICD-10-CM Official Guidelines for Coding and Reporting, when a primary (psychiatric) diagnosis code has a code first note, the provider will follow the instructions in the ICD-10-CM Tabular List. The submitted claim goes through the ICD-10 MS-DRG GROUPEER Software, which will identify the principal diagnosis code as non-psychiatric and search the secondary codes for a psychiatric code to assign a DRG code for adjustment. The software will continue to search the secondary codes for those that are appropriate for comorbidity adjustment. For more information on the code first policy, we refer readers to the RY 2005 IPF PPS final rule (69 FR 66945). We also refer readers to sections I.A.13 and I.B.7 of the FY 2020 ICD-10-CM Coding Guidelines, which is available at https://www.cdc.gov/nchs/data/icd/10cmguidelines-FY2020_final.pdf. In the FY 2015 IPF PPS final rule, we provided a code first table for reference that highlights the same or similar manifestation codes where the code first instructions apply in ICD-10-CM that were present in ICD-10-CM (79 FR 46009).

As discussed in the FY 2025 IPF PPS final rule (89 FR 64602 and 64603), we adopted a sub-regulatory approach to handle the coding updates, rather than discussing coding updates in the **Federal Register** during regulatory updates prior to implementation. This approach mirrors the approach taken by the IPPS, allows for flexibility in the ICD-10 code update process for the IPF PPS, and reduces the lead time for making routine coding updates to the IPF PPS code first list, comorbidities, and ECT coding categories. The final FY 2027 Code First table is shown in Addendum B on the CMS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility-pps/tools-and-worksheets>.

b. Payment for Comorbid Conditions

The intent of the comorbidity adjustments is to recognize the

increased costs associated with active comorbid conditions by providing additional payments for certain existing medical or psychiatric conditions that are expensive to treat.

Comorbidities are specific patient conditions that are secondary to the patient's principal diagnosis and that require active treatment during the stay. Diagnoses that relate to an earlier episode of care and have no bearing on the current hospital stay are excluded and must not be reported on IPF claims. Comorbid conditions must exist at the time of admission or develop subsequently, and affect the treatment received, length of stay (LOS), or both treatment and LOS.

For each claim, an IPF may receive only one comorbidity adjustment within a comorbidity category, but it may receive an adjustment for more than one comorbidity category. Current billing instructions for discharge claims, on or after October 1, 2015, require IPFs to enter the complete ICD-10-CM codes for up to 24 additional diagnoses if they co-exist at the time of admission, or develop subsequently and impact the treatment provided.

The IPF PPS comorbidity adjustments were originally determined based on the regression analysis using the diagnoses reported by IPFs in FY 2002. The principal diagnoses were used to establish the DRG adjustments and were not accounted for in establishing the comorbidity category adjustments, except where ICD-9-CM code first instructions applied. In a code first situation, the submitted claim goes through the CMS processing system, which identifies the principal diagnosis code as non-psychiatric and searches the secondary codes for a psychiatric code to assign an MS-DRG code for adjustment. The system continues to search the secondary codes for those that are appropriate for a comorbidity adjustment.

In FY 2025, we revised the comorbidity adjustment factors based on the results of the 2019 through 2021 regression analysis described in the FY 2025 IPF PPS final rule (89 FR 64606 through 64612). In addition, we made additions and changes to the comorbidity categories for which we adjust payment based on our analysis of ICD-10-CM codes currently included in each category as well as public comments received in response to the FY 2022 and FY 2023 IPF PPS proposed rules. A detailed discussion of the revised comorbidity adjustment factors is described in the FY 2025 IPF PPS final rule (89 FR 64606 through 64612).

We did not propose any changes to the comorbidity adjustment factors, and

we are retaining the existing comorbidity adjustment factors for FY 2027. The FY 2027 comorbidity adjustment factors are found in Addendum A to this final rule, available on the CMS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility-pps/tools-and-worksheets>.

As noted previously, it is our policy to maintain the same diagnostic coding set for IPFs that is used under the IPPS for providing the same psychiatric care. In the FY 2015 IPF PPS final rule (79 FR 45947 through 45955), the comorbidity categories formerly defined using ICD-9-CM codes were converted to ICD-10-CM/PCS. The goal for converting the comorbidity categories is referred to as replication, meaning that the payment adjustment for a given patient encounter is the same after ICD-10-CM implementation as it would be if the same record had been coded in ICD-9-CM and submitted prior to ICD-10-CM/PCS implementation on October 1, 2015. All conversion efforts were made with the intent of achieving this goal.

As discussed in section IV.C.2.a. of this final rule, in the FY 2025 IPF PPS final rule (89 FR 64602 and 64603) we adopted an April 1 implementation date for ICD-10-CM diagnosis and ICD-10-PCS procedure code updates, in addition to the annual October 1 update, beginning with April 1, 2025 for the IPF PPS. Coding updates related to the IPF PPS comorbidity categories are adopted following a sub-regulatory process as finalized in the FY 2025 IPF PPS final rule (89 FR 64602 and 64603). For April 1, 2026, we added three ICD-10-PCS procedure codes to the Oncology Treatment Procedures list and two ICD-10-PCS procedure codes to the Chronic Obstructive Pulmonary Disease & Sleep Apnea Procedures list. We did not receive any comments on the April 1, 2026, coding changes.

For this FY 2027 IPF PPS final rule, we are adding 10 ICD-10-CM diagnosis codes to the Poisoning code list, nine ICD-10-CM diagnosis codes to the Cardiac Conditions list, three ICD-10-CM diagnosis codes to the Oncology Treatment Diagnoses list, and six ICD-10-CM diagnosis codes to the Severe Musculoskeletal and Connective Tissue Diseases list. In addition, we are removing eight ICD-10-CM diagnosis codes from the Severe Musculoskeletal and Connective Tissue Diseases list, and 12 ICD-10-CM diagnosis codes from the Code First list. The final FY 2027 comorbidity codes are shown in Addenda B, available on the CMS website at <https://www.cms.gov/medicare/payment/prospective->

[payment-systems/inpatient-psychiatric-facility-pps/tools-and-worksheets](https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility-pps/tools-and-worksheets).

c. Patient Age Adjustments

As explained in the RY 2005 IPF PPS final rule (69 FR 66922), we analyzed the impact of age on per diem cost by examining the age variable (range of ages) for payment adjustments. In general, we found that the cost per day increases with age. The older age groups are costlier than the under 45 age group, the differences in per diem cost increase for each successive age group, and the differences are statistically significant. In FY 2025, we adopted revised patient age adjustments derived from the regression model using a blended set of 2019 through 2021 data (89 FR 64612 and 64613). We did not propose any changes to the patient age adjustment factors, and we are retaining the existing patient age adjustment factors for FY 2027, as shown in Addendum A of this final rule (see <https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility-pps/tools-and-worksheets>).

d. Variable per Diem Adjustments

We explained in the RY 2005 IPF PPS final rule (69 FR 66946) that the regression analysis indicated that per diem cost declines as the LOS increases. The variable per diem adjustments to the Federal per diem base rate account for ancillary and administrative costs that occur disproportionately in the first days after admission to an IPF. As discussed in the RY 2005 IPF PPS final rule, where a complete discussion of the variable per diem adjustments can be found, we used a regression analysis to estimate the average differences in per diem cost among stays of different lengths (69 FR 66947 through 66950). As a result of this analysis, we established variable per diem adjustments that begin on day 1 and decline gradually over the course of the patient's stay. In addition, the adjustment applied to day 1 depends upon whether the IPF has a qualifying ED. If an IPF has a qualifying ED, it receives a higher adjustment factor for day 1 of each stay than it would receive if it did not have a qualifying ED. The ED adjustment is explained in more detail in section IV.D.5. of this final rule.

In FY 2025, we revised the variable per diem adjustment factors based on the 2019 through 2021 regression analysis (89 FR 64613 and 64614). We did not propose any changes to the variable per diem adjustment factors, and we are retaining the existing variable per diem adjustment factors for FY 2027, as shown in Addendum A of

this final rule (available at <https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility-pps/tools-and-worksheets>).

D. Updates to the IPF PPS Facility-Level Adjustments

The IPF PPS includes facility-level adjustments for the wage index, IPFs located in rural areas, teaching IPFs, cost of living adjustments for IPFs located in Alaska and Hawaii, and IPFs with a qualifying ED. The IPF PPS facility-level adjustment factors for rural location and teaching status were originally derived from regression analysis of 100 percent of the FY 2002 MedPAR data file. For a more detailed description of the data file used for this regression analysis, we refer readers to the RY 2005 IPF PPS final rule (69 FR 66935 and 66936).

In FY 2026, in a continuation of the FY 2025 implementation of revisions to the methodology for determining payment rates under the IPF PPS as required by section 1886(s)(5)(D) of the Act, we revised the facility-level adjustment factors for rural location and teaching status based on a regression analysis of cost and claims data for IPF stays from FY 2020 to FY 2022 (90 FR 37639 through 37649). As discussed in the following sections, we proposed annual updates to the FY 2027 IPF PPS wage index and to the cost of living adjustments for IPFs located in Alaska and Hawaii. For FY 2027, we proposed to use the facility-level adjustment factors for rural location, teaching status, and IPFs with a qualifying ED currently in effect for FY 2026, as shown in Addendum A to this final rule.

1. Wage Index Adjustment

a. Background

As discussed in the RY 2007 IPF PPS final rule (71 FR 27061), and the RY 2009 IPF PPS (73 FR 25719) and RY 2010 IPF PPS notices (74 FR 20373), to provide an adjustment for geographic wage levels, the labor-related portion of an IPF's payment is adjusted using an appropriate wage index. Currently, an IPF's geographic wage index value is determined based on the actual location of the IPF in an urban or rural area, as defined in § 412.64(b)(1)(ii)(A) and (C).

Due to the variation in costs and because of the differences in geographic wage levels, in the RY 2005 IPF PPS final rule, we required that payment rates under the IPF PPS be adjusted by a geographic wage index. We proposed and finalized a policy to use the unadjusted, pre-floor, pre-reclassified

IPPS hospital wage index to account for geographic differences in IPF labor costs. We implemented use of the pre-floor, pre-reclassified IPPS hospital wage data to compute the IPF wage index since there was not an IPF-specific wage index available. We believe that IPFs generally compete in the same labor market as IPPS hospitals, and therefore, the pre-floor, pre-reclassified IPPS hospital wage data should be reflective of labor costs of IPFs. We believe this pre-floor, pre-reclassified IPPS hospital wage index to be the best available data to use as proxy for an IPF-specific wage index. As discussed in the RY 2007 IPF PPS final rule (71 FR 27061 through 27067), under the IPF PPS, the wage index is calculated using the IPPS wage index for the labor market area in which the IPF is located, without considering geographic reclassifications, floors, and other adjustments made to the wage index under the IPPS. For a complete description of these IPPS wage index adjustments, we refer readers to the FY 2019 IPPS/LTCH PPS final rule (83 FR 41362 through 41390). Our wage index policy at § 412.424(a)(2) provides that we use the best Medicare data available to estimate costs per day, including an appropriate wage index to adjust for wage differences.

When the IPF PPS was implemented in the RY 2005 IPF PPS final rule, with an effective date of January 1, 2005, the pre-floor, pre-reclassified IPPS hospital wage index that was available at the time was the FY 2005 pre-floor, pre-reclassified IPPS hospital wage index. Historically, the IPF wage index for a given RY has used the pre-floor, pre-reclassified IPPS hospital wage index from the prior FY as its basis. This has been due in part to the pre-floor, pre-reclassified IPPS hospital wage index data that were available during the IPF rulemaking cycle, where an annual IPF notice or IPF final rule was usually published in early May. This publication timeframe was relatively early compared to other Medicare payment rules because the IPF PPS follows a RY, which was defined in the implementation of the IPF PPS as the 12-month period from July 1 to June 30 (69 FR 66927). Therefore, the best available data at the time the IPF PPS was implemented was the pre-floor, pre-reclassified IPPS hospital wage index from the prior FY (for example, the RY 2006 IPF wage index was based on the FY 2005 pre-floor, pre-reclassified IPPS hospital wage index).

In the RY 2012 IPF PPS final rule, we changed the reporting year timeframe for IPFs from a RY to FY, which begins October 1 and ends September 30 (76

FR 26434 and 26435). In that FY 2012 IPF PPS final rule, we continued our established policy of using the pre-floor, pre-reclassified IPPS hospital wage index from the prior year (that is, from FY 2011) as the basis for the FY 2012 IPF wage index. This policy of basing a wage index on the prior year's pre-floor, pre-reclassified IPPS hospital wage index has been followed by other Medicare payment systems, such as hospice and inpatient rehabilitation facilities. By continuing with our established policy, we remained consistent with other Medicare payment systems.

In FY 2020, we finalized the IPF wage index methodology to align the IPF PPS wage index with the same wage data timeframe used by the IPPS for FY 2020 and subsequent years. Specifically, we finalized the use of the pre-floor, pre-reclassified IPPS hospital wage index from the FY concurrent with the IPF FY as the basis for the IPF wage index. For example, the FY 2020 IPF wage index was based on the FY 2020 pre-floor, pre-reclassified IPPS hospital wage index rather than on the FY 2019 pre-floor, pre-reclassified IPPS hospital wage index.

We explained in the FY 2020 proposed rule (84 FR 16973), that using the concurrent pre-floor, pre-reclassified IPPS hospital wage index will result in the most up-to-date wage data being the basis for the IPF wage index. We noted that it would also result in more consistency and parity in the wage index methodology used by other Medicare payment systems. We indicated that the Medicare skilled nursing facility (SNF) PPS already used the concurrent IPPS hospital wage index data as the basis for the SNF PPS wage index. We proposed and finalized similar policies to use the concurrent pre-floor, pre-reclassified IPPS hospital wage index data in other Medicare payment systems, such as hospice and inpatient rehabilitation facilities. Thus, the wage adjusted Medicare payments of various provider types are based upon wage index data from the same timeframe.

In the FY 2023 IPF PPS final rule (87 FR 46856 through 46859), we finalized a permanent 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year, and we stated that we will apply this cap in a budget neutral manner. In addition, we finalized a policy that a new IPF will be paid the wage index for the area in which it is geographically located for its first full or partial FY with no cap applied because a new IPF will not have a wage index in the prior FY. We amended the IPF PPS

regulations at § 412.424(d)(1)(i) to reflect this permanent cap on wage index decreases. We refer readers to the FY 2023 IPF PPS final rule for a more detailed discussion about this policy.

For FY 2027, we proposed to apply the IPF wage index adjustment to the labor-related share of the national IPF PPS base rate and ECT payment per treatment. As discussed in section IV.A.3. of this final rule, the labor-related share of the IPF PPS national base rate and ECT payment per treatment is 78.9 percent in FY 2027. This percentage reflects the labor-related share relative importance of the 2021-based IPF market basket for FY 2027 and is 0.1 percentage point lower than the FY 2026 labor-related share.

For FY 2027, we proposed to continue to use the concurrent pre-floor, pre-reclassified IPPS hospital wage index as the basis for the IPF wage index. We explained that we continue to consider this an appropriate source of wage index data to estimate costs per day, in accordance with our longstanding wage index policy at § 412.424(a)(2)(ii).

The following is a summary of the comments we received on the proposed wage index adjustment.

Comment: Several commenters expressed support for the proposed use of the concurrent pre-floor, pre-reclassified IPPS hospital wage index as the basis for the IPF wage index pre-floor for FY 2027. Commenters agreed with CMS that IPFs compete in the same labor market as hospitals. Other commenters stated that IPFs compete within a distinct labor market that includes community-based behavioral health providers, outpatient treatment programs, and correctional settings.

Response: We appreciate these comments. We did not propose any changes to our longstanding IPF PPS wage index policy, which is based on the concurrent pre-floor, pre-reclassified IPPS hospital wage index. As we have previously stated, we believe that IPFs generally compete in the same labor market as IPPS hospitals. As discussed later in this final rule, we are considering whether alternative data sources could enhance the accuracy of the IPF wage index in future years, including the extent to which IPFs compete with other non-hospital settings for labor.

Comment: Some commenters encouraged CMS to closely align the IPF wage index with various policies applied to the IPPS wage index, including reclassifications, application of the rural floor, and the use of a lower labor-related share for IPFs in low-wage areas.

Response: We appreciate the commenters' recommendations. We did not propose the specific policies suggested by commenters, but we will take these recommendations into consideration to potentially inform future rulemaking. As we have previously discussed in the RY 2007 final rule (71 FR 27066), we believe that the actual location of an IPF (as opposed to the location of affiliated providers) is most appropriate for determining the wage adjustment because the prevailing wages in the area in which the IPF is located influence the cost of a case. In that same RY 2007 final rule (71 FR 27066), we also stated that we believe the "rural floor" is required only for the acute care hospital payment system because section 4410 of the Balanced Budget Act of 1997 (Pub. L. 105–33) applies specifically to acute care hospitals and not excluded hospitals and excluded units. As we have previously discussed, the IPF wage index is intended to be a relative measure of the value of labor in prescribed labor market areas (87 FR 46857). In addition, there are a variety of reasons why our longstanding IPF wage index policy has not applied floors or reclassifications, which, as we previously noted, are not applied to the IPF wage index by statute. For example, applying floors and reclassifications to the IPF wage index would significantly increase administrative burden, both for IPFs and for CMS, associated with IPFs reclassifying from one CBSA to another, and it would significantly increase the complexity of the methodology. Furthermore, because floors and reclassifications would be applied budget-neutrally under the wage index, these policies would increase the wage index for some IPFs while reducing IPF PPS payments for all other IPFs, which would upset the long-settled expectations with which IPFs across the country have been operating. For these reasons, we believe using the pre-floor, pre-reclassified IPPS hospital wage index is the most appropriate data to use as a proxy for an IPF wage index. We appreciate the commenter's suggestion to apply an out-migration adjustment to IPFs to account for employment of hospital staff who commute to work in counties with a higher wage index. However, we note that the out-migration adjustment is applied to the IPPS hospital wage index under section 1886(d)(13) of the Act, which is a statutory provision that specifically applies to subsection (d) hospitals paid under the IPPS. As discussed in the prior paragraph, we do not believe it is appropriate for the IPF

PPS to apply an out-migration adjustment that is not statutorily required, because such a policy would increase administrative burden and have distributional impacts on IPFs.

Comment: A commenter recommended CMS apply the wage index 5-percent cap in a non-budget neutral manner.

Response: We did not propose any new policies this year pertaining to the 5-percent cap, and accordingly, we are not finalizing any new policies in this final rule. In accordance with our longstanding policy under the IPF PPS, we updated the wage index in such a way that total estimated payments to IPFs for FY 2027 are the same with or without the changes (that is, in a budget-neutral manner) by applying a budget neutrality factor to the IPF PPS rates. We applied the wage index cap in a budget-neutral manner in accordance with this overall budget neutrality policy for the IPF PPS wage index so that wage index changes do not increase aggregate Medicare spending. In the FY 2023 IPF PPS proposed rule (87 FR 19423 through 19425), we noted that applying a 5-percent cap on all wage index decreases would have a very small effect on the wage index budget neutrality factor for FY 2023. We explained that we anticipate that in the absence of proposed policy changes, most providers will not experience year-to-year wage index declines greater than 5 percent in any given year and that we expect the impact to the wage index budget neutrality factor in future years will continue to be minimal.

Final Decision: After consideration of the comments received, we are finalizing our proposal for FY 2027 to continue to use the concurrent pre-floor, pre-reclassified IPPS hospital wage index as the basis for the IPF wage index. We will apply the IPF wage index adjustment to the labor-related share of the national rate and ECT payment per treatment. The labor-related share of the national rate and ECT payment per treatment will change from 79.0 percent in FY 2026 to 78.9 percent in FY 2027. This percentage reflects the labor-related share of the 2021-based IPF market basket for FY 2027 (see section IV.A.3. of this final rule).

Lastly, we explained in the proposed rule that we routinely assess whether more recent or alternative data sources may further enhance the accuracy and representativeness of our estimates. We noted that other payment systems have explored and are exploring alternative wage index methodologies under their specific programmatic and statutory circumstances. For example, CMS

finalized changes to the ESRD PPS wage index using Bureau of Labor Statistics (BLS) occupation-level wage data in the CY 2025 ESRD PPS final rule (89 FR 89116). We acknowledged that this approach was developed under the specific programmatic and statutory circumstances of the ESRD PPS and may not be directly transferable to the IPF PPS, but we stated that CMS is interested in exploring whether similar methodologies using publicly available wage data could be adapted to better reflect the geographic variation in labor costs for inpatient psychiatric facilities.

We also noted that in its 2023 Report to Congress,⁵ MedPAC discussed various conceptual approaches to Medicare wage indexes, including the use of county-level wage data from BLS with an occupational mix to construct wage indexes that are more specific to the payment setting. We explained that MedPAC has previously written about using all-employer, occupation-level wage data to establish different weights for setting-specific occupational labor mixes as one approach to geographic adjustments.

We solicited comments on whether we should consider using alternative data sources to construct an IPF-specific wage index for potential use in future years. CMS sought feedback to understand the potential advantages and limitations of using alternative data sources, such as BLS data and IPF cost reports, as well as other methodologies that interested parties believe could appropriately reflect the geographic variation in labor costs for psychiatric facilities. In addition, as discussed elsewhere in the **Federal Register**, we noted that we are also considering the potential use of alternative data sources in other payment systems including the Inpatient Rehabilitation Facilities PPS, Skilled Nursing Facilities PPS, and Hospice payment system. We sought feedback on the unique considerations applicable to IPFs that should inform how CMS could consider the potential use of alternative data sources.

We received numerous comments in response to this comment solicitation. Commenters offered a wide variety of considerations related to the potential development of an IPF-specific wage index. These comments addressed specific aspects of the wage index methodology including information about the extent to which IPFs typically compete with other healthcare settings for labor, thoughts about potential sources of wage data, and considerations related to geographical

categorization of IPFs. We thank the commenters for these suggestions, and we will take them into consideration as we consider potential future changes to the IPF PPS wage index.

b. Office of Management and Budget (OMB) Bulletins

The wage index used for the IPF PPS is calculated using the unadjusted, pre-reclassified and pre-floor IPPS wage index data and is assigned to the IPF based on the labor market area in which the IPF is geographically located. IPF labor market areas are delineated based on the Core-Based Statistical Area (CBSAs) established by the OMB.

Generally, OMB issues major revisions to statistical areas every 10 years, based on the results of the decennial census. However, OMB occasionally issues minor updates and revisions to statistical areas in the years between the decennial censuses through OMB Bulletins. These bulletins contain information regarding CBSA changes, including changes to CBSA numbers and titles. In accordance with our established methodology, the IPF PPS has historically adopted any CBSA changes that are published in the OMB bulletin that corresponds with the IPPS hospital wage index used to determine the IPF wage index and, when necessary and appropriate, has proposed and finalized transition policies for these changes.

In the RY 2007 IPF PPS final rule (71 FR 27061 through 27067), we adopted the changes discussed in OMB Bulletin No. 03–04 (June 6, 2003), which announced revised definitions for Metropolitan Statistical Areas (MSAs), and the creation of Micropolitan Statistical Areas and Combined Statistical Areas. We refer readers to the FY 2007 IPF PPS final rule (71 FR 27064 and 27065) for a complete discussion regarding treating Micropolitan Areas as rural. In adopting the OMB CBSA geographic designations in RY 2007, we did not provide a separate transition for the CBSA-based wage index since the IPF PPS was already in a transition period from TEFRA payments to PPS payments.

In the RY 2009 IPF PPS notice, we incorporated the CBSA nomenclature changes published in the most recent OMB bulletin that applied to the IPPS hospital wage index used to determine the current IPF wage index and stated that we expected to continue to do the same for all the OMB CBSA nomenclature changes in future IPF PPS rules and notices, as necessary (73 FR 25721).

Subsequently, CMS adopted the changes that were published in past

OMB bulletins in the FY 2016 IPF PPS final rule (80 FR 46682 through 46689), the FY 2018 IPF PPS rate update (82 FR 36778 and 36779), the FY 2020 IPF PPS final rule (84 FR 38453 and 38454), and the FY 2021 IPF PPS final rule (85 FR 47051 through 47059). We direct readers to each of these rules for more information about the changes that were adopted and any associated transition policies.

As discussed in the FY 2023 IPF PPS final rule, we did not adopt OMB Bulletin 20–01, which was issued March 6, 2020, because we determined this bulletin had no material impact on the IPF PPS wage index. This bulletin creates only one Micropolitan statistical area, and Micropolitan areas are considered rural for the IPF PPS wage index. That is, the constituent county of the new Micropolitan area was considered rural effective as of FY 2021 and would continue to be considered rural if we adopted OMB Bulletin 20–01.

In the FY 2025 IPF PPS final rule (89 FR 64614 through 64633), we adopted the updates set forth in OMB Bulletin No. 23–01 effective July 21, 2023, beginning with the FY 2025 IPF PPS wage index. These updates included adoption of material changes to the OMB statistical area delineations, which resulted in our determination that 53 urban counties became rural, 54 rural counties became urban, and 88 counties moved to a new or modified CBSA. These updates also included replacing the 8 counties in Connecticut with 9 new “Planning Regions.” Planning regions now serve as county-equivalents within the CBSA system. OMB Bulletin No. 23–01 may be accessed online at <https://www.whitehouse.gov/wp-content/uploads/2023/07/OMB-Bulletin-23-01.pdf>.

Given the scope of changes involved in adopting the CBSA delineations for FY 2025, we finalized a budget neutral 3-year phase out policy for IPFs transitioning from rural to urban based on our adoption of CBSA revisions, as discussed further in section IV.D.2.b. of this final rule. We also applied the permanent 5-percent cap on wage index decreases described at § 412.424(d)(1)(i).

c. Wage Index Budget Neutrality Adjustment

In accordance with § 412.424(c)(5), changes to the wage index are made in a budget neutral manner so that updates do not increase expenditures. Therefore, for FY 2027, we proposed to continue to apply a budget neutrality adjustment in accordance with our existing budget neutrality policy. This policy requires us to update the wage index in such a

⁵ <https://www.medpac.gov/wp-content/uploads/2022/07/Wage-index-March-2023-SEC.pdf>.

way that total estimated payments to IPFs for FY 2027 are the same with or without the changes (that is, in a budget neutral manner) by applying a budget neutrality factor to the IPF PPS rates. We proposed to use the following steps to ensure that the rates reflect the FY 2027 update to the wage indexes (based on FY 2023 hospital cost report data) and the labor-related share in a budget-neutral manner:

Step 1: Simulate estimated IPF PPS payments, using the FY 2026 IPF wage index values (available on the CMS website) and labor-related share (as published in the FY 2026 IPF PPS final rule (90 FR 37635)).

Step 2: Simulate estimated IPF PPS payments using the FY 2027 IPF wage index values (available on the CMS website), and the FY 2027 labor-related share (based on the latest available data as discussed previously).

Step 3: Divide the amount calculated in step 1 by the amount calculated in step 2. The resulting quotient is the FY 2027 budget neutral wage adjustment factor of 0.9989.

Step 4: Apply the FY 2027 budget neutral wage adjustment factor from step 3 to the FY 2026 IPF PPS Federal per diem base rate after the application of the IPF market basket increase reduced by the productivity adjustment described in section IV.A.2. of this final rule to determine the final FY 2027 IPF PPS Federal per diem base rate.

2. Adjustment for Rural Location

a. Payment for Rural Location

In the RY 2005 IPF PPS final rule (69 FR 66954), we provided a 17-percent payment adjustment for IPFs located in a rural area. This adjustment was based on the regression analysis, which indicated that the per diem cost of rural facilities was 17 percent higher than that of urban facilities after accounting for the influence of the other variables included in the regression. This 17-percent adjustment has been part of the IPF PPS each year since the inception of the IPF PPS. In the FY 2025 IPF PPS final rule, we revised the patient-level adjustment factors and adopted the new CBSA delineations. To minimize the scope of changes that would impact providers in any single year, we maintained the existing regression-derived adjustment factor, which was established in RY 2005, for IPFs located in a rural area for FY 2025. Our analysis of more cost and claims data from FY 2020 through 2022 for the FY 2026 final rule indicated that an increase in the payment adjustment for IPFs in rural areas would be appropriate. Based on this analysis, we revised the adjustment

for rural location to 18 percent for FY 2026 to more accurately represent the difference in costs between urban and rural IPFs (90 FR 37647). See the FY 2026 IPF PPS final rule for the full explanation of the regression analysis that yielded the revised 18 percent adjustment for rural location (90 FR 37639 through 37644) and the RY 2005 IPF PPS final rule (69 FR 66954) for a complete discussion of the adjustment for rural locations.

We did not propose any changes to the 18 percent adjustment factor for IPFs located in a rural area.

b. End of Rural Transition

The adoption of OMB Bulletin No. 23–01 in the FY 2025 IPF PPS final rule (89 FR 64632) in accordance with our established methodology determines whether a facility is classified as urban or rural for purposes of the rural payment adjustment in the IPF PPS. Adoption of the updated OMB delineations results in the rural payment adjustment being applied where it is appropriate to adjust for higher costs incurred by IPFs in rural locations; however, these changes have distributional effects among IPF providers. Some providers lost eligibility for the rural payment adjustment in FY 2025 as a result of these changes. Therefore, we provided a transition period to adopt the updated OMB delineations (89 FR 64633).

In the FY 2025 IPF PPS final rule, we phased out the rural adjustment for facilities located in a county that transitioned from rural to urban due to the changes outlined in OMB Bulletin 23–01. We implemented a 3-year budget neutral phase-out of the rural adjustment for IPFs located in the 54 rural counties that would become urban under our adoption of the new OMB delineations, given the potentially significant payment impacts for these IPFs (89 FR 64632 and 64633), consistent with the transition policy we adopted for IPFs in FY 2016 (80 FR 46682 through 46689). Under this 3-year phase-out, for FY 2026, IPFs that became urban due to our adoption of these OMB delineation changes received one-third of the rural adjustment that was applicable in FY 2024. For FY 2027, these IPFs will not receive a rural adjustment.

3. Teaching Adjustment

In the RY 2005 IPF PPS final rule, we implemented regulations at § 412.424(d)(1)(iii) to establish a facility-level adjustment for IPFs that are, or are part of, teaching hospitals (69 FR 66954 through 66957). The teaching adjustment accounts for the higher

indirect operating costs experienced by hospitals that participate in graduate medical education (GME) programs. As detailed further in the following paragraphs, the payment adjustments are made based on the ratio of the number of fulltime equivalent (FTE) interns and residents training in the IPF to the IPF's average daily census.

Medicare makes direct GME payments (for direct costs such as resident and teaching physician salaries, and other direct teaching costs) to all teaching hospitals, including those paid under a PPS and those paid under the TEFRA rate-of-increase limits. These direct GME payments are made separately from payments for hospital operating costs and are not part of the IPF PPS. The direct GME payments do not address the estimated higher indirect operating costs teaching hospitals may face.

The results of the regression analysis of FY 2002 IPF data established the basis for the payment adjustments included in the RY 2005 IPF PPS final rule. The results showed that the indirect teaching cost variable is significant in explaining the higher costs of IPFs that have teaching programs. We calculated the teaching adjustment based on the IPF's "teaching variable," which is $(1 + [\text{the number of FTE residents training in the IPFs divided by the IPF's average daily census}])$. The teaching variable was then raised to the 0.5150 power, resulting in the IPF PPS teaching adjustment. This formula is subject to limitations on the number of FTE residents, which are discussed in greater detail in the following paragraph.

We established the teaching adjustment in a manner that limited the incentives for IPFs to add FTE residents for the purpose of increasing their teaching adjustment. We imposed a cap on the number of FTE residents that may be counted for purposes of calculating the teaching adjustment. The cap limits the number of FTE residents that teaching IPFs may count for the purpose of calculating the IPF PPS teaching adjustment, not the number of residents teaching institutions can hire or train. We calculated the number of FTE residents that trained in the IPF during a "base year" and used that FTE resident number as the cap. An IPF's FTE resident cap is ultimately determined based on the final settlement of the IPF's most recent cost report filed before November 15, 2004 (69 FR 66955). A complete discussion of the temporary adjustment to the FTE cap to reflect residents due to hospital closure or residency program closure appears in the RY 2012 IPF PPS

proposed rule (76 FR 5018 through 5020) and the RY 2012 IPF PPS final rule (76 FR 26453 through 26456). As discussed in section IV.D.6.c. of the FY 2026 IPF PPS final rule (90 FR 37649 through 37651), we made conforming changes to the IPF resident cap policy beginning in FY 2026 to recognize permanent cap increases awarded under section 4122 of the CAA, 2023.

In the regression analysis that informed the RY 2004 IPF PPS final rule, the logarithm of the teaching variable had a coefficient value of 0.5150. We converted this cost effect into a teaching payment adjustment by treating the regression coefficient as an exponent and raising the teaching variable to a power equal to the coefficient value. We note that the coefficient value of 0.5150 was based on the regression analysis holding all other components of the payment system constant. A complete discussion of how the teaching adjustment was calculated appears in the RY 2005 IPF PPS final rule (69 FR 66954 through 66957) and the RY 2009 IPF PPS notice (73 FR 25721).

In the FY 2025 IPF PPS proposed rule, we included an RFI regarding a potential revision to the payment adjustment for teaching status (89 FR 23194 and 23195); we refer readers to section IV.A. of the FY 2025 IPF PPS final rule (89 FR 64641) for summaries of the comments we received and our responses. We took the comments received into consideration when we developed our proposal for the FY 2026 revision of the payment adjustment for teaching status.

In the FY 2026 IPF PPS final rule, we increased the teaching adjustment to 0.7957 based on the results of our latest regression model (90 FR 37648 and 37649). This cost effect is converted to a teaching payment adjustment by treating the regression coefficient as an exponent and raising the teaching variable to a power equal to the coefficient value. We implemented this

revision to the teaching adjustment budget-neutrally.

For FY 2027, we did not propose any changes to the teaching adjustment.

4. Cost of Living Adjustment for IPFs Located in Alaska and Hawaii

The IPF PPS includes a payment adjustment for IPFs located in Alaska and Hawaii based upon the area in which the IPF is located. As we explained in the RY 2005 IPF PPS final rule, the FY 2002 data demonstrated that IPFs in Alaska and Hawaii had per diem costs that were disproportionately higher than other IPFs. As a result of this analysis, we provided a COLA in the RY 2005 IPF PPS final rule. We refer readers to the FY 2024 IPF PPS final rule for a complete discussion of the currently applicable COLA factors (88 FR 51088 and 51089).

In the FY 2013 IPPS/LTCH final rule (77 FR 53700 and 53701), we established a new methodology to update the COLA factors for Alaska and Hawaii and adopted this methodology for the IPF PPS in the FY 2015 IPF PPS final rule (79 FR 45958 through 45960). We also specified that the COLA updates will be determined every 4 years, in alignment with the IPPS market basket labor-related share update (79 FR 45958 through 45960). Because the labor-related share of the IPPS market basket was updated for FY 2022, the COLA factors were updated in FY 2022 IPPS/LTCH rulemaking (86 FR 45547) reflecting CPI data through 2020. As such, we also finalized an update to the IPF PPS COLA factors in the FY 2022 IPF PPS final rule to reflect the updated COLA factors finalized in the FY 2022 IPPS/LTCH rulemaking effective for FY 2022 through FY 2025 (86 FR 42621 and 42622).

In the FY 2026 IPF PPS final rule, we stated that we believe it is appropriate to have a consistent policy approach with that of other hospitals in Alaska and Hawaii (90 FR 37651 and 37652). We used the FY 2025 COLA factors to

adjust the non-labor-related portion of the standardized amount for IPFs located in Alaska and Hawaii for FY 2026. For a complete discussion of the FY 2026 COLA factors, we refer readers to the FY 2026 IPPS/LTCH final rule (90 FR 37229 and 37230).

Effective for FY 2027, to continue our consistent policy approach with that of other hospitals in Alaska and Hawaii, we proposed to adjust non-labor related costs for IPFs located in Alaska and Hawaii using the Overseas Cost-of-Living Allowance (OCOLA) data⁶ published by the Department of War (DOW). We believe the DOW OCOLAs are an appropriate data source to capture the cost differences of hospital non-labor-related inputs purchased in the areas in Hawaii and Alaska compared to the continental U.S. Additionally, we proposed to no longer cap the COLA factors for Alaska and Hawaii at 25 percent. We also solicited any additional information with regard to these results.

For this FY 2027 IPF PPS final rule, we are finalizing our proposed methodology to derive the COLA factors for IPFs located in Alaska and Hawaii using the DOW OCOLAs. In addition, we are finalizing our proposal to no longer cap the COLA factors for Alaska and Hawaii at 25 percent. Based on comments received under the IPPS, we are finalizing a “hold harmless” policy in FY 2027 for any area that would experience a reduction to their COLA factor under the OCOLA methodology. For a complete discussion of the FY 2027 COLA factors, we refer readers to the FY 2027 IPPS/LTCH proposed rule (91 FR 19813 and 19814) and the FY 2027 IPPS/LTCH final rule, published elsewhere in the **Federal Register**. The FY 2027 IPF PPS COLA factors for Alaska and Hawaii are shown in Table 2.

⁶ <https://www.travel.dod.mil/Allowances/Overseas-Cost-of-Living-Allowance/>.

TABLE 2: COST OF LIVING ADJUSTMENT (COLA) FACTORS: IPFs LOCATED IN ALASKA AND HAWAII

Area	FY 2022 to FY 2026	FY 2027
Alaska:		
City of Anchorage and 80-kilometer (50-mile) radius by road	1.22	1.28
City of Fairbanks and 80-kilometer (50-mile) radius by road	1.22	1.32
City of Juneau and 80-kilometer (50-mile) radius by road	1.22	1.36
Rest of Alaska	1.24	1.44
Hawaii:		
City and County of Honolulu	1.25	1.25
County of Hawaii	1.22	1.32
County of Kauai	1.25	1.26
County of Maui and County of Kalawao	1.25	1.25

The IPF PPS COLA factors for Alaska and Hawaii for FY 2027 are also shown in Addendum A to this final rule, which is available on the CMS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility-pps/tools-and-worksheets>.

5. Adjustment for IPFs With a Qualifying ED

The IPF PPS includes a facility-level adjustment for IPFs with qualifying EDs. As defined in § 412.402, qualifying emergency department means an emergency department that is staffed and equipped to furnish a comprehensive array of emergency services and meets the requirements of § 489.24(b) and § 413.65.

We provide an adjustment to the Federal per diem base rate to account for the costs associated with maintaining a full-service ED. The adjustment is intended to account for ED costs incurred by a psychiatric hospital with a qualifying ED, or an excluded psychiatric unit of an IPPS hospital or a critical access hospital (CAH), and the overhead cost of maintaining the ED. This payment applies to all IPF admissions (with one exception which we describe in this section), regardless of whether the patient was admitted through the ED. The ED adjustment is made on every qualifying claim except as described in this section. As specified at § 412.424(d)(1)(v)(B), the ED adjustment is not made when a patient is discharged from an IPPS hospital or CAH and admitted to the same IPPS

hospital's or CAH's excluded psychiatric unit. We clarified in the RY 2005 IPF PPS final rule (69 FR 66960) that an ED adjustment is not made in this case because the costs associated with ED services are reflected in the DRG payment to the IPPS hospital or through the reasonable cost payment made to the CAH.

In the FY 2025 IPF PPS final rule, we updated the adjustment factor from 1.31 to 1.54 for IPFs with qualifying EDs using the same methodology used to determine ED adjustments in prior years (89 FR 64636). Beginning in FY 2025, IPFs with a qualifying ED receive an adjustment factor of 1.54 as the variable per diem adjustment for day 1 of each patient stay. If an IPF does not have a qualifying ED, it receives an adjustment factor of 1.27 as the variable per diem adjustment for day 1 of each patient stay. A complete discussion of the steps involved in the most recent calculation of the ED adjustment factor can be found in the FY 2025 IPF PPS final rule (89 FR 64636).

For FY 2027, we did not propose any changes to the adjustment factor for IPFs with qualifying EDs.

E. Other Payment Adjustments and Policies

1. Outlier Payment Overview

a. Background on the Current IPF PPS Outlier Payment Policy

The IPF PPS includes an outlier adjustment to promote access to IPF care for those patients who require expensive care and to limit the financial risk of IPFs treating unusually costly patients. In the RY 2005 IPF PPS final

rule, we implemented regulations at § 412.424(d)(3)(i) to provide a per case payment for IPF stays that are extraordinarily costly. Providing an outlier adjustment to IPFs for extremely costly cases strongly improves the accuracy of the IPF PPS in determining resource costs at the patient- and facility-level. These upward payment adjustments reduce the financial losses that would otherwise be incurred in treating patients who require costlier care, and therefore, reduce the incentives for IPFs to under-serve these patients. We make payments under the outlier adjustment for discharges where an IPF's estimated total cost for a case exceeds a fixed dollar loss threshold amount (multiplied by the IPF's facility-level adjustments) plus the Federal per diem payment amount for the case.

In instances when the case qualifies for an outlier payment adjustment, we pay 80 percent of the difference between the estimated cost for the case and the adjusted threshold amount for days 1 through 9 of the stay (consistent with the median LOS for IPFs in FY 2002), and 60 percent of the difference for day 10 and thereafter. The adjusted threshold amount is equal to the outlier threshold amount adjusted for wage area, teaching status, rural area, and the COLA factor (if applicable), plus the amount of the Medicare IPF payment for the case. We established the 80 percent and 60 percent loss sharing ratios because we were concerned that a single ratio established at 80 percent (like other Medicare PPSs) might provide an incentive under the IPF per diem

payment system to increase LOS to receive additional payments.

After establishing the loss sharing ratios, we determined the current fixed dollar loss threshold amount through payment simulations designed to compute a dollar loss beyond which payments are estimated to meet the 2 percent outlier spending target. Each year when we update the IPF PPS, we simulate payments using the latest available data to compute the fixed dollar loss threshold so that outlier payments represent 2 percent of total estimated IPF PPS payments.

b. Analysis of Recent Outlier Payments Under the Current Methodology

In the proposed rule, we explained that we conducted an analysis of the latest available data (the December 2025 update of FY 2025 IPF claims) and rate increases, following our longstanding methodology. We stated that based on an analysis of these updated data, we believe it is necessary to update the fixed dollar loss threshold amount to maintain an outlier percentage that equals 2 percent of total estimated IPF PPS payments. We estimated that IPF outlier payments as a percentage of total estimated payments would be 2.2 percent in FY 2026. Therefore, we proposed to update the outlier threshold amount to \$42,720 to maintain estimated outlier payments at 2 percent of total estimated aggregate IPF payments for FY 2027. We noted that this update would be an increase from the FY 2026 threshold of \$39,360.

For the FY 2027 proposed rule, we analyzed the distribution of IPF PPS outlier payments. Comparison of outlier payments in RY 2005 and FY 2027 demonstrated that IPF outlier payments are now concentrated among a smaller number of stays with significantly higher average costs and among a smaller number of IPFs. In FY 2025, the 20 IPFs that had the highest amounts of total outlier payments accounted for more than 50 percent of total outlier payments.

We also analyzed clinical characteristics from IPF PPS claims to determine the extent to which such differences could be driving outlier payments. Outlier stays tended to be significantly longer than non-outlier stays (approximately 46 days versus 12 days) and tended to have significantly higher daily routine charges. Although we noted that there were certain case-mix differences between providers with a high share of outliers and those with a lower share or with no outliers, our analysis indicated that these differences alone did not fully explain the substantial difference in per diem

routine charges. We explained in the proposed rule that our analyses of clinical characteristics of outlier stays suggested that a substantial share of outlier payments may be driven by higher facility-level costs rather than by patient complexity. We refer readers to the FY 2027 IPF PPS proposed rule (91 FR 17732 and 17733) for a detailed account of our analysis and findings.

As discussed in the following sections, we proposed changes to our outlier policy and the methodology for determining the outlier fixed dollar loss threshold amount for FY 2027.

c. Changes to the Outlier Payment Policy and Update to the Outlier Fixed Dollar Loss Threshold Amount

In accordance with the update methodology described in § 412.428(d)(3)(i)(D), we proposed to update the fixed dollar loss threshold amount used under the IPF PPS outlier policy. Based on the regression analysis and payment simulations used to develop the IPF PPS, we established a 2 percent outlier policy, which strikes an appropriate balance between protecting IPFs from extraordinarily costly cases while ensuring the adequacy of the Federal per diem base rate for all other cases that are not outlier cases. We proposed to maintain the established 2 percent outlier policy for FY 2027.

Our longstanding methodology for updating the outlier fixed dollar loss threshold involves using the best available data, which is typically the most recent available data. We note that for FY 2022 and FY 2023 only, we made certain methodological changes to our modeling of outlier payments, and we discussed the specific circumstances that led to those changes for those years (86 FR 42623 and 42624; 87 FR 46862 through 46864). We direct readers to the FY 2022 and FY 2023 IPF PPS proposed and final rules for a more complete discussion.

We proposed to update the IPF outlier threshold amount for FY 2027 using FY 2025 claims data in accordance with the methodology that we have used to set the initial outlier threshold amount each year beginning with the RY 2007 IPF PPS final rule (71 FR 27072 and 27073). That is, we proposed to determine the FY 2027 fixed dollar loss threshold amount through payment simulations designed to compute a dollar loss beyond which payments are estimated to meet the 2 percent outlier spending target. However, we proposed to change the outlier policy for FY 2027 to minimize the impact of a small number of high-cost IPFs on the outlier fixed dollar loss threshold amount.

Accordingly, we proposed to modify our methodology for simulating payments to determine the outlier fixed dollar loss threshold amount for FY 2027. As we discuss in the following paragraphs, we estimated that this proposed change to the outlier policy would have a meaningful impact on the outlier fixed dollar loss threshold amount in FY 2027.

In summary, we proposed to modify the IPF PPS outlier payment policy beginning in FY 2027 to better align outlier payments with their intended purpose of promoting access to care for patients requiring unusually costly treatment while ensuring an appropriate distribution of outlier payments across all IPFs. We note that the authorizing language for the IPF PPS, Section 124 of the BBRA, requires that the IPF PPS include an adequate patient classification system that reflects the differences in patient resource use and costs among IPFs. The IPF PPS has a longstanding policy of making appropriate adjustments for other factors that drive resource use and costs among IPFs, and of doing so in a way that limits incentives for inappropriate utilization. The IPF PPS facility-level adjustments strengthen the accuracy of the IPF PPS in adjusting payment to align with resource costs that are associated with rural status, geographical location, the presence of a full-service ED, and the higher indirect operating costs experienced by hospitals that participate in GME programs. As discussed in section IV.D.3. of this final rule, we established the teaching adjustment in a manner that limited the incentives for IPFs to add FTE residents for the purpose of increasing their teaching adjustment by imposing a cap on the number of FTE residents that may be counted for purposes of calculating the teaching adjustment.

In addition, section 1886(s)(5)(D) of the Act authorizes the Secretary to implement revisions to the methodology for determining the payment rates under the IPF PPS, for FY 2025 and subsequent years. We explained in the proposed rule that given the emphasis on patient- and facility-level cost differences in Section 124 of the BBRA, and under the authority of section 1886(s)(5)(D) of the Act to consider and implement revisions to our payment methodology, it is appropriate to ensure that IPF outlier payments recognize patient-level cost differences across a broad range of services and facilities. We considered the precedent of the IPF PPS teaching cap policy as a potential tool to strengthen the accuracy of the IPF PPS by limiting potential incentives for IPFs to inappropriately increase their

costs and charges for IPF services. We explained that our analysis of recent claims data revealed that outlier payments have become increasingly concentrated among a small subset of facilities with exceptionally high reported costs. According to our simulations, each of these providers' outlier payments would account for more than 20 percent of its total IPF PPS payments. For additional information about the characteristics of providers included in our payment simulations for this FY 2027 IPF PPS final rule, see the FY 2027 IPF PPS Final Rate Setting Impact File, available on the CMS web page for the FY 2027 IPF PPS final rule at <https://www.cms.gov/medicare/payment/prospective-payment-systems/inpatient-psychiatric-facility/ipf-pps-regulations-and-notice>.

As we discussed in the proposed rule, we observed that these facilities' high overall costs are primarily driven by elevated routine costs, which can include costs such as labor, real estate, or overhead expenses. We noted that routine costs are fixed at the provider level and do not vary based on individual patient characteristics or treatment intensity. We explained that outlier stays tend to be significantly longer than non-outlier stays; however, since the IPF PPS is a per diem payment system in which a longer length of stay results in higher payment, this difference only drives outlier payments when daily costs are also high. We also stated that outlier stays, as well as providers with a large share of outlier payments, tend to have higher daily routine charges, which drive higher costs. We noted that we did not observe case-mix differences that would explain the significantly higher routine costs for facilities with a high share of outlier payments.

Under the current outlier methodology, these high-cost facilities have necessitated substantial increases to the outlier threshold to maintain outlier payments at the 2 percent target. In the proposed rule, we explained that the significant increase to the outlier fixed dollar loss threshold under our current policy would make it more difficult for the majority of IPFs to receive outlier payments for treating Medicare beneficiaries whose care is exceptionally costly. We stated that we believe that establishing a policy to limit the impact to the outlier fixed dollar loss threshold amount from the small number of high-cost IPFs that we have identified in our analysis would better align with the outlier policy's core objective of protecting facilities from the financial risk of treating unusually expensive patients. We also

stated our belief that the current concentration of outlier payments does not best serve the intended purpose of this policy and may inadvertently limit access to care for high-cost patients at facilities that cannot reach the higher threshold.

In the proposed rule, we explained that we considered changes to limit the impact to the outlier fixed dollar loss threshold amount from high-cost IPFs for which outlier payments comprise an unusually large share of their total IPF PPS payments. We stated in the proposed rule that our analysis found that 47.8 percent of all simulated outlier payments were attributable to approximately 37 IPFs with more than 20 percent outlier payments to total IPF PPS payments. We estimated that if we applied a 20-percent facility-level cap (that is, outlier payments for an IPF are less than or equal to 20 percent of the IPF's total IPF PPS payments, including outliers), the FY 2027 outlier fixed dollar loss threshold amount would be approximately \$37,820, lower than what it would be under our current outlier policy and much closer to the FY 2026 outlier fixed dollar loss threshold amount of \$39,360. We estimated that 40 more providers would receive payments under the outlier adjustment than under our current policy (increasing from 379 providers to 419 providers), due to the lower outlier fixed dollar loss threshold that we proposed. Additionally, we estimated that approximately 1.9 percent of IPF stays would qualify for outlier payments, with an average outlier payment amount of approximately \$1,012. We noted in the proposed rule that in comparison to the current outlier policy, applying a 20-percent facility-level cap on outlier payments would reduce the outlier fixed dollar loss threshold, resulting in outlier payments that would be expanded to a larger number of stays and providers. We stated that we also considered the potential impact of a facility-level cap on total outlier payments. We stated that we believe it would be appropriate to set a facility-level outlier cap at a percentage that protects the outlier fixed dollar loss threshold amount while limiting the number of IPFs that would be subject to the cap. Looking retrospectively at FY 2025 billing patterns, we estimated that around 3.6 percent of providers would be affected by a facility-level outlier cap at 20 percent. We estimated that a larger share of between 5 and 10 percent of IPFs would be impacted in a typical year by a 10 or 15 percent cap; however, a lower cap would also result in a lower outlier

fixed dollar loss threshold. Conversely, we estimated that a smaller share of IPFs would be affected in a given year by a 25 or 30 percent cap (between 1 and 3 percent of IPFs), but this policy would require a higher outlier fixed dollar threshold amount. We refer readers to Table 3 in the FY 2027 IPF PPS proposed rule for a summary of the share of providers impacted at outlier cap levels from 10 to 30 percent (91 FR 17734).

We stated in the proposed rule that we believe that a 20-percent facility-level outlier cap would strike an appropriate balance between protecting the outlier fixed dollar loss threshold amount and limiting the impact of the cap to only those IPFs with an unusually high share of outlier payments. Therefore, we proposed to establish a facility-level cap on outlier payments beginning in FY 2027. Specifically, we proposed to limit total outlier payments to no more than 20 percent of a facility's total IPF PPS payments. Under this proposal, if an IPF exceeded the 20 percent facility-level cap, it would no longer receive an outlier payment for high-outlier cases but would receive the IPF PPS per diem payment. We solicited comments on the proposed cap policy as well as comments about setting the cap at 20 percent versus an alternative percentage.

We proposed to codify this policy for the IPF PPS at § 412.424(d)(3)(i)(D) for discharges occurring in cost reporting periods beginning on or after October 1, 2026. We proposed to calculate and apply this cap on an interim basis on IPF PPS claims beginning in FY 2027. Because outlier payments are finalized at cost report settlement, we proposed to apply this cap on an annual basis by calculating a facility's outlier percentage using a methodology that we detailed in the FY 2027 IPF PPS proposed rule (91 FR 17734 and 17735). We sought comment on the proposed implementation approach for interim payments as well as at cost report settlement.

We also discussed in the proposed rule the possibility of exempting IPFs from this cap policy if they do not exceed a minimum threshold of annual stays. We stated that applying the cap only to facilities with more than 25 stays per year would result in a slightly higher outlier threshold of \$37,880 (compared to \$37,820 if the cap applies to all facilities) but would reduce the number of facilities subject to the cap (from approximately 2.7 percent of all IPFs to approximately 1.8 percent) and potential payment adjustments. We sought comment on whether such a

minimum stay threshold would be appropriate and, if so, what the appropriate threshold should be.

Under our proposed policy, we estimated that the outlier threshold for FY 2027 would be \$37,820, which we previously noted would be lower than it would have been under our current outlier policy and much closer to the FY 2026 outlier fixed dollar loss threshold amount of \$39,360. By moderating the threshold increase, we stated that we believed this proposal would make outlier payments accessible to a broader range of facilities treating high-cost patients, which we believe better aligns with the purpose of the IPF PPS outlier policy.

Finally, in conjunction with this proposal, we solicited comments on the factors that contribute to higher costs at facilities that routinely receive an unusually high share of outlier payments. We stated that we were interested in understanding whether there are other factors for which the IPF PPS does not already adjust payment that could explain differences in patient resource use and costs among these IPFs, in accordance with Section 124 of the BBRA. We stated that we were particularly interested in understanding the following:

- What specific patient characteristics, clinical complexities, or treatment modalities drive higher costs at these facilities?
- To what extent do geographic factors, local labor market conditions, or real estate costs contribute to elevated routine costs?
- Do these facilities provide specialized services or treat patient populations that are not adequately reflected in the current IPF PPS payment adjustments?
- Are there structural changes to the IPF PPS facility adjustments or case-mix system that would more appropriately account for the notable cost differences across facilities?
- Are facilities incentivized to provide longer lengths of stay to receive outlier payments, particularly if there is bed capacity? If so, what is the impact for beneficiaries who are subject to a 190-day lifetime limit on IPF services? Could the proposed changes to the outlier policy, or potential further changes, reduce incentives for unnecessarily long lengths of stay?
- Do beneficiaries perceive differences in quality, outcomes, or value between higher-cost and lower-cost facilities?

The following is a summary of the comments we received on the proposed 20 percent facility-level outlier cap and our responses.

Comment: Several commenters supported the proposed outlier cap, stating that it is a good solution to the concentration of outlier payments among a small number of facilities. One of these commenters stated that this policy would increase the number of IPFs that qualify for outlier payments and noted that the purpose of the outlier policy should be to be a safety valve for unusually costly stays rather than a recurring financing mechanism for a limited number of providers. A commenter stated that the outlier cap strikes a good balance between preserving access and maintaining accountability and strengthens the IPF PPS by advancing payment accuracy, program integrity, and sustainability. This commenter appreciated that our proposal additionally projected how the outlier cap would affect the outlier threshold. In response to the comment solicitation regarding the factors that contribute to higher costs at facilities that routinely receive an unusually high share of outlier payments, commenters offered insights about costs related to adequate staffing, as well as challenges in post-discharge placement including shortages in community behavioral health capacity, supportive housing, substance use treatment services, and post-acute behavioral health resources.

Response: We thank the commenters for their support and insights regarding the drivers of unusually high costs at IPFs. We agree about the importance of striking the appropriate balance between protecting access for unusually costly stays while ensuring the outlier threshold is set at a reasonable level that makes outlier payments available for more beneficiaries receiving care at IPFs across the country. As discussed in the following paragraphs, we are finalizing certain modifications to our proposed outlier cap in response to comments. We anticipate that these modifications will strike the appropriate balance between the goals we articulated in the proposed rule and the concerns that several commenters raised.

In addition, we intend to perform additional analyses of the cost drivers and challenges that commenters highlighted, and we will take these comments into consideration to potentially inform future rulemaking.

Comment: Some commenters requested that CMS monitor the potential effect of the cap on access to care and to evaluate whether certain tailored exemptions to the policy would be appropriate. Some commenters also requested that CMS consider whether the proposed 20 percent cap best addresses the concentration of outlier payments among a few facilities or

whether another cap level would be appropriate. Other commenters who opposed the 20 percent cap stated that the process for developing this policy appeared to be arbitrary and requested that CMS do more analysis before finalizing it. Additionally, some commenters stated that their analysis found variation in the providers that would have reached the 20 percent cap from year to year, indicating the providers whose outlier payment would be capped would not be the same group of providers every year. Commenters stated that this instability in the pool of providers hitting the cap indicates that the proposed cap policy would not target providers with structurally higher costs.

Response: We appreciate these comments regarding the basis for the 20 percent cap. As we explained in the proposed rule, we analyzed the impact of different levels of caps on the percent of IPFs affected and on the outlier fixed dollar loss threshold. We found that a 20-percent facility-level outlier cap would strike an appropriate balance between protecting the outlier fixed dollar loss threshold amount and limiting the impact of the cap to only those IPFs with an unusually high share of outlier payments. Specifically, we noted that the proposed 20 percent cap would result in an outlier fixed dollar loss threshold for FY 2027 that was much closer to the current FY 2026 outlier fixed dollar loss threshold, while only 3.9 percent of providers would be affected by the cap. As we discussed in the proposed rule, we also evaluated higher cap levels, including cap levels above 20 percent. While higher cap levels would reduce the number of providers affected by the policy, payment simulations indicated that they would have a correspondingly smaller effect on moderating growth in the fixed-dollar loss threshold amount. We explained in the proposed rule that we believe a 20-percent cap appropriately balances the objective of preserving access to outlier payments across a broader range of providers while limiting the policy's impact to a relatively small number of facilities with unusually high concentrations of outlier payments (91 FR 17734).

We also appreciate the comments about the consistency of the pool of providers hitting the outlier cap over multiple years. We further analyzed IPF outlier payments by provider from FY 2023 through FY 2025 to better understand whether or not providers would consistently exceed the proposed 20 percent outlier cap. We note that the proposed cap policy, which did not provide for any exclusions, would have

applied to all providers regardless of the number of annual IPF PPS stays. We found that providers with fewer stays would exceed the proposed 20 percent cap less consistently than providers with more stays. For example, 13 providers had greater than 20 percent outlier payments in FY 2025 and had 25 stays or fewer in that year; we found that only three of these providers would have exceeded 20 percent outliers in FY 2023 and FY 2024 as well. Similarly, among the nine providers that had greater than 20 percent outlier payments and between 25 and 50 stays in FY 2025, only three would have exceeded 20 percent outliers in FY 2023 and FY 2024. There were 19 providers with greater than 20 percent outlier payments and 50 or more stays in FY 2025, and we found that seven of these providers would have exceeded 20 percent outliers in all three years.

In response to the public comments, we are modifying our proposed outlier cap policy to apply to only providers with 50 or more stays per year. We find that applying the 20 percent cap to providers with 50 or more stays per year would impact 0.8 percent of providers in a typical year, as compared to 3.6 percent of providers under our proposed policy. At the same time, we estimate that if this policy were applied for FY 2027, the outlier fixed dollar loss threshold would be approximately \$39,390, which is lower than what it would be in the absence of a cap, resulting in 157 more providers receiving outlier payments. Approximately 1.7 percent of IPF PPS stays would qualify for outlier payments with the average outlier payment being \$19,054 per stay. As discussed in the following paragraphs, we are modifying the effective date of the proposed outlier cap policy to begin in FY 2028. We will continue monitoring claims and cost report data and take commenters' suggestions into consideration for future potential rulemaking.

Comment: A few commenters who disagreed with the proposed outlier cap stated that more analysis is needed to determine why outlier payments are concentrated among a small number of providers. These commenters analyzed IPF claims data and concluded that their statistical modeling only explained a limited share of variation in outlier payment patterns. They found that facilities whose outlier payments would reach the 20 percent cap were more likely to treat patients with a comorbidity and were more likely to offer ECT, which they concluded indicated that these were facilities that were better equipped for more intensive treatments for patients with more

complex needs. They also found that these facilities were more likely to be urban and to be teaching facilities and that variables like whether an IPF is a freestanding hospital or a unit and the IPF's wage index contributed more to variations in costs than patient characteristics did.

Some commenters expressed concern that a 20 percent cap on outlier payments could impact IPFs' willingness to treat patients requiring longer stays and more resource-intensive treatment, limiting access to care. A commenter stated that an outlier cap, by reducing reimbursement for very costly cases, could result in shorter lengths of stay for Medicare beneficiaries and a reluctance on the part of IPFs to treat patients who need ECT treatment. A commenter stated that our impact analysis showed that facilities impacted by the cap tend to serve a higher percentage of patients who are disabled, are dually eligible for Medicare and Medicaid, whose primary diagnosis is schizophrenia or schizoaffective disorder, and whose stays are longer, and concluded that these facilities are safety-net providers, and that their high costs are not likely driven by high routine costs like labor, real estate, and overhead. Instead, this commenter and others stated that the long lengths of stay often leading to outlier payments are due to the unavailability of appropriate discharge options.

Several commenters expressed concern that the effect of an outlier cap could incentivize IPFs whose outlier payments have been capped to turn away patients with high-cost needs or discharge patients prematurely, shifting costs for these patients' care to emergency rooms and increasing overall Medicare payments. One of these commenters recommended that we consider a higher cap of 25 to 30 percent to protect the outlier pool while preserving access at safety-net facilities, a minimum stay threshold to exempt low-volume facilities; add payment for various discharge pathways; and exempt facilities meeting certain safety-net criteria from the cap.

Another commenter also suggested modifications or exemptions for providers treating disproportionate numbers of high acuity or safety-net populations. Another suggested that CMS add modifications to the outlier cap policy to account for patient acuity, length-of-stay drivers outside provider control, and concentration of high-cost cases within certain facilities. Another commenter also stated that patients' stays may be extended while waiting for a bed to become available at an

appropriate facility for discharge (like a state facility or a skilled nursing facility), and pointed out that a facility may therefore have more outlier payments not as a result of their own costs, but because of insufficient capacity at long-term care facilities in the area. A commenter who disagreed with the cap stated that the policy would create a disincentive for IPFs to treat high-acuity patients, impacting emergency rooms, law enforcement, families, and community crisis centers. This commenter requested CMS withdraw the proposal, phase in, or delay implementation of the cap and conduct ongoing monitoring, reporting, and impact analysis on a variety of facility and patient-level characteristics. They also requested that CMS implement an exceptions process that would evaluate whether a facility's outlier payments reflect patient complexity or inappropriate billing or utilization.

Response: We appreciate the commenters' concerns regarding the effect of any policy changes on access to care for Medicare beneficiaries. Protecting access to care for Medicare beneficiaries has been central to our development of this reform of the outlier policy. In response to these concerns, we are modifying the effective date of the final outlier cap policy. We believe it is appropriate to delay the implementation of this policy until FY 2028 (that is, October 1, 2027) to allow for IPFs that receive a high share of outlier payments to make appropriate adjustments to their cost structures and business practices to ensure that access to care is not disrupted because of changes in outlier policy. In addition, we intend to conduct additional analysis of the potential drivers of cost that commenters noted in their responses. While we are sensitive to concerns that a cap on outlier payments would affect certain high-cost facilities, the concentration of outlier payments among a few facilities and a declining share of stays accompanied by an increasing fixed-dollar loss threshold has a corresponding impact on access to care at IPFs nationwide. Accordingly, as we discuss later in this final rule, we are finalizing our proposal to cap outlier payments at the provider level in order to increase access to care at IPFs nationwide.

We further note that commenters' concern about length of stay alone driving high outlier payments is not supported by the data. As we explained in the FY 2027 IPF PPS proposed rule (91 FR 17734) and earlier in this final rule, outlier stays tend to have higher daily routine charges, which drive

higher costs. Overall, these providers charge nearly twice as much per day as compared to the average (\$6,000 vs. \$2,600). We also note that as a per diem payment system, the IPF PPS inherently accounts for the cost impact of longer lengths of stay through higher IPF PPS payments.

We appreciate the comments regarding patient acuity and commenters advocating for modifications or exemptions for providers treating disproportionate numbers of high acuity patients. However, we remind readers that the IPF PPS payment framework currently accounts for patient acuity as a driver of cost. The IPF PPS provides for payment adjustments for a variety of patient and facility-level characteristics that broadly recognize the impact of these factors on resource use for a stay. These include adjustments for age, DRG, comorbid conditions, and an additional payment per unit of ECT. We further note that in FY 2025, we increased the ECT payment per treatment from \$385.58 to \$661.52 based on more recent cost information. Although commenters stated that IPFs receiving high outlier payments are more likely to offer ECT, we do not find that IPF PPS outlier payments are associated with the provision of ECT.

We likewise considered the comments pertaining to safety net populations. We considered establishing a provider-specific exceptions process. However, we believe that such an approach would increase administrative burden for both providers and the agency, require individualized determinations that may vary from year to year, and reduce predictability in payment policy. We believe that a uniform policy applied according to objective criteria provides greater transparency and administrative simplicity while maintaining consistency across providers.

We further note that our prior analyses have identified a relationship between per diem IPF costs and various measures of safety net status. At the inception of the IPF PPS, we explored the application of the disproportionate share hospital (DSH) variable used in other Medicare prospective payment systems (that is, the sum of the proportion of Medicare days of care provided to recipients of Supplemental Security Income and the proportion of the total days of care provided to Medicaid beneficiaries) for the IPF PPS. In the RY 2005 IPF PPS final rule (69 FR 66958 through 66959), we explained that the DSH variable was highly significant in our cost regressions; however, we found that facilities with higher DSH had lower per diem costs. We noted that a study for the American

Psychiatric Association also found the same results. We explained that the relationship of high DSH with lower costs could not be attributed to downward bias in the Medicaid proportion due to the IMD exclusion. We stated that this was because public psychiatric hospitals had lower costs on average than other types of IPFs. Therefore, we explained in the RY 2005 IPF PPS final rule that if we had proposed a DSH adjustment based on the regression analysis, IPFs with high DSH shares would have been paid lower per diem rates (69 FR 66958).

More recently, in the FY 2025 IPF PPS proposed rule, we discussed and solicited comments about our analysis of the relationship between IPF per diem cost and our construction of a Medicare Safety Net Index (MSNI) for our IPF provider population (89 FR 23196 through 23198). Subsequently, in the FY 2025 IPF PPS final rule (89 FR 64641 through 64642), we noted that the majority of commenters who responded to the RFI about a payment adjustment for MSNI opposed the addition of this adjustment factor under the construction presented in the proposed rule, either because of insufficient data to support the adjustment, because of the substantial decrease to the base rate, or because of the redistribution of resources away from IPFs with a low MSNI. We also stated that MedPAC recommended CMS conduct certain alternate analyses of the components of the MSNI.

As we discussed in the FY 2027 IPF PPS proposed rule, we identified that providers with a high share of outliers tend to have patients who are more often disabled (66.3 percent vs. 57.1 percent) or dual-eligible (68.1 percent vs. 60.8 percent). We intend to further study the relationship between safety net status and IPF costs, including outlier payments, and may consider proposing changes to the IPF PPS in the future, if appropriate.

With respect to the comments regarding challenges finding post-discharge placement, we note that the November 15, 2004 Inpatient Psychiatric Facility Prospective Payment System final rule (69 FR 66952) explains that the IPF PPS does not have an administrative necessary days policy and does not provide payment for days that do not meet an active level of treatment. Only a physician can determine the need for continued hospitalization and or discharge. If the physician determines continued inpatient hospitalization is medically necessary, it is conveyed through a physician recertification. When a patient falls below an active

level of care, the provider identifies the day as such on the claim, and it is not paid under the Inpatient Psychiatric Facility Prospective Payment System. Instead, the provider can bill, if applicable, Medicare Part B services.

We also appreciate the comments regarding facility-level factors such as urbanicity, wage index, teaching status, and whether an IPF is unit-based or freestanding of cost as drivers of outlier payments. We note that aside from facility type (unit-based or freestanding), each of these facility-level factors is already accounted for in the IPF PPS and, accordingly, in the outlier policy. As we discuss earlier in this final rule, we are evaluating whether additional sources of data could potentially improve the accuracy of the IPF wage index in the future. We also intend to explore whether certain drivers of cost that commenters identified, such as staffing intensity, could help explain structural cost differences between unit-based and freestanding IPFs.

We continue to analyze claims and cost report data to identify additional revisions to the IPF PPS that may improve the accuracy of the payment system in ways that are responsive to these commenters' concerns. As we have previously stated, the purpose of the outlier payment is to promote access to IPF care for those patients who require expensive care and to limit the financial risk of IPFs treating unusually costly patients.

Comment: A commenter supported efforts to reduce the outlier threshold for all providers but was concerned that a 20 percent cap would cut legitimate outlier payments. They requested that in place of a cap; CMS instruct the Medicare Administrative Contractors to assess claims with high outlier payments to target providers with high outlier payments on a case-by-case basis. Another commenter who disagreed with the outlier cap also discussed program integrity regarding outlier payments and stated that in place of a facility-level cap, CMS should pursue remedies targeted toward post-payment reviews and documentation requirements of providers with high outlier payments.

Response: We appreciate the comments regarding actions that CMS could take to ensure program integrity for IPF PPS outlier payments. While targeted audits, medical review, or other program integrity activities may be appropriate to address potential billing or documentation issues in individual cases, CMS does not believe they would address the broader payment policy concern identified in this rulemaking.

Specifically, the increasing concentration of outlier payments among a small number of providers contributes to growth in the fixed-dollar loss threshold amount, which affects access to outlier payments across the IPF PPS. Audits alone would not address this threshold-setting dynamic because they do not modify the methodology used to determine outlier payments prospectively. Our analysis indicates that the concentration of outlier payments among a small number of facilities is due to high fixed costs. In addition to the existing outlier reconciliation process, CMS continues to monitor IPFs and other providers for potential indicators of fraud, waste, and abuse and take appropriate action where necessary. In addition, we may consider changes to our instructions to the MACs in the future, if appropriate.

Comment: A commenter requested that CMS adopt a forecasting error adjustment for the outlier threshold to ensure total payments meet projected targets.

Response: We recognize that there can be differences between projected growth and actual growth of total payments. The IPF fixed dollar loss threshold is set prospectively, which means that the update relies on a mix of both historical data for part of the period for which the update is calculated and forecasted data for the remainder. Due to the uncertainty regarding future trends, forecast errors can be both positive and negative. For example, the forecast error for the IPF market basket has been both positive and negative during past years, and over longer periods of time the cumulative forecast has not deviated significantly from the historical measures. As we have previously stated, our longstanding methodology for updating the outlier fixed-loss threshold continues to rely on using the best available data to maintain outlier payments at 2 percent of total IPF PPS payments, and any deviations from this established approach are carefully considered based on specific data quality concerns rather than as standard practice. We will continue to monitor the IPF PPS outlier policy and propose the application of appropriate statistical methods when necessary to ensure the integrity of the outlier policy while maintaining the balance between protecting facilities from extraordinarily costly cases and ensuring adequacy of the Federal per diem base rate for non-outlier cases.

Comment: Several commenters requested that CMS not implement the proposed outlier cap but maintain the FY 2026 outlier threshold of \$39,360 for FY 2027 while conducting further

analysis to determine the drivers of outlier payments.

Response: In response to the suggestion that CMS hold the outlier threshold at \$39,360 for FY 2027, we remind readers that our longstanding outlier policy uses the latest available data to target outlier payments at 2 percent. Our modeling based on the latest available FY 2025 claims and cost information indicates that the current outlier threshold would result in 2.1 percent outlier payments in FY 2027. Therefore, our analysis indicates that maintaining the current outlier threshold of \$39,360 for FY 2027 would not be appropriate because it would not target outlier payments at 2 percent of total payments in FY 2027.

Final Decision: After consideration of the public comments we received, we are finalizing our proposal, with modification, to implement a provider-level outlier cap. Specifically, we are finalizing our proposal to limit outlier payments to 20 percent of a facility's total IPF PPS payments. However, we are deferring the effective date of this policy until October 1, 2027 (FY 2028). Additionally, we are applying an exception to the outlier cap policy for facilities with fewer than 50 stays during the cost reporting year. We are codifying this policy for the IPF PPS at § 412.424(d)(3)(i)(D) for discharges occurring in cost reporting periods beginning on or after October 1, 2027.

Under this policy, if an IPF exceeds the 20 percent facility-level cap, it will no longer receive an outlier payment for high-outlier cases. We will calculate and apply this cap on an interim basis on IPF PPS claims beginning in FY 2028. Because outlier payments are finalized at cost report settlement, we will apply this cap on an annual basis using the following methodology:

Step 1: Determine whether the number of IPF PPS stays during the facility's cost reporting period is greater than or equal to 50.

Step 2: Calculate the facility's total non-outlier payments (that is, IPF PPS payments excluding outlier payments) for all discharges occurring during the cost reporting year.

Step 3: Divide the facility's total non-outlier payments by 80 percent (0.8) to determine the maximum allowable total IPF PPS payment amount (including outlier payments and non-outlier payments).

Step 4: Subtract the provider's maximum allowable total IPF PPS payment from its actual total IPF PPS payment amount. If the result of this calculation is greater than 0, then the facility's total outlier payments exceed 20 percent of its total IPF PPS payments.

Step 5: If the facility's total outlier payments exceed the 20 percent cap, reduce the outlier payment by the result of the calculation in Step 4.

For example, if a facility has \$10 million in total IPF PPS payments (excluding outliers) and would otherwise receive \$3 million in outlier payments, the facility would have an actual total IPF PPS payment amount of \$13 million. Following the formula in Step 3, the provider's maximum allowable total IPF PPS payment amount would be \$10 million/0.8 = \$12.5 million. The facility's outlier payments would therefore be capped at \$2.5 million (20 percent of \$12.5 million).

In addition, for FY 2027, we are finalizing our proposal to update the fixed dollar loss threshold amount used under the IPF PPS outlier policy. For this FY 2027 IPF PPS rulemaking, consistent with our longstanding practice, based on an analysis of the latest available data (the March 2026 update of FY 2025 IPF claims) and rate increases, we believe it is necessary to update the fixed dollar loss threshold amount to maintain an outlier percentage that equals 2 percent of total estimated IPF PPS payments. Based on an analysis of these updated data, we estimate that IPF outlier payments as a percentage of total estimated payments are approximately 2.0 percent in FY 2026. Therefore, we are finalizing an update to the outlier threshold amount to \$40,750 to maintain estimated outlier payments at 2 percent of total estimated aggregate IPF payments for FY 2027.

2. Update to IPF Cost-to-Charge Ratio Ceilings

Under the IPF PPS, an outlier payment is made if an IPF's cost for a stay exceeds a fixed dollar loss threshold amount plus the IPF PPS amount. To establish an IPF's cost for a particular case, we multiply the IPF's reported charges on the discharge bill by its overall cost-to-charge ratio (CCR). This approach to determining an IPF's cost is consistent with the approach used under the IPPS and other PPSs. In the RY 2004 IPPS final rule (68 FR 34494), we implemented changes to the IPPS policy used to determine CCRs for IPPS hospitals, because we became aware that payment vulnerabilities resulted in inappropriate outlier payments. Under the IPPS, we established a statistical measure of accuracy for CCRs to ensure that aberrant CCR data did not result in inappropriate outlier payments.

As indicated in the RY 2005 IPF PPS final rule (69 FR 66961), we believe that the IPF outlier policy is susceptible to

the same payment vulnerabilities as the IPPS; therefore, we adopted a method to ensure the statistical accuracy of CCRs under the IPF PPS. Specifically, we adopted the following procedure in the RY 2005 IPF PPS final rule:

- Calculated two national ceilings, one for IPFs located in rural areas and one for IPFs located in urban areas.
- Computed the ceilings by first calculating the national average and the standard deviation of the CCR for both urban and rural IPFs using the most recent CCRs entered in the most recent Provider Specific File (PSF) available.

For FY 2027, we proposed to continue following this methodology. To determine the final rural and urban ceilings, we multiplied each of the standard deviations by 3 and added the result to the appropriate national CCR average (either rural or urban). The final upper threshold CCR for IPFs in FY 2027 is 2.4179 for rural IPFs and 1.8699 for urban IPFs, based on current CBSA-based geographic designations. If an IPF's CCR is above the applicable ceiling, the ratio is considered statistically inaccurate, and we assign the appropriate national (either rural or urban) median CCR to the IPF.

We apply the national median CCRs to the following situations:

- New IPFs that have not yet submitted their first Medicare cost report. We continue to use these national median CCRs until the facility's actual CCR can be computed using the first tentatively or final settled cost report.
- IPFs whose overall CCR is in excess of three standard deviations above the corresponding national geometric mean (that is, above the ceiling).
- Other IPFs for which the Medicare Administrative Contractor (MAC) obtains inaccurate or incomplete data with which to calculate a CCR.

We proposed to update the FY 2027 national median and ceiling CCRs for urban and rural IPFs based on the CCRs entered in the latest available IPF PPS PSF. We did not receive any comments on this proposal, and we are finalizing it as proposed.

Specifically, for FY 2027, to be used in each of the three situations listed previously, using the most recent CCRs entered in the CY 2025 PSF, we provide an estimated national median CCR of 0.5720 for rural IPFs and a national median CCR of 0.4200 for urban IPFs. These calculations are based on the IPF's location (either urban or rural) using the current CBSA-based geographic designations. A complete discussion regarding the national median CCRs appears in the RY 2005

IPF PPS final rule (69 FR 66961 through 66964).

V. Inpatient Psychiatric Facility Quality Reporting Program

A. Background and Statutory Authority

The IPF Quality Reporting Program is authorized by section 1886(s)(4) of the Act, and it applies to psychiatric hospitals and psychiatric units paid by Medicare under the IPF PPS (see section II.A. of this final rule for a detailed discussion of entities covered under the IPF PPS). We refer readers to the FY 2019 IPF PPS final rule (83 FR 38589) for a discussion of the background and statutory authority of the IPF Quality Reporting Program. We have codified procedural requirements and reconsideration and appeals procedures for IPF Quality Reporting Program decisions in our regulations at 42 CFR 412.433 and 412.434. Consistent with previous IPF Quality Reporting Program regulations, we refer to both inpatient psychiatric hospitals and psychiatric units as "inpatient psychiatric facilities" (at times, simply "facilities" where the context is clear) or "IPFs." This usage follows the terminology in our IPF PPS regulations at § 412.402.

Section 4125(b)(1) of the Consolidated Appropriations Act of 2023 (CAA, 2023) amended section 1886(s)(4)(E) of the Act, which requires IPFs participating in the IPF Quality Reporting Program to collect and submit to the Secretary certain standardized patient assessment data, using a standardized patient assessment instrument (PAI) developed by the Secretary, for RY 2028 (FY 2028) and each subsequent rate year. We discuss policies related to the implementation of the IPF-PAI in section IV.C. of this final rule.

B. Quality Measures in the IPF Quality Reporting Program

1. Removal of the Alcohol Use Brief Intervention Provided or Offered and Alcohol Use Brief Intervention (SUB-2/2a) Measure

In the FY 2027 IPF PPS proposed rule, we proposed to remove the Alcohol Use Brief Intervention Provided or Offered (SUB-2) and subset Alcohol Use Brief Intervention (SUB-2a) measure from the IPF Quality Reporting Program beginning with the calendar year (CY) 2026 reporting period/FY 2028 payment determination and subsequent years under measure removal factor 8—that is, that the costs associated with a measure outweigh the benefit of its continued use in the program—and measure removal factor 3—that is, that the measure can be replaced by a more broadly applicable measure. In the

proposed rule, we described how the IPF Quality Reporting Program measure set currently includes two measures that address alcohol use disorders: SUB-2/2a, described above, and Alcohol and Other Drug Use Disorder Treatment Provided or Offered at Discharge (SUB-3) and the subset Alcohol and Other Drug Use Disorder Treatment at Discharge (SUB-3a). SUB-2/2a assesses whether patients who screened positive for unhealthy alcohol use received or refused a brief alcohol use intervention during their IPF stay (80 FR 46699 through 46701). SUB-3/3a assesses whether patients who are identified as having an alcohol or drug use disorder are offered a referral or prescription for treatment at discharge. SUB-2/2a was adopted into the IPF Quality Reporting Program beginning with the CY 2016 reporting period (80 FR 46699 through 46701), and SUB-3/3a was adopted in the program beginning with the CY 2017 reporting period (81 FR 57239 through 57241). Both measures require facilities to submit chart-abstracted measure data for a sample of IPF patient records, in accordance with established sampling policies (80 FR 46717 through 46719).

The IPF Quality Reporting Program strives to maintain a balanced set of meaningful quality measures with minimal burden. To meet that goal, we evaluated both SUB-2/2a and SUB-3/3a to ensure that the IPF Quality Reporting Program measure set is responsive to our objectives for improving quality of care and minimizing burden for facilities. We conducted an internal analysis of performance data for SUB-2 and SUB-3 to determine performance gaps and greater potential for improvement. Mean and median scores for the most recent three years of performance for both measures show room for improvement—median scores on SUB-2 and SUB-3 ranged from 0.73 to 0.79 between 2023 and 2025⁷—but we observed no substantial difference in performance between the two measures.

While SUB-2 and SUB-3 are similar measures, with similar performance rates, SUB-3/3a captures a broader patient population than SUB-2/2a—specifically, it includes patients who have screened positive for either alcohol use disorder or substance use disorder while SUB-2/2a only includes patients who have screened positive for alcohol use disorder. Therefore, we proposed to remove the SUB-2/2a measure to reduce reporting burden associated with the IPF Quality Reporting Program. We estimated that this would reduce the collection of information burden for IPFs by \$13,110,832 per year and

⁷ CMS internal analysis.

eliminate CMS program costs for oversight of the measure. We stated that the costs of keeping the SUB-2/2a measure in the IPF Quality Reporting Program exceed the benefits of retaining the measure. The SUB-2/2a measure was also recently retired from The Joint Commission's ORYX® requirements effective CY 2026.

We proposed to remove the SUB-2/2 measure from the IPF Quality Reporting measure to reduce burden on facilities for collecting and reporting these data and because the measure can be replaced by SUB-3/3a, a more broadly applicable measure. However, we stated that we continue to believe that brief alcohol use interventions are valuable and encourage IPFs to continue to offer this intervention to patients for whom it is appropriate, should we finalize the removal of the SUB-2/2a measure from the program. We also recognize that the goals and priorities of an IPF stay vary among patients based on their clinical needs as well as personal preferences. By proposing to remove this measure, we intended for IPF clinicians to collaborate with patients to prioritize the types of activities and areas of focus that best support individual patient treatment goals while reducing the burden associated with the current collection of measures related to substance use treatment. While both SUB-2/2a and SUB-3/3a address alcohol use and show similar performance trends, the retention of SUB-3/3a in the program addresses both alcohol and substance use disorder treatment in the IPF setting while reducing the burden of having two measures addressing the same condition.

We received public comments on this proposal.

Comment: Many commenters supported removing SUB-2/2a, agreeing with CMS' rationale that it is duplicative of SUB-3/3a and other reporting expectations, and stated that its burden outweighs its usefulness in the program. Commenters stated that removal would streamline reporting and stated that reducing administrative burden would allow facilities to redirect time and resources to increase focus on patient care activities.

Response: We thank the commenters for their support and agree that the removal of this measure will alleviate reporting burden for facilities and may allow facilities to spend more time on patient care or quality improvement. We appreciate that they agree with our rationale for measure removal, that the costs associated with a measure outweigh the benefit of its continued use in the program, and that the

measure can be replaced by a more broadly applicable measure, SUB-3/3a.

Comment: Several commenters supported the removal of the measure, stating that performance has plateaued, topped out, or remained stagnant over three years, showing the measure is no longer driving meaningful improvement. A few commenters stated that SUB-2/2a has limited clinical usefulness, is not necessary for the IPF Quality Reporting Program, does not provide meaningful insight into IPF quality of care, and no longer provides sufficient clinical value. Some commenters stated that these concerns also apply to the SUB-3/3a measure.

Response: We thank the commenters for their support for removing SUB-2/2a and acknowledge that the consistent performance of this measure suggests it is no longer driving clinical quality improvement. We disagree with commenters that the same concerns regarding measure performance and clinical usefulness equally apply to the SUB-3/3a because we believe that it is still important and clinically meaningful for IPFs to address both alcohol use and substance use in the IPF setting. We are removing the SUB-2/2a measure from the IPF Quality Reporting Program because retaining SUB-3/3a in the program addresses both alcohol and substance use disorder treatment in the IPF setting while reducing the burden of having two measures addressing alcohol use.

Comment: A commenter supported removal stating that many state hospitals treat patients whose length of stay excludes them from SUB-2/2a patient population, making the measure's burden exceed its benefit for these facilities.

Response: We thank the commenter for their support and acknowledge that IPFs treating patients with stays greater than 120 days may find this measure less beneficial because it does not apply to much of their patient population.

Comment: Many commenters supported removing SUB-2/2a, stating that SUB-3/3a covers a broader patient population, preserves substance use disorder treatment reporting at discharge, or is duplicative of SUB-2/2a.

Response: We thank the commenters for their support and agree that SUB-3/3a covers a broader patient population and preserves the focus on treatment for substance use disorder.

Comment: Several commenters recommended removing SUB-3/3a stating that performance has plateaued. The Joint Commission announced it will stop maintaining related specifications

after 2026, and there is burden associated with reporting it.

Response: Because substance use disorder has negative effects on treatment outcomes and patient wellbeing it remains appropriate to retain a measure related to treatment of substance use disorder in the IPF Quality Reporting Program. We recognize that performance on SUB-3/3a has plateaued but are retaining the measure to ensure the IPF Quality Reporting Program continues to focus on this important condition. We acknowledge that The Joint Commission has announced it will no longer include SUB-3/3a as a requirement for data submission to ORYX; we understand this to be a part of The Joint Commission's overall transition away from chart-abstracted measures and will ensure that the specifications remain appropriate for reporting. We understand commenters' concerns regarding the burden of reporting this measure and continue to evaluate potential lower burden options to collect data regarding substance use treatment in the IPF setting.

Comment: Some commenters expressed concern about removal of measures from the IPF Quality Reporting Program, including the removal of SUB-2/2a, stating that quality measures have multiple benefits, including driving quality improvement and providing information to the public. Some commenters stated that alcohol use, substance use, tobacco use, and related interventions are directly tied to behavioral health outcomes, physical and mental health, comprehensive patient care, and treatment quality in psychiatric settings.

Response: We agree that alcohol use, substance use, tobacco use, and related interventions are important components of behavioral health care and overall treatment quality. IPFs are responsible for providing clinically appropriate care regardless of whether treatment for these conditions is measured in the IPF Quality Reporting Program. We proposed removal of SUB-2/2a to maintain a balanced measure set with minimal burden and note that SUB-3/3a captures a broader patient population to continue supporting the program's objectives.

Comment: A commenter stated that the SUB-2/2a performance should not justify removal because 21 to 27 percent of patients who screened positive still did not receive or refuse a brief intervention, and the plateau supports intensified focus and technical assistance rather than removing the measure and eliminating accountability. This commenter cited evidence

supporting the effectiveness of hospital-based Screening, Brief Intervention, Referral to Treatment (SBIRT) approach.

Response: We appreciate this feedback. We note that SUB-2/2a and SUB-3/3a performance showed similar room for improvement. By retaining SUB-3/3a we expect that we will retain a focus on treatment for substance use disorders, including alcohol use disorder, while reducing data collection and reporting burden. While providing technical assistance to improve measure performance is outside the scope of the IPF Quality Reporting Program, we agree with commenters regarding the effectiveness of SBIRT interventions and note that the Substance Abuse and Mental Health Services Administration (SAMHSA) has information regarding systems-level implementation of SBIRT which provides resources to support health systems in addressing substance use disorder including through referrals.⁸

Comment: A few commenters who opposed removal stated that SUB-3/3a may not provide equivalent alcohol-specific coverage, stated that offering intervention during treatment is different from offering help at or after discharge, and that patients may be less likely to receive brief interventions through referral at discharge.

Response: Clinicians should use their clinical judgment to determine what intervention or referral is most appropriate for each patient, based on the patient's clinical needs and preferences, both during the stay and at discharge. For that reason, and to reduce burden, we are removing SUB-2/2a while retaining SUB-3/3a, which captures a broader patient population and continues to support substance use disorder treatment at discharge.

Comment: Some commenters stated that co-occurring substance use disorders are common among patients with inpatient psychiatric stays, alcohol use disorder is highly prevalent, and alcohol or tobacco use is associated with readmissions, treatment resistance, mortality, long-term recovery concerns, and missed treatment opportunities. Some commenters stated that screening, brief intervention, motivational interviewing, and personalized referral to treatment can improve insight, post-discharge engagement, overall wellness, and rehospitalization or readmission outcomes.

Response: We agree that co-occurring substance use disorders are common in

the IPF population and that there are many available evidence-based treatments that can support recovery and other outcomes. Removing SUB-2/2a does not change the responsibility of IPFs to deliver high-quality care, and we encourage IPFs to continue to use clinical judgment and shared decision-making to determine which interventions are appropriate for each patient. We are removing the measure to reduce burden while retaining SUB-3/3a, which continues to address substance use disorder treatment at discharge and captures a broader patient population.

Comment: A few commenters acknowledged burden, duplication, limitations, or accountability concerns with the current measures, but recommended that CMS provide clear justification or alternative accountability methods, and reconsider or delay removal until improved replacement measures, technical assistance, or adequate accountability measures are operational.

Response: We appreciate the concern and recognize commenters' interest in preserving accountability while addressing burden. At this time, removing SUB-2/2a is appropriate as the measure's costs outweigh its benefits and SUB-3/3a remains in the program to continue publicly reporting substance use-related interventions. We continuously review the IPF Quality Reporting Program measure set to maintain a balanced set of meaningful quality measures with minimal burden, and we may consider future IPF-PAI or measure additions on topics related to substance use and treatment as program needs and priorities evolve.

Comment: A commenter opposed removal, stating concerns that removal could introduce or reinforce diagnostic upcoding and make patients who need substance use related counseling less likely to receive proper care.

Response: The removal of SUB-2/2a will not impact an IPF's obligation to code accurately or to provide medically necessary, high-quality care consistent with the patient's clinical needs and Medicare requirements. We encourage IPFs to continue to use appropriate clinical judgment and shared decision-making in determining whether substance use related counseling or other interventions are warranted.

Comment: A commenter recommended that CMS consider alcohol use assessment for all new admissions because of safety risks, including potential contraband access during transport or admission, and stated that future safety-related measures or IPF-PAI assessments

should acknowledge the importance of early detection of alcohol use.

Response: We thank the commenter for this recommendation and will consider it as we continue to evaluate measures for the IPF Quality Reporting Program.

Final Decision: After consideration of the comments received, we are finalizing the removal of the SUB-2/2a measure as proposed.

2. Removal of the Tobacco Use Treatment Provided or Offered at Discharge (TOB-3/3a) Measure

We proposed to remove the Tobacco Use Treatment Provided or Offered at Discharge (TOB-3) and subset Tobacco Use Treatment at Discharge (TOB-3a) measure from the IPF Quality Reporting Program beginning with the CY 2026 reporting period/FY 2028 payment determination and subsequent years under measure removal factor 8, the costs associated with a measure outweigh the benefit of its continued use in the program. TOB-3 assesses whether patients were offered evidence-based outpatient counseling and offered a prescription for FDA-approved cessation medication upon discharge. TOB-3a identifies the subset of those IPF patients who received a referral and received a prescription for FDA-approved cessation medication upon discharge. This measure began to be used in the IPF Quality Reporting Program with the CY 2016 reporting period (80 FR 46696 through 46699), and requires facilities to submit chart-abstracted measure data on a sample of IPF patient records, in accordance with established sampling policies (80 FR 46717 through 46719). Our internal analysis of performance data for TOB-3 found median scores on TOB-3 from 0.58 to 0.63 between 2023 and 2025, remaining stable over time, with no indication of improvement. This suggests that this measure is no longer driving facilities to increase their offerings of these interventions.

We stated in the proposed rule that the IPF Quality Reporting Program strives to maintain a balanced set of meaningful quality measures with minimal burden. Removal of this measure would reduce collection of information burden for IPFs by \$13,110,832⁹ per year and eliminate CMS program costs for oversight of the measure. We stated we recognize that smoking and other forms of tobacco use are common among IPF patients^{10 11} and

⁹For further discussion of the collection of information costs of this measure, see section V.C. of this final rule.

¹⁰Kagabo, R., Gordon, A. J., & Okuyemi, K. (2020). Smoking cessation in inpatient psychiatry

⁸ SAMHSA, Systems-Level Implementation of Screening, Brief Intervention, and Referral to Treatment Available at <https://library.samhsa.gov/sites/default/files/sma13-4741.pdf>.

it would remain appropriate for IPFs to offer evidence-based tobacco cessation counseling and FDA-approved cessation medication to patients for whom it is clinically indicated even if we finalized the proposal to remove the TOB-3/3a measure from the program. We noted the TOB-3/3a measure was also recently retired from The Joint Commission's ORYX® requirements effective CY 2026.¹² Given the burden, we believe the costs of keeping the measure in the IPF Quality Reporting Program now exceed the benefits of retaining the measure.

We received public comments on this proposal.

Comment: Many commenters supported removing TOB-3/3a, with some stating that the measure creates administrative burden without providing sufficient clinical value; the cost outweighs the benefit; the measure no longer drives meaningful improvement as demonstrated by consistent measure performance; and that reducing duplicative or low-value reporting would allow IPFs to focus more time and resources on higher-value activities such as direct patient care and clinically meaningful quality improvement.

Response: We thank the commenters for their support and agree that removing the TOB-3/3a measure will reduce administrative burden which will allow focus on patient care and other quality improvement efforts.

Comment: A few commenters supported removal and stated that IPF stays are short and focused on mental health concerns or acute psychiatric stabilization. These commenters stated that acute mental health crises are often not the most appropriate time to address tobacco use and that more routine or stable care settings may be more appropriate intervention points.

Response: We thank the commenters for their support and appreciate their perspective on the scope of the inpatient psychiatric stay. However, we

encourage IPFs to continue to deliver clinically appropriate, patient-centered care, which may include lifestyle interventions, including tobacco and nicotine cessation, when those are appropriate for the individual patient.

Comment: A few commenters supported the removal of the measure and stated that discharging patients with nicotine replacement therapy may entail clinical risks when cessation programs are inaccessible, community follow-up support is limited, IPF staff cannot ensure continued tobacco cessation support, and patients may return to tobacco use after discharge.

Response: We acknowledge the commenters' feedback. The Department of Health and Human Services has long recognized tobacco use as a leading preventable cause of disease, disability, and death in the United States and has supported evidence-based efforts to reduce tobacco use across health care settings. Evidence demonstrates that tobacco cessation interventions, including counseling and FDA-approved cessation medications, are safe and effective and can improve health outcomes, including among individuals with behavioral health conditions.^{13 14} We acknowledge the commenters' concern about the risks of using nicotine replacement therapy while resuming tobacco or other nicotine use, but we disagree that the risks outweigh the potential benefits to patients of reducing or eliminating tobacco use. We encourage IPFs to continue to provide clinically appropriate tobacco cessation counseling or medication when indicated and when aligned with the patient's goals for treatment.

Comment: A few commenters expressed support for removing the TOB-3/3a measure, stating that it does not adequately address the current patient population, other nicotine delivery systems, expanded access to medications, patient interest in tobacco cessation at discharge, or the need to measure tobacco use and treatment received at the facility rather than discharge practices. A few commenters noted limitations in the current measure, including the inability to track

patient refusal, the prevalence of workarounds for hospitals, lack of data for improvement, and that the measure tracks facility processes instead of patient outcomes. A few commenters recommended alternative ways to measure tobacco use and treatment received at the facility or other pathways for reducing nicotine use. A commenter recommended that the measure could be reconsidered and updated in the future.

Response: We thank the commenters for identifying their concerns with TOB-3/3a and for their suggestions regarding other dimensions of tobacco and nicotine use and cessation treatment that could be appropriate for quality measures. We will continue to evaluate ways to address tobacco and nicotine use in future IPF-PAI or measure development.

Comment: A few commenters supported the removal of the measure but stated that IPFs should continue evidence-based tobacco cessation counseling, education about available resources, care coordination, smoking cessation counseling, cessation medications, and other appropriate interventions when clinically indicated or aligned with patient-centered treatment planning.

Response: We thank the commenters for the support and agree that IPFs should continue to provide appropriate interventions around tobacco and nicotine cessation when clinically indicated.

Comment: Several commenters opposed the removal of this measure, stating that alcohol use, substance use, and tobacco use are closely tied to outcomes, and that appropriate screenings and cessation interventions are part of comprehensive patient care, improving behavioral health outcomes. Several commenters stated that tobacco use, alcohol use, and co-occurring substance use disorders are common among patients in IPFs, that tobacco and alcohol use are linked to mortality and worse outcomes, and that tobacco use can complicate psychiatric treatment, affect psychiatric medications, and worsen behavioral health symptoms or recovery. Several commenters cited evidence supporting alcohol and tobacco interventions and treatment during hospitalization or at discharge; they stated these interventions can improve outcomes, reduce readmissions or costs, improve quit rates, support recovery, or improve mood and quality of life.

Response: We agree that these are important issues in the care of IPF patients. However, removing TOB-3/3a does not change an IPFs' ability to

treatment facilities: A review. *Addictive Behaviors Reports*, 11, 100255. <https://doi.org/10.1016/j.abrep.2020.100255>.

¹¹ Fornaro, M., Carvalho, A. F., De Prisco, M., Mondin, A. M., Billeci, M., Selby, P., Iasevoli, F., Berk, M., Castle, D. J., & De Bartolomeis, A. (2021). The prevalence, odds, predictors, and management of tobacco use disorder or nicotine dependence among people with severe mental illness: Systematic review and meta-analysis. *Neuroscience & Biobehavioral Reviews*, 132, 289–303. <https://doi.org/10.1016/j.neubiorev.2021.11.039>.

¹² The Joint Commission. (Oct. 2025). 2026 ORYX Performance Measurement Reporting Requirements. Available at <https://jointcommission-ddsp.atlassian.net/wiki/spaces/DCS/pages/1030619137/2026+ORYX+Performance+Measurement+Reporting+Requirements>. Access on: December 17, 2025.

¹³ Rigotti NA, Kruse GR, Livingstone-Banks J, Hartmann-Boyce J. Treatment of Tobacco Smoking: A Review. *JAMA*. 2022;327(6):566–577. doi:10.1001/jama.2022.0395.

¹⁴ Anthenelli RM, Benowitz NL, West R, St. Aubin L, McRae T, Lawrence D, Ascher J, Russ C, Krishen A, & Evins AE (2016). Neuropsychiatric safety and efficacy of varenicline, bupropion, and nicotine patch in smokers with and without psychiatric disorders (EAGLES): A double-blind, randomised, placebo-controlled clinical trial. *The Lancet*, 387(10037), 2507–2520. [https://doi.org/10.1016/S0140-6736\(16\)30272-0](https://doi.org/10.1016/S0140-6736(16)30272-0).

provide clinically appropriate tobacco, alcohol, or substance use interventions when indicated, and we encourage IPFs to continue to use clinical judgment in developing care plans that address each patient's individual needs.

Comment: Many commenters opposed removal stating that quality measures support accountability, transparency, visibility into patient outcomes and facility performance, data on interventions offered or received, and incentives for health care professionals or facilities to address tobacco dependence, tobacco cessation, and substance use treatment.

Response: We note that we proposed to remove the TOB-3/3a measure because the costs associated with reporting measure data outweighs the measure's benefits in the IPF Quality Reporting Program, and we are removing the measure to reduce reporting burden on IPFs. The TOB-3/3a measure requires facilities to submit chart-abstracted measure data on a sample of IPF patient records. Because chart-abstracted is a resource intensive process the TOB-3/3a burden is costly to maintain in the program. We continue to recognize the value of accountability and transparency and encourage IPFs to provide clinically appropriate tobacco cessation counseling and medication when indicated, even in the absence of a publicly reported measure.

Comment: Several commenters recommended that CMS reconsider removal, clearly justify removal, consider alternative metrics or approaches, or delay removal until adequate replacement or improved measures are operational.

Response: In deciding to propose to remove the TOB-3/3a measure, we carefully evaluated the IPF Quality Reporting Program's measure to ensure that we maintain a balanced set of meaningful quality measures with minimal burden. As part of this evaluation, we determined that the costs associated with the TOB-3/3a measure outweigh the benefits of continuing to maintain the measure in the IPF Quality Reporting Program. That is, that the costs associated with annual reporting on this chart-abstracted measure were not proportional to the benefits of keeping the measure in the program. We will continue to evaluate ways to address tobacco and nicotine use in future IPF-PAI or measure development. We thank the commenters for their recommendations related to potential replacements for the TOB-3/3a measure.

Comment: A few commenters stated that plateaued or low performance does

not justify removal. They expressed concern that TOB-3/3a performance remains low and recommended that stable performance should lead CMS to intensify focus, maintain incentives, or improve performance rather than remove the measure. A commenter recommended that CMS consider performance improvement rather than removal, including targeted technical assistance, provider education, or modified measure specifications to move performance above the plateau before eliminating accountability entirely.

Response: Although TOB-3/3a performance showed room for improvement we note that annual reporting of this measure, which is accomplished through chart abstraction of a sample of patients, is time-consuming for IPFs and that, as other commenters described, it does not fully address current tobacco use patterns. We refer readers to section VI.C.3 of this final rule for details on the estimated decrease in information collection burden for IPFs by removing this measure. We note that the SBIRT approach (described in more detail in response to comments on the removal of the SUB-2/2a measure in section V.B.1. of this final rule) can be used for addressing nicotine use.¹⁵ We continue to encourage IPFs to provide clinically appropriate interventions for patients who use nicotine. Removing this measure reduces burden now while allowing us to consider alternatives in future rulemaking if a more effective or less burdensome measure can better address this topic.

Comment: A few commenters acknowledged administrative burden, duplication, or limitations in current measures, but stated that removal without an improved measure could reduce clinician attention to tobacco use or lose useful accountability while failing to address patient refusal, patient progress, and the realities of inpatient treatment. A commenter expressed concern that removing TOB-3/3a could reduce the number of clinicians asking about tobacco use and recommended that CMS develop a better measure or revise the current measure to provide better data. A few commenters recommended replacing TOB-3/3a with the Tobacco Use Screening and Cessation Intervention measure and stated that it would support tobacco use treatment reporting, encourage IPFs to offer cessation interventions, and

improve outcomes for people with behavioral health conditions. A commenter stated that CMS should not remove TOB-3/3a before a replacement or bridge is operational, and that the proposed IPF-PAI does not currently include tobacco use assessment items and would not be fully implemented for several years, creating a gap in addressing tobacco use.

Response: We appreciate these comments. We are removing TOB-3/3a to reduce burden in the IPF Quality Reporting Program, while encouraging IPFs to continue to address tobacco use when clinically appropriate. Although it is reasonable to expect that the IPF Quality Reporting Program influences clinical quality and care—by, for example, emphasizing certain care processes or outcomes—clinical judgment and shared decision-making with patients inform treatment planning. We also remain open to potential future IPF-PAI items or better, less burdensome measures on the topic of tobacco and nicotine use.

Comment: A commenter opposed removal stating that removing TOB-3/3a could introduce or reinforce diagnostic upcoding and make patients needing substance abuse counseling less likely to receive proper care.

Response: The removal of TOB-3/3a does not impact IPFs' obligation to code accurately and to provide medically appropriate, high-quality care consistent with the patient's clinical needs and Medicare requirements. We encourage IPFs to continue to use appropriate clinical judgment and shared decision-making in determining whether tobacco cessation counseling or other interventions are warranted, regardless of whether this specific measure remains in the program.

In addition, as discussed above, we recognize the prevalence of nicotine use among patients treated in IPFs, and the importance of interventions and treatment. Therefore, we also solicited comment on alternative ways to address this topic, potentially through the proposed standardized patient assessment, the IPF Patient Assessment Instrument (IPF-PAI), described in Section IV.C. of this final rule. We invited comments on how to assess nicotine use (for example, mode of delivery, frequency of use, level of dependence) as well as treatments and interventions for nicotine use (for example, type of treatment or intervention, timing of delivery).

We received public comments.

Comment: A commenter recommended aligning tobacco use tracking with Draft United States Core Data for Interoperability (USCDI) v7 to

¹⁵ SAMHSA, Systems-Level Implementation of Screening, Brief Intervention, and Referral to Treatment Available at <https://library.samhsa.gov/sites/default/files/sma13-4741.pdf>.

support consistency and data sharing across healthcare settings, and advocated for well-vetted, standardized tools that are accessible to EHR developers. A commenter recommended that future tobacco use treatment measures include digital and web-based tobacco cessation interventions so IPFs can be reimbursed when referring patients to these programs at discharge. A commenter stated that pay-for-

performance could provide a stronger incentive than pay-for-reporting for improving tobacco-related metrics, and encouraged us to support community programs that help reduce tobacco use after IPF patients are discharged. A commenter recommended that CMS not add assessment items on nicotine use to the IPF-PAI.

Response: We thank the commenters for these recommendations and will consider these in future rulemaking.

Final Decision: After consideration of the comments received, we are finalizing the removal of the TOB-3/3a measure as proposed.

3. Summary of IPF Quality Reporting Program Measures for Future Years

Table 3 sets forth the measures in the FY 2028 IPF Quality Reporting Program and reflects the measures being removed in this final rule.

TABLE 3: IPF QUALITY REPORTING PROGRAM MEASURE SET FOR THE FY 2028 IPF QUALITY REPORTING PROGRAM

Consensus-Based Entity (CBE) #	Measure ID	Measure
N/A*	HBIPS-2	Hours of Physical Restraint Use
N/A*	HBIPS-3	Hours of Seclusion Use
N/A	FAPH	Follow-Up After Psychiatric Hospitalization
N/A*	SUB-3 and SUB-3a	Alcohol and Other Drug Use Disorder Treatment Provided or Offered at Discharge and SUB-3a Alcohol and Other Drug Use Disorder Treatment at Discharge
N/A*	IMM-2	Influenza Immunization
N/A*	TR-1	Transition Record with Specified Elements Received by Discharged Patients (Discharges from an Inpatient Facility to Home/Self Care or Any Other Site of Care)
N/A	SMD	Screening for Metabolic Disorders
N/A	PIX	Psychiatric Inpatient Experience Survey
2860	IPF Readmission	Thirty-Day All-Cause Unplanned Readmission Following Psychiatric Hospitalization in an Inpatient Psychiatric Facility
N/A*	Med Cont	Medication Continuation Following Inpatient Psychiatric Discharge

* Measure is no longer endorsed by the CBE but was endorsed at the time of adoption. We note that although section 1886(s)(4)(D)(i) of the Act generally requires measures specified by the Secretary be endorsed by the entity with a contract under section 1890(a) of the Act, section 1886(s)(4)(D)(ii) of the Act states that in the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1890(a) of the Act, the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary. We attempted to find available measures for each of these clinical topics that have been endorsed or adopted by a consensus organization and found no other feasible and practical measures on the topics for the IPF setting.

Table 4 sets forth the measures in the FY 2029 IPF Quality Reporting Program.

TABLE 4: IPF QUALITY REPORTING PROGRAM MEASURE SET FOR THE FY 2029 IPF QUALITY REPORTING PROGRAM

CBE #	Measure ID	Measure
N/A*	HBIPS-2	Hours of Physical Restraint Use
N/A*	HBIPS-3	Hours of Seclusion Use
N/A	FAPH	Follow-Up After Psychiatric Hospitalization
N/A*	SUB-3 and SUB-3a	Alcohol and Other Drug Use Disorder Treatment Provided or Offered at Discharge and SUB-3a Alcohol and Other Drug Use Disorder Treatment at Discharge
N/A*	IMM-2	Influenza Immunization
N/A*	TR-1	Transition Record with Specified Elements Received by Discharged Patients (Discharges from an Inpatient Facility to Home/Self Care or Any Other Site of Care)
N/A	SMD	Screening for Metabolic Disorders
N/A	PIX	Psychiatric Inpatient Experience Survey
2860	IPF Readmission	Thirty-Day All-Cause Unplanned Readmission Following Psychiatric Hospitalization in an Inpatient Psychiatric Facility
N/A*	Med Cont	Medication Continuation Following Inpatient Psychiatric Discharge
N/A	IPF ED Visit	30-Day Risk-Standardized All-Cause Emergency Department Visit Following an Inpatient Psychiatric Facility Discharge

* Measure is no longer endorsed by the CBE but was endorsed at the time of adoption. We note that although section 1886(s)(4)(D)(i) of the Act generally requires measures specified by the Secretary be endorsed by the entity with a contract under section 1890(a) of the Act, section 1886(s)(4)(D)(ii) of the Act states that in the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1890(a) of the Act, the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary. We attempted to find available measures for each of these clinical topics that have been endorsed or adopted by a consensus organization and found no other feasible and practical measures on the topics for the IPF setting.

C. Implementation of the Inpatient Psychiatric Facilities Patient Assessment Instrument (IPF-PAI)

1. Background

As required by section 1886(s)(4)(E) of the Act, IPFs must submit such data with respect to admissions and discharges of an individual from the IPF, and more frequently as the Secretary determines appropriate. For IPFs to meet this new data collection and reporting requirement for FY 2028 and each subsequent year, the Secretary must implement a standardized PAI that collects data with respect to the following categories: functional status; cognitive function and mental status; special services, treatments, and interventions for psychiatric conditions; medical conditions and comorbidities; impairments; and other categories as determined appropriate by the Secretary.¹⁶ To enable meaningful

comparison of the patient assessment data across all IPFs submitting data, the IPF-PAI must be standardized. Each IPF must administer the same assessment instrument with identical questions, response options, standards and definitions.¹⁷

In the FY 2025 IPF PPS proposed rule, we solicited comments for consideration in the development of a standardized assessment instrument (89 FR 23200 through 23204). Specifically, we solicited comment on the following considerations: a set of principles for selecting standardized patient assessment data elements¹⁸ (to include overall clinical relevance; interoperable exchange to facilitate care coordination during transitions in care; ability to

describe medical complexity and risk factors that can inform both payment and quality; and scientific reliability and validity, including general consensus agreement for its usability); any patient assessments recommended for use in the IPF-PAI on clinical topics related to the data categories required by statute; implementation considerations; and the relationship between the IPF-PAI and the IPF Quality Reporting Program, such as use of IPF-PAI data in program measures. In the FY 2026 IPF PPS proposed rule, we further solicited comments for consideration with respect to potential interoperable exchange of IPF-PAI data using the HL7® Fast Healthcare Interoperability Resources® (FHIR®)¹⁹ standards (90 FR 18520 through 18523).

¹⁶ Sections 1886(s)(4)(E)(ii)(I) through 1886(s)(4)(E)(ii)(VI) of the Act.

¹⁷ We note that while the data elements of the IPF-PAI would be standardized—that is, identical question and identical sets of response options—standardization does not extend to the order of the data elements within the instrument.

¹⁸ While this RFI discussed “data elements,” we note that we have transitioned to using the term “assessment items” to refer to the components of the standardized patient assessment.

¹⁹ FHIR® is the registered trademark of Health Level Seven International (HL7) and the use does not constitute endorsement by HL7.

2. Considerations in Selecting Assessment Items and Related Data Elements for the IPF-PAI

Between 2023 and 2025, CMS and its contractors engaged in a multi-stage process to conceptualize and scope a new, statutorily mandated PAI for the IPF setting that included: identifying key clinical topic areas within the broad CAA, 2023 data categories, identifying and evaluating candidate assessment items within those topic areas, and conducting formative (alpha) and field (beta) testing on those candidate assessment items. This process also included engagement with subject matter experts, clinicians and administrators at IPFs, and individuals who have experience as patients in an IPF setting, as well as guidance from interoperability experts on how to structure assessment items and their related data elements so that the patient-level data that are collected by the IPF-PAI would be interoperable and aligned with current health IT standards.

We first identified key topics and candidate assessment items that aligned with the data categories identified in section 1886(s)(4)(E)(ii) of the Act by reviewing clinical practice guidelines; papers and reports from academic journals, government agencies, and other organizations; clinical assessments related to inpatient psychiatric care; and existing standardized patient assessment data elements used in other provider settings. We reviewed the United States Core Data for Interoperability (USCDI)²⁰ and United States Core Data for Interoperability (USCDI)+ Behavioral Health²¹ data elements to understand the interoperable data landscape for inpatient acute care as well as outpatient and ambulatory behavioral health care. We also considered comments submitted in response to the requests for information in the FY 2025 IPF PPS final rule (89 FR 64645 through 89 FR 64650) described above. Candidate assessment items were reviewed for relevance and feasibility for the IPF setting, as well as the potential to reflect resource use or quality of care. An initial list of candidate assessment items selected from our review was advanced to subsequent phases of testing and expert input. Formative (alpha) testing was conducted to evaluate the feasibility and face validity of candidate assessment items in the IPF setting. Field (beta)

testing was conducted to assess interrater reliability (IRR),²² estimate burden, and to confirm content validity and feasibility in the IPF setting. More information about the design and results of the testing is available in the IPF-PAI Testing Report, available under IPF-PAI Development and Testing resources at <https://qualitynet.cms.gov/ipf/pai>. In addition, a technical expert panel (TEP) was convened by the IPF-PAI development contractor to give input on the extent to which topics of assessment items were clinically relevant to patient care in IPFs, likely to inform CMS' understanding of resource use or costs of care, and considered feasible and relatively low burden to collect. The TEP included clinicians and administrators at IPFs, behavioral health clinicians, academic researchers, health information technology specialists, and individuals who have experience as patients in an IPF setting. More information on the two meetings of the TEP held during IPF-PAI development is available under IPF-PAI Development and Testing resources at <https://qualitynet.cms.gov/ipf/pai>.

3. Implementation of the Inpatient Psychiatric Facilities Patient Assessment Instrument (IPF-PAI) in the IPF Quality Reporting Program

a. IPF-PAI

In the FY 2027 IPF PPS proposed rule, we proposed to implement the IPF-PAI as the assessment instrument for the submission of standardized patient assessment data as required by section 1886(s)(4)(E)(ii) of the Act for all patients aged 18 and older. This initial version of the IPF-PAI is intended to meet our statutory obligation to collect standardized patient assessment data on each of the statutorily-delineated data categories while being mindful of reporting burden on IPFs; we purposefully selected a minimal set of assessment items to propose. We reiterate that the IPF Quality Reporting Program strives to maintain a minimal set of requirements while meeting statutory requirements and encouraging quality through transparency and public reporting. To that end, the IPF-PAI proposed in the FY 2027 IPF PPS proposed rule was also intended to establish a structure and processes for data collection and submission that we could modify or expand through future rulemaking, to stay responsive to priorities of IPF quality and payment. We stated that future enhancements

may include the addition, removal, or changes of assessment items, but also that we anticipated using results and feedback from the proposed IPF-PAI to propose revisions or improvements to policies that will increase utility or reduce burden of the IPF-PAI for patients and IPFs.

We proposed that IPFs paid under the IPF PPS be required to complete the IPF-PAI for all patients aged 18 and older. Assessment items would be administered at admission and discharge, except where specified in the proposals. Later in this section, we discuss the standardized patient assessment items and related data elements that were proposed for the initial version of the IPF-PAI. We refer readers to section V.C.4. of this final rule for more information on the method and schedule for data submission, as well as compliance thresholds for annual payment determination under the IPF Quality Reporting Program.

We acknowledged that this new requirement of the IPF Quality Reporting Program may impact workflow and increase administrative burden, especially early in the implementation of the IPF-PAI as IPFs learn about and become familiar with the assessment and work to integrate it into their workflows. We proposed that the assessment items discussed in section IV.C.3.b of the FY 2027 IPF PPS proposed rule would be collected at admission and discharge. In the proposed rule, we estimated that completing both assessments for a patient would take 14.7 minutes, and that most administrative and clinical data on the IPF-PAI would be available in the patient's medical record as part of routine medical record keeping practices. We refer readers to section VI.C.3. of this final rule for discussion of our revised estimated costs associated with the collection of the IPF-PAI based on this final rule.

We proposed to codify the IPF-PAI as part of the IPF Quality Reporting Program at § 412.433(a) and (d) by adding "standardized patient assessment data" in the description of the statutory authority and as a type of data that IPFs that participate in the IPF Quality Reporting Program must submit to CMS.

We received public comments on this proposal.

Comment: Many commenters supported the proposal to adopt the IPF-PAI into the IPF Quality Reporting Program based on its potential to provide comparable data across IPFs, support care coordination, and facilitate more consistent data collection to improve patient care as well as to

²⁰ <https://www.healthit.gov/isp/united-states-core-data-interoperability-uscdi>. Accessed February 4, 2026.

²¹ <https://www.healthit.gov/topic/interoperability/uscdi-plus>. Accessed February 4, 2026.

²² Interrater reliability is the extent of agreement among data collectors. See: McHugh, M.L., 2012. Interrater reliability: the kappa statistic. *Biochemia medica*, 22(3), pp. 276–282.

inform future quality measurement and policy development.

Response: We thank the commenters for their support and agree that collecting standardized patient assessment data across IPFs will support the IPF PPS and the IPF Quality Reporting Program and will create infrastructure that has the potential to improve interoperable data exchange.

Comment: Several commenters stated that the IPF-PAI, as proposed, is focused on administrative data rather than clinical assessment, does not fully capture clinically meaningful information or outcomes and is not aligned with inpatient psychiatric practice. A commenter further stated that the proposed IPF-PAI is not clinically meaningful, and would add burden without improving treatment planning, psychiatric hospital quality, or mental health outcome measurement. A few commenters expressed concern that requiring a standardized assessment for all patients may oversimplify complex mental health conditions, with the practical effect of constraining independent clinical judgment and undermining the inherently individualized psychiatric evaluation process.

Response: We do not agree that the IPF-PAI is primarily administrative nor misaligned with inpatient psychiatric practice. While the IPF-PAI does include administrative items, these are limited to the items necessary for record matching and database management. The instrument was designed as an initial set of standardized items that includes statutorily-mandated and clinically relevant information about patient complexity and resource use, and is not intended to replace clinical assessment, intake, or treatment planning. We note that we are implementing the IPF-PAI to meet the CAA, 2023 requirement to collect standardized patient assessment data on each of the statutorily-delineated data categories. While there are many more types of clinical information we considered for the IPF-PAI, and will continue to consider for future rulemaking, for the initial rollout of the IPF-PAI we strove to minimize reporting burden on IPFs. As to the assessment items we ultimately proposed, the TEP, which included behavioral health clinicians and staff from IPFs, endorsed assessment items in the statutorily mandated categories as clinically meaningful and appropriate for admission, discharge, or both. Quantitative and qualitative evidence from the 16 IPFs and 51 IPF staff included in the field (beta) testing supports that these assessment items are

clinically meaningful, feasible to complete in routine admission and discharge workflows, and useful for understanding patient complexity, resource use, and care planning. We agree with commenters that the IPF-PAI should not constrain individualized psychiatric evaluation or function as a diagnostic instrument. We expect that clinicians will continue to exercise judgment in determining diagnosis, treatment, and the level of care needed for individual patients.

Comment: Many commenters stated that the IPF-PAI, as proposed, does not meet the clinical or methodological standards necessary to fulfill the statutory mandate of the CAA, 2023. For example, some commenters stated that the data collection for the IPF-PAI would not be sufficiently detailed or valid to be used in determining payment rates for the IPF PPS. A few commenters stated that the IPF-PAI as proposed fails to meet CMS' stated objectives in developing a patient assessment instrument regarding clinical relevance, validity, feasibility, and ability to inform resource intensity.

Response: We maintain that the IPF-PAI could support future payment policy and enable comparison of IPF data across IPFs. We discuss each of the assessment items in more detail in section V.C.3.b. We note that the proposed instrument was developed through a multi-stage process which included a review of clinical practice guidelines, an environmental scan of existing standardized assessment items in behavioral health settings or in CMS quality reporting programs, an RFI in the FY 2025 IPF PPS proposed rule (89 FR 23200 through 23204), and continual engagement with IPFs, clinicians, vendors, health IT experts, and individuals with experience as patients in the IPF setting. We evaluated candidate items for relevance and feasibility in the IPF settings, as well as the potential to reflect resource use, which corresponds to the purposes described in the CAA, 2023 requiring assessment data which enable comparison of assessment data across all IPFs and which could be taken into account for potential future revisions to the IPF PPS methodology for determining payment rates. We evaluated the candidate assessment items through formative (alpha) testing to evaluate the feasibility and face validity of each item. Following formative (alpha) testing, feedback was gathered through two meetings of the TEP, which was comprised of clinicians and administrators at IPFs, behavioral health clinicians, academic researchers, health IT specialists, and individuals

who have experience as patients in an IPF setting. Narrative input and voting during meetings of the TEP also support that candidate items selected for the IPF-PAI were viewed as clinically useful and appropriate for admission, discharge, or both, with alignment to the statutory categories, and relatively low-burden collection. In the Fall 2025 meetings of the TEP, at least two-thirds of TEP members responded "Strongly Agree" or "Agree" to including each of the proposed assessment items on the IPF-PAI. Quantitative and qualitative evidence from the 16 IPFs and 51 IPF staff included in the field (beta) testing supports that these assessment items are clinically meaningful and thus relevant, feasible to complete in routine admission and discharge workflows, and sufficiently detailed to be useful for understanding patient complexity, resource use, and care planning. We also intend to use results and feedback based on implementation of the IPF-PAI to propose revisions or improvements to policies that will increase utility or reduce burden of the IPF-PAI (91 FR 17739).

Comment: Several commenters stated that implementation of the IPF-PAI would impose administrative, operational, financial, and workflow burdens, including additional staff time and diversion of resources away from patient care. Several commenters also stated that the substantial costs and burden associated with the proposal would not be matched by proportional benefit.

Response: We recognize that the IPF-PAI will require staff time and workflow changes, especially early in implementation, which is why the IPF-PAI was developed to minimize reporting burden on IPFs by leveraging data already assessed in existing workflows and available in the patient's treatment record while IPFs gain experience collecting and reporting IPF-PAI data. As stated at the end of this section, we are finalizing several modifications to the IPF-PAI reporting requirements to further reduce burden, as discussed in sections V.C.3. and V.C.4. of this final rule, and have revised our burden estimate as discussed in section VI.C. of this final rule. We will also provide guidance and training resources intended to support the initial implementation (91 FR 17739).

Comment: Several commenters stated that the proposed IPF-PAI duplicates information already collected through existing assessments, reporting requirements, or accreditation activities. Many commenters requested that CMS streamline the instrument and eliminate

assessment items that duplicate or overlap with other CMS reporting requirements.

Response: We acknowledge that the IPF-PAI was developed to leverage data already assessed in existing workflows and available in the patient's treatment record to the greatest extent feasible to minimize the need for IPFs to collect new data. We acknowledge that some information may overlap with accreditation requirements or current measures for some patient populations (for example, Medicare patients), but we maintain that collecting this information for all patients aged 18 and older through the IPF-PAI will provide more accurate information regarding resource use and may support the development of future quality measures. We will consider the recommendation to streamline the instrument and reduce or eliminate overlap in data collection in future rulemaking.

Comment: A few commenters stated that IPFs may face significant implementation challenges related to EHR modifications, HL7® FHIR® integration, vendor readiness, training, and workflow redesign, in the proposed timeframe, especially IPFs with fewer resources. A few commenters stated that workflow and system changes would require sufficient lead time for facilities to operationalize the IPF-PAI consistently and reliably, including modifying systems, training staff, testing workflows, validating data, and resolving vendor or technical issues before payment impacts begin. A commenter stated that implementation challenges would be heightened by behavioral healthcare facilities' lower EHR adoption rates and limited interoperable EHR capability. A few commenters recommended additional support to address operational readiness and infrastructure limitations related to health IT.

Response: We appreciate these comments and recognize that implementation will require time, training, and workflow changes which will vary across IPFs, including for IPFs with fewer resources and IPFs without EHRs. We are committed to supporting IPF-PAI implementation through the provision of technical guidance, implementation guides, webinars, listserv updates, and a help desk. We note that IPFs may submit IPF-PAI data to CMS using a free, CMS-developed web application called the Patient Assessment Reporting Interoperability Tool (PARIT). This method for data submission, described more in section V.C.4. of this final rule, provides an option for IPFs to submit IPF-PAI data other than the FHIR® APIs.

Comment: Many commenters recommended that CMS delay implementation of the IPF-PAI, return the instrument to development and testing, and allow additional time before mandatory reporting or payment impacts begin. Many commenters recommended that CMS engage clinicians, researchers, interested parties, and policymakers in further development of the IPF-PAI. A commenter recommended that interested parties throughout engagement should include frontline staff who complete documentation. A few commenters further recommended that CMS delay payment-related impacts. Several commenters requested non-punitive transition periods, voluntary reporting periods, or other implementation flexibilities while IPFs and vendors prepare to operationalize the assessment.

Response: Based on the comments, in an effort to provide more time for IPFs and their EHR vendors to integrate the requirements for the IPF-PAI into their workflows and technical resources, we are modifying the timelines for mandatory reporting, including adding a voluntary reporting period, and modifying data completeness thresholds that would impact payment determination under the IPF Quality Reporting Program, as further discussed in section V.C.4. of this final rule. Regarding engagement with experts and interested parties, as we described in the proposal rule, we developed the IPF-PAI through a multi-stage, multi-interested party process that included engagement with subject matter experts, researchers, clinicians and administrators at IPFs, individuals with experience as patients in an IPF setting, interoperability experts, and a technical expert panel, and we also solicited public comment through FY 2025 and FY 2026 rulemaking to inform development of the instrument. The alpha (formative) and beta (field) testing both occurred with IPF staff, with the beta test including 51 IPF staff who would be responsible for collecting PAI data after finalization. We plan to continue to engage interested parties, including IPF clinicians and staff, to support the implementation of the IPF-PAI and potential changes that would occur through future rulemaking.

Comment: A few commenters recommended that CMS or interested parties work with the Congress to change the requirements of the CAA, 2023, to better align them with the inpatient psychiatric setting.

Response: We thank the commenters for their recommendations. We maintain that the assessment items proposed for

the IPF-PAI, which meet the categories required by the CAA, 2023, are relevant to the psychiatric inpatient setting and contribute to an understanding of resource intensity. We will continue to incorporate feedback from interested parties to support possible refinements to the IPF-PAI that would occur through future rulemaking.

Comment: A commenter recommended that CMS conduct a formal impact assessment, including an evaluation of effects on rural and resource-limited IPFs.

Response: We recognize that the IPF-PAI requirement will have impacts for rural and resource-limited IPFs. We plan to provide implementation support in the form of trainings, webinars, listserv announcements, and a help desk that will be available to all IPFs. In addition, we will provide a free web application (91 FR 17745) that allows IPFs to submit IPF-PAI data without an EHR, a vendor, or changes to their health IT. We intend this resource to mitigate the impact of this new requirement on IPFs with fewer resources. We refer readers to section V.C.4. of this final rule for more information on the PARIT, the free web application.

Comment: A few commenters recommended limiting the IPF-PAI to Medicare patients at first, with a commenter recommending that CMS begin with Medicare Fee-for-Service (FFS) and later add Medicare Advantage beneficiaries, to minimize burden and phase implementation.

Response: We appreciate these comments and the need to phase implementation to minimize burden, which is why we are finalizing several modifications to reduce reporting burden. With these modifications, we think the benefits outweigh the burden of collecting data on all adult IPF patients regardless of payer types. We note that standardized data collection will allow us to gain useful information on resource use and quality. Therefore, we are requiring mandatory collection of the IPF-PAI for IPF patients aged 18 and older beginning July 1, 2028; in section V.C.4. of this final rule, we address modifications to the timelines for mandatory reporting and payment impacts.

Comment: Many commenters expressed concern that CMS discussed potential refinement or modification to the IPF-PAI that would be done in future rulemaking, stating that changing program requirements are challenging for IPFs.

Response: Similar to our approach to the IPF Quality Reporting Program measure set, we intend to monitor IPF-

PAI data and feedback from interested parties and may propose revisions to the instrument as needs and priorities evolve. We intend to provide adequate time and implementation guidance for any IPF Quality Reporting Program changes, including the IPF-PAI.

Comment: A commenter recommended that CMS meet the statutory requirement for data collection with a patient assessment instrument not through the proposed IPF-PAI, but by using existing data that are collected through quality measures in the IPF Quality Reporting Program. Another commenter stated that while CMS must comply with the statute, CMS retains substantial discretion over the content of the instrument, the form and manner of the submission, the compliance threshold, and the payment penalty tied to data reporting through the IPF Quality Reporting Program.

Response: While we agree that we have substantial discretion over the instrument and the form, manner, and timing of data collection, existing data collections do not cover the full range of categories required by the CAA, 2023. In section V.C.4. of this final rule, we address modifications to the timelines for mandatory reporting, compliance thresholds, and payment impacts.

Comment: A commenter stated that the CAA, 2023 does not specify that the IPF-PAI must be completed for all patients.

Response: We maintain that collecting this information for all patients aged 18 and older through the IPF-PAI will provide more accurate information regarding resource use which can be used to inform payment rates for IPFs, consistent with the statutorily defined purposes for data collection under CAA, 2023. Accordingly, at this time, we are finalizing policies to require mandatory collection of the IPF-PAI for all patients aged 18 and older beginning July 1, 2028, and that—as discussed in section V.C.4.b. of this final rule—IPFs will need to complete 100 percent of the required IPF-PAI assessment items (that is, completeness requirement) on 50 percent of the IPF-PAIs submitted to meet the IPF Quality Reporting Program's IPF-PAI requirement (that is, compliance threshold) for the applicable annual payment determination. Beginning with the CY 2030 reporting period impacting the FY 2032 payment determination, the compliance threshold will increase to 70 percent. See section V.C.4. of this final rule, for additional information on modifications to the timelines for mandatory reporting and compliance thresholds.

Comment: A commenter stated that CMS has not provided sufficient clarity

regarding how IPF-PAI data will be used in future payment and quality measurement programs and recommended that CMS provide this information as well as time and flexibility around implementation to support successful adoption, while minimizing unintended disruptions to patient care.

Response: We have developed the IPF-PAI to meet the uses described in the statute, that is, to enable comparison of the assessment data across IPFs, and to be taken into consideration when implementing revisions to the IPF PPS payment methodology. In section V.C.4. of this final rule, we address modifications to the timelines for mandatory reporting and payment impacts.

Comment: A commenter stated support for the direction of the proposal because of statements CMS made about the IPF-PAI supporting interoperability.

Response: We thank the commenter for their support and agree that there is value in promoting interoperability in healthcare.

Final Decision: After consideration of the comments received, we are finalizing the proposal to adopt the IPF-PAI into the IPF Quality Reporting Program.

Additionally, we solicited comment on the proposed age requirement for the IPF-PAI of 18 years and older, specifically the potential inclusion of adolescents in the population for the IPF-PAI. We were interested in feedback on any specific guardrails or sensitivities CMS should consider with the potential inclusion of adolescents, or specific assessment items that would not be appropriate for this population.

We received public comments on this proposal.

Comment: A few commenters supported the proposal to require the IPF-PAI be submitted for patients aged 18 years and older. One of these commenters stated that requiring the IPF-PAI for adolescents would negatively impact their admission experience by diverting staff attention. Another commenter supported the proposed aged 18 and older, but encouraged CMS to consider differences in care, treatment, and outcomes across adult age groups by analyzing stratified data.

Response: We appreciate the commenters' support for this proposal, and acknowledge the recommendation to explore differences between adult age groups when IPF-PAI are received.

Comment: A commenter recommended that CMS require the IPF-PAI also be submitted for adolescents to ensure quality care for

that population. A commenter recommended that CMS develop a comparable instrument for pediatric populations enrolled in Medicare. This commenter stated that it is important because many of the pediatric or adolescent patients enrolled in Medicare qualify due to end-stage renal disease, which can pose additional care needs.

Response: We thank the commenters for their recommendations. During the development of the IPF-PAI, we received feedback from the TEP that CMS should develop policies around the assessment that are responsive to the unique needs of distinct patient groups, including adolescents. In feedback on assessment items, however, the TEP discussed how the tools and assessments that are appropriate for adolescents sometimes differ from those for adults. Because of these concerns, this initial version of the IPF-PAI was developed with assessment items that are appropriate for use in adult patients—that is, we did not include adolescent-specific items or test general items in the adolescent population.

b. Assessment Items for the IPF-PAI

In the FY 2027 IPF PPS proposed rule, we proposed that the IPF-PAI would collect data related to the five statutory data categories specified in section 1886(s)(4)(E)(ii) of the Act and fulfill the requirements of section 4125(b) of the CAA, 2023 for a standardized assessment instrument (see Table 5). In the FY 2025 IPF PPS proposed rule (89 FR 23200 through 23204) we issued a Request for Information (RFI) to solicit public input to inform the development of the IPF-PAI. In this RFI, we noted that goals for the IPF-PAI include improving the quality of care in IPFs and improving the accuracy of the IPF PPS. As provided by section 1886(s)(6) of the Act, added by section 4125(b) of the CAA, 2023, data collected through the IPF-PAI may be considered in future revisions to the methodology for determining the IPF PPS payment.

In the proposed rule, we explained that standardized assessment items generally take the form of a question or instructional text that is followed by a set of response options. For example, the assessment item *Speech Clarity* would contain instructional text “Select best description of speech pattern,” and three response options: 0. Clear speech—distinct intelligible words; 1. Unclear speech—slurred or mumbled words; 2. No speech—absence of spoken words. Responses to assessment items can also take the form of structured numeric or text input, such as the responses given to Admission Date or

Patient Last Name. The proposed assessment items are standardized in the sense that all IPFs will be assessing patients using the same assessment items—that is, the same question or instructions and response options. In the proposals of assessment items to include in the IPF–PAI, we referred to the name of the assessment item. The complete assessment items, including instructional text and response options, are shown together on the IPF–PAI Item Set, available under IPF–PAI Resources at <https://qualitynet.cms.gov/ipf/pai>. The IPF–PAI Item Set is a PDF document that shows the proposed assessment items displayed like a

questionnaire. In order to support consistency in the administration of the IPF–PAI, as we have done for assessment instruments used in post-acute care settings, we stated that we will provide IPFs with a detailed reference manual that will provide additional guidance. A draft of the IPF–PAI Guidance Manual is available under IPF–PAI Resources at <https://qualitynet.cms.gov/ipf/pai>.

We proposed to include items for each of the five data categories required by statute in the IPF–PAI assessment. In addition, we proposed an additional category of administrative items. The proposed administrative items were

determined appropriate by the Secretary and are necessary for record matching and database management. Table 5 lists the proposed IPF–PAI assessment items by category. We referred readers to the Admission and Discharge forms that contained the proposed assessment items of the IPF–PAI are available under IPF–PAI Resources at <https://qualitynet.cms.gov/ipf/pai>. For additional information on the testing process and the testing results in further details, we referred readers to the IPF–PAI Testing Report, available under IPF–PAI Development and Testing resources at <https://qualitynet.cms.gov/ipf/pai>.

TABLE 5: ASSESSMENT ITEMS TO BE INCLUDED IN THE IPF-PAI

CAA, 2023 Category	Assessment Item
Functional status	Mobility: Chair/Bed-to-Chair Transfer
Cognitive function and mental status	Suicide Screening
Special services, treatments, and interventions	Special Services, Treatments, and Interventions in the Inpatient Psychiatric Setting (Psychiatric Treatments, Restrictive Interventions)
Medical conditions and comorbidities	Primary Medical Condition Category
Impairments	Hearing; Speech Clarity; Vision
Administrative: Assessment items required for record matching and database management	Legal Name of Patient, Birth Date, Sex, Social Security and Medicare Numbers, Facility Provider Numbers (National Provider Identifier, CMS Certification Number), Admission/Discharge Date, Payer Information—Primary Payer, Type of Record, Assessment Reference Date, Reason for Assessment, Type of Admission/Type of Discharge, IPF-PAI Completion Date

Evidence from field (beta) testing and engagement with experts and interested parties support these proposed assessment items as meeting our goals for the IPF–PAI, as stated in prior rulemaking (89 FR 23200 through 23204): clinically relevant to patients in IPFs; standardized and interoperable; capturing medical complexity and risk factors that can inform payment and quality; and reliable and valid, with consensus agreement for usability (89 FR 23200 through 23204). To determine the clinical relevance to patients in IPFs and the ability of assessment items to assess medical complexity and risk factors that would inform payment and quality, we sought and summarized input through the RFI in the FY 2025 IPF PPS proposed and final rules (89 FR 64642 through 64649). Building on that feedback we reviewed potential assessment items with CMS Medical Officers and engaged with clinicians through a TEP. To ensure that the assessment items allowed data to be recorded in a standardized format we

evaluated the inter-rater-reliability (IRR) of each of the items as part of our field (beta) testing. High IRR scores show that the data are likely to be standardized across different raters at different IPFs. We also evaluated each assessment item in the field (beta) test for feasibility. Information about the TEP’s input on each assessment item is included in the following subsections. Information about field (beta) test results for IRR and feasibility is included in Table 6.

In the FY 2027 IPF PPS proposed rule, we noted that the IPF–PAI was developed and would be implemented in a way to support interoperable exchange of data. The standardized assessment items and response options are intended to yield comparable data across IPFs. The assessment items would be managed centrally in CMS’ Data Element Library (DEL),²³ enabling consistency in usage across versions or updates. Each assessment item is represented as a machine-readable data

element with a stable identifier and metadata, such as definition, datatype, and permissible values. The DEL would assign LOINC²⁴ and SNOMED²⁵ codes to questions and response options, where possible; LOINC and SNOMED are widely-used terminology standards for clinical data that support consistent meaning across systems.

i. IPF–PAI Functional Status Category

Section 1886(s)(4)(E)(i)(I) of the Act requires the inclusion of patient assessment data with respect to functional status, such as mobility and self-care. In the FY 2027 IPF PPS proposed rule, we proposed the assessment item Mobility: Chair/Bed-to-Chair Transfer for the Functional Status category of the IPF–PAI. This assessment item evaluates the patient’s physical ability to move around, one of the basic activities of daily living. Specifically, the proposed assessment

²³ <https://del.cms.gov/DELWeb/pubHome>. Accessed March 19, 2026.

²⁴ <https://loinc.org/>. Accessed March 19, 2026.

²⁵ <https://www.snomed.org/>. Accessed March 19, 2026.

item assesses the patient's ability to transfer to and from a bed to a chair (or wheelchair). For patients who do not complete this activity independently, the level of assistance required would need to be recorded. This information would be recorded by selecting the patient's functional status from the options provided. The instructional text and response options are included in the IPF-PAI Item Set, available under IPF-PAI Resources at <https://qualitynet.cms.gov/ipf/pai>.

Additionally, detailed instructions for administration would be provided through training and the IPF-PAI Guidance Manual, the draft of which is available under IPF-PAI Resources at <https://qualitynet.cms.gov/ipf/pai>. For results of inter-rater reliability (IRR) and feasibility from field (beta) testing, see Table 6. Most TEP members (78 percent) responded Strongly Agree or Agree to including the Mobility assessment item on the IPF-PAI.

ii. IPF-PAI Cognitive Function and Mental Status Category

Section 1886(s)(4)(E)(i)(II) of the Act requires the inclusion of patient assessment data with respect to cognitive function, such as the ability to express ideas and to understand, and mental status, such as depression and dementia. In the FY 2027 IPF PPS proposed rule, we proposed the assessment item Suicide Screening for the Cognitive Function and Mental Status category of the IPF-PAI. We note that we do not consider suicide-related thoughts and behaviors to be related to cognitive impairment. Rather, we understand mental status to encompass a wide range of cognition, orientation, mood, and decision-making capacities, including thought content. In our review of IPFs' core clinical assessment practice, the mental status exam, we identified screening for suicidal thoughts and behaviors to be an important clinical topic with relevance to quality of care and resource use.

The assessment item evaluates whether and with what method a patient was screened for suicide risk. This information would be recorded by indicating that a patient was screened with a standardized tool, screened through clinical assessment, or not screened, in the case that the patient declined or was unable to respond. This assessment item, including instructional text and response options, is shown on the IPF-PAI Item Set, available under IPF-PAI Resources at <https://qualitynet.cms.gov/ipf/pai>. Additionally, detailed instructions for administration would be provided through training and the IPF-PAI

Guidance Manual, the draft of which is available under IPF-PAI Development and Testing resources at <https://qualitynet.cms.gov/ipf/pai>. For results of IRR and feasibility from field (beta) testing, see Table 6. All TEP members (100 percent) responded Strongly Agree or Agree to including a Suicide Screening assessment item on the proposed IPF-PAI. After the field (beta) test and receiving TEP input, we revised this assessment item based on further input from individuals who have experience as patients in an IPF, clinical subject matter experts, and assessment item developers. We believe the proposed assessment item included in the IPF-PAI is more feasible to implement than the version used in testing.

iii. IPF-PAI Special Services, Treatments, and Interventions for Psychiatric Conditions Category

Section 1886(s)(4)(E)(i)(III) of the Act requires the inclusion of patient assessment data with respect to special services, treatments, and interventions for psychiatric conditions. In the FY 2027 IPF PPS proposed rule, we proposed the assessment item Special Services, Treatments, and Interventions in the Inpatient Psychiatric Setting for the Special Services, Treatments, and Interventions category of the IPF-PAI. This assessment item requires the assessor to indicate which psychiatric treatments, or restrictive interventions may have been used during the IPF stay.

Psychiatric Treatments and Restrictive Interventions allow the assessor to check off all that apply from the list. Psychiatric Treatments include medications, brain stimulation, and non-pharmacological treatments other than brain stimulation. Restrictive Interventions include the use of seclusion, restraints, or other restrictive interventions. This assessment item, including instructional text and response options, is shown on the IPF-PAI Item Set, available under IPF-PAI Resources at <https://qualitynet.cms.gov/ipf/pai>. Additionally, detailed instructions for administration would be provided through training and the IPF-PAI Guidance Manual, the draft of which is available under IPF-PAI Development and Testing resources at <https://qualitynet.cms.gov/ipf/pai>. For results of IRR and feasibility from field (beta) testing, see Table 6. When asked about their agreement for including the six treatment or intervention types, most TEP members replied Strongly Agree or Agree (100 percent for Medications; 89 percent for Brain Stimulation, Non-pharmacological Treatment, Seclusion,

and Restraints; and 67 percent for Other Restrictive Interventions).

In the FY 2027 IPF PPS proposed rule, we noted that the IRR for some assessment items in this category were low. In our investigation of the low reliability statistics for the treatment or intervention *Non-pharmacological Treatment*, which included reviewing the testing data, comparing discrepancies in coding responses, and reviewing the hypothetical case studies and guidance manuals, we determined that the structure and definitions in some of the assessment items related to this treatment/intervention type were not well understood. We did not find this to be unexpected considering the complexity of the assessment item (that is, a multi-part, branch item), and that IPF staff were unfamiliar with administering this assessment. Non-pharmacological treatments, including but not limited to psychotherapy and psychosocial interventions, are recommended by clinical practice guidelines,^{26 27} and have been shown to be beneficial to patients.^{28 29} For these reasons, we considered it important to retain an assessment item on this topic. As noted, 89 percent of TEP members responded Strongly Agree or Agree with the inclusion of *Non-pharmacological Treatment* in the IPF-PAI. We stated that we believed that low reliability indicates a need for targeted support, by means of revising the guidance manual to provide distinct definitions for each component of this assessment item, examples of coding to emphasize the multi-part nature of the item, provider training, and focused Frequently Asked Questions documents to help select the appropriate response, which we stated we will develop and provide if this proposal is finalized.

iv. IPF-PAI Medical Conditions and Comorbidities Category

Section 1886(s)(4)(E)(i)(IV) of the Act requires the inclusion of patient assessment data with respect to medical

²⁶ Practice Guideline for the Treatment of Patients with Schizophrenia, Third Edition (2021) <https://psychiatryonline.org/doi/book/10.1176/appi.books.9780890424841>.

²⁷ VA/DoD Clinical Practice Guideline for the Management of Major Depressive Disorder Version 4.0—2022. VA/DoD Clinical Practice Guideline. (2022). The Management of Major Depressive Disorder Work Group. Washington, DC: U.S. Government Printing Office. <https://www.healthquality.va.gov/guidelines/MH/mdd/>.

²⁸ McGuire, Alan B., et al. "Recovery-oriented inpatient mental health care and readmission." *Psychiatric Rehabilitation Journal* 45.4 (2022): 331.

²⁹ Kinney, Adam R., et al. "Association of inpatient occupational therapy utilization with reduced risk for psychiatric readmission among Veterans." *Psychiatric Services* 75.11 (2024): 1084–1091.

conditions and comorbidities, such as diabetes, congestive heart failure, and pressure ulcers. In the FY 2027 IPF PPS proposed rule, we proposed the assessment item Primary Medical Condition for the Medical Conditions and Comorbidities category of the proposed IPF–PAI. This assessment item assesses the category of the primary diagnosis associated with the IPF stay; assessors would select their response from the list of common diagnostic categories (for example, anxiety disorders, mood disorders, schizophrenia and other psychotic disorders). This assessment item, including instructional text and response options, is shown on the IPF–PAI Item Set, available under IPF–PAI Resources at <https://qualitynet.cms.gov/ipf/PAI>. Additionally, we stated that detailed instructions for administration would be provided through training and the IPF–PAI Guidance Manual, the draft of which is available under IPF–PAI Development and Testing resources at <https://qualitynet.cms.gov/ipf/PAI>. For

results of IRR and feasibility from field (beta) testing, see Table 6. Most TEP members (89 percent) responded Strongly Agree or Agree to including the Primary Medical Condition data element on the IPF–PAI. In future potential versions of the IPF–PAI, we could consider the addition of comorbidities.

v. IPF–PAI Impairments Category

Section 1886(s)(4)(E)(i)(V) of the Act requires the inclusion of patient assessment data with respect to impairments, such as incontinence and an impaired ability to hear, see, or swallow. In the FY 2027 IPF PPS proposed rule, we proposed the Hearing, Speech Clarity, and Vision assessment items for the Impairments category of the IPF–PAI. For these assessment items, the assessor records a patient’s ability to hear, a description of their speech pattern, and their ability to see in adequate light by selecting the level of impairment from a set of response options within each

assessment item. These assessment items, including instructional text and response options, are shown on the IPF–PAI Item Set, available under IPF–PAI Resources at <https://qualitynet.cms.gov/ipf/PAI>. Additionally, we stated that detailed instructions for administration would be provided through training and the IPF–PAI Guidance Manual, the draft of which is available under IPF–PAI Development and Testing resources at <https://qualitynet.cms.gov/ipf/PAI>. We proposed that the Hearing, Speech Clarity, and Vision assessment item be evaluated at admission only, in recognition that they are unlikely to change during the IPF stay, which is typically brief (about 7 days, on average). For results of IRR and feasibility from field (beta) testing, see Table 6. When asked about their agreement for including these assessment items in the proposed IPF–PAI, most TEP members replied Strongly Agree or Agree (89 percent for Hearing; 78 percent for Speech Clarity; 67 percent for Vision).

TABLE 6: FIELD (BETA) TESTING RESULTS FOR PROPOSED ASSESSMENT ITEMS FOR THE IPF-PAI

Assessment Item and Related Data Elements	Inter-rater Reliability (IRR)		Feasibility [‡]
	% Agreement	Cohen's Kappa	
Mobility: Chair/bed-to-chair transfer	75.18	Moderate (0.44)	Y
Suicide Screening	89.78	*	Y
Special Services, Treatments, and Interventions: Psychiatric Interventions			
Psychiatric Treatments			
Medications	94.89	*	Y
Brain Stimulation	100.00	†	Y
Non-pharmacological treatment other than brain stimulation	36.50	*	Y
Restrictive Interventions			
Seclusion	77.37	Poor (0.13)	Y
Restraints [§]	93.43	Very Good (0.82)	Y
Other restrictive interventions	36.50	Poor (0.08)	Y
None of the Above	98.54	*	Y
Primary Medical Condition Category	75.18	Good (0.64)	Y
Hearing	85.40	Good (0.74)	Y
Speech Clarity	93.43	Very Good (0.83)	Y
Vision	62.77	Fair (0.23)	Y

Note: In the field (beta) test, IRR was assessed by calculating both percent agreement (that is, the percent of assessment items that were coded correctly by assessors, as determined by clinical subject matter experts) and Cohen's Kappa.

Interpretation of Cohen's Kappa used standard categories of Poor, Fair, Moderate, Good, and Very Good as defined by Altman, D. G. (1990). *Practical statistics for medical research*. Chapman and Hall/CRC.

*Cohen's Kappa not calculated due to low item response variability. That is, responses to the assessment item or assessment item components across raters were too similar for Cohen's Kappa to be a useful measure of inter-rater reliability.

†Cohen's Kappa not calculated due to perfect agreement.

‡We considered an assessment item to be feasible for use in the IPF setting if data were able to be collected from over 90 percent of patients assessed (that is, <10 percent missing data) and if no feedback was received around challenges or obstacles to assessing the assessment item from IPF staff who participated in the field (beta) test.

§In the FY 2027 IPF PPS proposed rule, we incorrectly showed values of 94.89 for Percent Agreement and 0.82 for Cohen's Kappa. Corrected values are shown in the table.

vi. Administrative Data Category

Section 1886(s)(4)(E)(ii)(VI) of the Act authorizes other categories of assessment items as determined appropriate by the Secretary. In the FY 2027 IPF PPS proposed rule, in addition to the assessment items discussed above, we proposed including an Administrative data category to collect certain administrative information to enable database management and record matching. We stated that collecting data in this category would support accurate linkage of assessment records within CMS' Internet Quality Improvement and Evaluation System (iQIES), or a successor system, and facilitate analyses by CMS, including linking assessment data with other CMS data sources (for example, payment and claims data). We noted that these data could also enable stratification of outcomes by patient and

stay characteristics, which would support accurate comparisons between facilities and patient populations. These proposed data elements included: Legal Name of Patient, Birth Date, Sex, Social Security [SSN] and Medicare Numbers, Facility Provider Numbers (National Provider Identifier, CMS Certification Number (CCN)), Admission/Discharge Date, Payer Information Primary Payer, Type of Record, Assessment Reference Date, Reason for Assessment, Type of Admission/Type of Discharge, and IPF-PAI Completion Date. These assessment items, including instructional text and response options, are shown on the IPF-PAI Item Set, available under IPF-PAI Resources at <https://qualitynet.cms.gov/ipf/pai>. Additionally, we stated that detailed instructions for administration would be provided through training and the IPF-PAI Guidance Manual, the draft

of which is available under IPF-PAI Development and Testing resources at <https://qualitynet.cms.gov/ipf/pai>. We proposed that assessment items for the Administrative category be collected at both admission and discharge.

We received public comments on these proposals.

Comment: A commenter stated that admission assessments should be used to foster meaningful patient-provider conversations and patient engagement, noting that when patient-reported outcome measures are discussed and incorporated into care planning, they can build trust, support collaborative goal setting, and improve retention in treatment rather than serving as merely administrative data collection.

Response: We acknowledge the commenter's view that admission assessments, including patient-reported

outcome measures, can foster patient-provider conversations, patient engagement, trust, collaborative goal setting, retention in treatment, and care planning. We wish to clarify that the IPF-PAI is not intended to fully replace the intake assessment or discharge planning process, to replace the clinical conversation, or to function merely as administrative data collection without other uses. Rather, we designed the instrument to minimize burden while meeting the statutory requirement for standardized assessment data that will enable comparison of assessment data across IPFs and inform our understanding of resource use. We agree on the importance of patient-reported outcomes to understanding quality—the IPF Quality Reporting Program currently uses the Psychiatric Inpatient Experience (PIX) measure of patient experience—but note that because the IPF-PAI is completed by clinicians rather than patients it is not the appropriate tool for collecting patient-reported outcomes as currently designed.

Comment: Many commenters stated that the IPF-PAI, as proposed, is misaligned with the needs and realities of the inpatient psychiatric setting, and rather, that it is based on a post-acute care model. A few commenters stated that needs, treatments, outcomes, and overall case mix are very different between post-acute care providers and IPFs and therefore the existing post-acute care PAIs are not a good source for IPF-PAI development.

Response: We agree that the IPF-PAI should reflect the inpatient psychiatric setting and not simply import a post-acute care model for a patient assessment instrument. Existing post-acute care patient assessments were only one of the many sources that we reviewed in developing the IPF-PAI; the clinical and setting specific expertise provided by the TEP was fundamental in selecting the most appropriate assessment items. As discussed in section V.C.2. of this final rule, the item-selection process included review of clinical practice guidelines, prior public comment, alpha and beta testing, and input from behavioral health clinicians, IPF administrators, and individuals with IPF patient experience. Although IPFs serve patients with distinct clinical needs, we recognize the importance of IPFs documenting a full range of patient characteristics in a standardized way, including functional status, mobility, and impairments, because these factors are relevant to care planning, safety, and discharge planning as well as an IPF's resource use.

Comment: Several commenters expressed concern that misalignment between the content of the IPF-PAI and core constructs of the inpatient psychiatric setting will produce data that are prone to misinterpretation. A few commenters stated that data quality matters because once data are captured, they are used for benchmarking, comparisons, and policy evaluation.

Response: The initial assessment items were selected for the IPF setting to meet the statutory categories. We seek to ensure consistent collection of information by including standardized assessment items and response options, with clear guidance available for clinicians documenting the assessment. Detailed instructions for administration will be provided through training for all applicable IPF staff and the IPF-PAI Guidance Manual. We will monitor the data and make refinements as needed, through future rulemaking, to ensure IPF-PAI data are suitable for its intended use.

Comment: Many commenters stated that the IPF-PAI is not clinically relevant to the IPF setting, does not assess what matters most in psychiatric treatment, and is not useful for treatment planning. Several commenters gave examples of topics that they consider to be most important to inpatient psychiatric treatment that are not represented or represented adequately in the IPF-PAI, including illness presentation, symptom severity, suicide risk, co-occurring behavioral or medical conditions, treatment response, behavioral functioning, psychiatric outcomes, and clinical progress. Several commenters stated that because of these missing topics and what they stated is misalignment with the care setting, the IPF-PAI is not able to inform future payment or to produce data useful to CMS or the public for understanding the care that IPFs deliver.

Response: The IPF-PAI was designed to be integrated with existing admission and discharge processes and is not intended to be a comprehensive treatment planning record. We appreciate commenters' input on additional topics that are relevant to the IPF setting. The initial IPF-PAI includes a minimal set of assessment items which were selected to address each statutorily required category while minimizing implementation burden associated with a new instrument. These assessment items include clinically relevant topics on suicide screening, primary medical conditions, and special services, treatments, and interventions. However, it does not include all topics that are clinically relevant to the IPF patient population

because including all such topics would expand the initial instrument and increase burden for IPFs.

Comment: A commenter stated that the IPF-PAI does not assess clinical factors that would indicate evidence-based practice, and that the items are based on chart abstraction not assessment, and will not supply meaningful data to IPFs or CMS. A few commenters expressed concern that the IPF-PAI requirements do not adequately reflect the unique clinical and operational realities of inpatient psychiatric care, which is largely focused on stabilizing individuals in crisis and supporting recovery. These commenters stated that because psychiatric progress fluctuates across the course of the stay assessment is a continuous clinical process which depends on real-time observations. A few commenters stated that the items that have relevance to psychiatric treatment are process measures and not quality or outcome-related items. A commenter stated that it is unclear how the proposed assessment items provide useful information to facilities and patients, and how these items would lead to improved quality of care. The commenter recommended that CMS consider whether the items finalized for the IPF-PAI assessment will help facilities improve care and help guide individuals and families in choosing facilities based on quality. A few commenters stated that, because the assessment is not clinically relevant and does not reflect quality or outcomes of psychiatric treatment, it would introduce significant workflow, staffing, and resource burdens without clear benefit to patients, potentially shifting focus from direct clinical care. A few commenters stated that if the IPF-PAI does not inform treatment planning, it will be treated as compliance work, rather than be integrated into the clinical workflow.

Response: The instrument was developed through TEP review and alpha and beta testing, which showed that the items were viewed as clinically useful for IPF assessment, care planning, and discharge planning, while being feasible to collect in routine workflows. We wish to clarify that the IPF-PAI does not contain any quality measures, only assessment items that are meant to collect data about patient characteristics and treatment processes in a standardized way. The IPF-PAI is intended to collect standardized information that can enable comparison across all IPFs, as described by the CAA, 2023; it is not intended to replace clinical assessment, limit the clinical phases at which assessment occurs, or

serve as a comprehensive treatment planning tool.

Comment: Several comments stated that the IPF-PAI includes items that are unlikely to change or be improved during the IPF stay because they are not clinically relevant to the visit and not addressed clinically in IPFs. A commenter stated that it is unlikely that the IPF-PAI will lower costs as the metrics are not relevant to outcomes that can be improved in a short inpatient stay.

Response: We agree that some IPF-PAI items may be unlikely to change during an IPF stay or may not be the primary focus of psychiatric treatment. This initial version of the IPF-PAI is not focused on items expected to improve during the stay. Section 1886(s)(4)(E) of the Act requires standardized patient assessment data across specified categories, and some items describe patient status, patient complexity, or stay characteristics at the relevant assessment time point. We did not propose the IPF-PAI as a cost-reduction intervention. It is being implemented to collect standardized patient assessment data, and section 1886(s)(6) of the Act provides that IPF-PAI data may be considered in future revisions to the IPF PPS payment methodology. After reviewing these comments and comments received regarding specific assessment items (described later in this section), we are finalizing policies that IPFs that collect and submit Hearing, Speech Clarity, Vision, and Mobility: Chair/Bed-to-Chair Transfer with respect to admission will be deemed to have collected and submitted these items with respect to both admission and discharge because it is unlikely that the assessment of those items at admission would differ from assessment of the same item at discharge during the typical IPF stay. Refer to section V.4.b. of this final rule for a complete discussion of assessment timing.

Comment: A commenter stated that if the IPF-PAI identified a change or deficit, IPFs may need to establish workflows that include a process to provide additional resources for patients where a need is identified, which may require additional staffing on units. The commenter gave the example of patients with mobility issues that put them at greater risk of falls potentially needing 1:1 staffing to ensure safety.

Response: We acknowledge the commenter's concern that identifying a need, change, or deficit through the IPF-PAI may affect workflows, resources, or staffing. The IPF-PAI collects standardized patient assessment data; it does not itself specify a required staffing model or intervention. We note

that IPFs are responsible for identifying and providing clinically appropriate interventions and staffing.

Comment: A few commenters stated that the IPF-PAI does not function as a true patient assessment instrument but is a hybrid documentation form containing process checkboxes, administrative items, and only a few screening questions, that capture whether a process occurred but not that patient's status. A commenter stated that the IPF-PAI is not well-matched to the workflows of IPFs, and that rather than being informed by real-time clinical evaluations, the IPF-PAI would likely be completed by reviewing medical records and copying information on the standard form, creating burden without providing actionable information to the care team. A commenter expressed concern that many IPF patients will not be able to complete these assessment items and that refusals will be the response entered for most of the assessment.

Response: We note that Section 1886(s)(4)(E) of the Act requires a standardized patient assessment instrument that collects data across specified categories and any other category determined appropriate by the Secretary. Administrative items are necessary to support admission and discharge record matching and database management; other items collect standardized patient assessment data across the statutory categories. We understand the commenters' reference to a "true" patient assessment instrument to mean that the commenters do not believe it is a comprehensive clinical assessment. Standardized patient assessment data may include patient status, patient characteristics, services and interventions during the stay, and administrative information needed to link records accurately. The IPF-PAI was designed to complement and rely on existing admission and discharge assessment processes which remain clinically valuable and appropriate. We note that the IPF-PAI is not designed to be completed by patients themselves. The IPF-PAI was developed to be completed based on assessments conducted during the three days following admission or on the day of discharge using information available in patients' records. As discussed in the FY 2027 IPF PPS proposed rule (91 FR 17739), feedback and evidence gathered from our TEP and through field testing indicates that most administrative and clinical data will be available in the medical record as part of routine recordkeeping, which may reduce duplicative collection.

The available testing results do not indicate that refusals would be entered for most of the assessment. Field (beta) testing found the candidate assessment items generally feasible. An assessment item was considered feasible if data could be collected from more than 90 percent of assessed patients (that is, less than 10 percent missing data). The IPF-PAI Testing Report also found generally low missingness across most items. CMS will provide detailed administration instructions through the IPF-PAI Guidance Manual and training.

Comment: Several commenters stated the IRR of assessment items was low, which may affect comparison of data across IPFs. Several commenters stated that CMS should revise and retest the IPF-PAI to demonstrate higher reliability before mandatory reporting begins. A few commenters expressed concern that expanding the guidance manual and training would not address reliability concerns.

Response: In developing the initial version of the IPF-PAI, we considered reliability together with validity, feasibility, TEP input, the statutorily mandated data categories, and burden. Field (beta) testing assessed IRR using percent agreement and Cohen's Kappa and showed that reliability varied by item (FR 91 17742), with the lowest performance on both measures of reliability (that is, percent agreement and Cohen's Kappa) observed for *Psychiatric Treatments: Non-pharmacological treatment other than brain stimulation, Restrictive Interventions: Other restrictive interventions*, and relatively low but fair reliability for *Vision*. For the 3 of 13 assessment items which had the lowest or lower reliability results, we analyzed the reasons for lower agreement or consistency among testers and will address these issues as appropriate (for example, through additional guidance and training) prior to the beginning of data collection for the IPF-PAI. Specifically, we noted low IRR in areas that require staff to assess whether "other" interventions occurred (such as for *Non-pharmacological Treatment* within the Special Services, Treatments, and Interventions Category). Nonetheless, these assessment items were supported by the TEP, determined to be valid and feasible, low in burden, and aligned with one or more statutorily mandated data categories. We note that we received comments recommending that CMS clarify what types of treatments and interventions should be coded with these "other" response options, which supports our interpretation that low IRR was in part

due to lack of clear guidance during field (beta) testing.

Regarding the *Vision* assessment item, after analyzing the results of the field (beta) testing, we determined that one vignette depicted a clinical presentation which would require additional guidance. Based on this analysis, we have made revisions to the Guidance Manual to clarify the use of assistive devices for the Vision and Hearing assessment items. We wish to clarify that completing the Vision assessment item does not require administering a comprehensive vision exam. Rather, any IPF staff person who has completed training on the IPF-PAI and reviewed the Guidance Manual will be able to complete the assessment item using information from typical interaction with the patient, the medical record, patient self-report, or reports from caregivers. We trust that, with appropriate familiarizing and training, IPF staff will also be able to use this assessment item reliably. We also expect that IPFs will provide a level of assessment and accommodations appropriate for the patient, as required by the Conditions of Participation.

To improve consistency of data collection among IPFs, we will continue to expand our guidance manual to provide more detailed information about what types of “other” non-pharmacological treatments and restrictive interventions should be included, and detailed training and guidance on how to complete the Vision assessment. In addition, we will continue to use feedback from IPFs in refining guidance and note that a clinical help desk will be available to answer specific questions on coding. This expanded guidance, training, and help desk resources will provide more clarity to IPF staff and improve consistent data collection.

Comment: Many commenters expressed concern that results from the field test may not be applicable to some of the proposed assessment items because these items were added or modified after testing.

Response: The version of the assessment used in field (beta) testing contained more assessment items than we proposed as the initial version of the IPF-PAI. Of the individual items proposed for the IPF-PAI, only the Suicide Screening assessment item was modified in response to TEP and tester feedback after field (beta) testing had ended. Specifically, we revised the item to collect standardized information on whether suicide screening occurred and the method of assessment, rather than require the use of a specific standardized suicide risk assessment

tool. TEP members gave feedback that IPFs use a variety of established screening and assessment approaches and expressed preferences for different screening tools. The revised approach supports comparability across facilities while preserving the flexibility to use the screening or assessment approach that best fits the IPF’s clinical practice and the patient’s needs. Because of the importance of the suicide screening topic, and the version of the assessment item used during field (beta) testing was otherwise deemed to be valid, feasible, supported by the TEP, low burden, and fulfilled one of the statutorily mandated data categories, we did not want to delay inclusion of this assessment item in the IPF-PAI. We provide more information about the changes to the Suicide Screening item later in this section.

Comment: A few commenters expressed concern that the development and testing processes were insufficient to implement the IPF-PAI in the IPF Quality Reporting Program. A few commenters stated that CMS selected items for inclusion in the IPF-PAI without due consideration of the testing results. A commenter expressed concern that there was insufficient discussion during the TEP meeting. Another commenter expressed concern that psychiatrists were underrepresented in the development and testing processes.

Response: We used a multi-stage, multi-stakeholder process to identify, evaluate, and test candidate assessment items. This process included identifying applicable clinical topic areas within the statutorily mandated categories, reviewing clinical practice guidelines and standardized assessment items used in behavioral health settings or CMS quality reporting programs, considering prior public comments (89 FR 23200 through 23204), conducting alpha and beta testing, and obtaining input from the TEP through several meetings and written feedback. The TEP members were selected by the IPF-PAI development contractor following a request for interested participants from the general public communicated through our existing IPF Quality Reporting Program list-serves and communication channels. The 16 TEP members (10 of whom were IPF clinicians) included a psychiatrist, a psychiatric nurse practitioner, psychologists, nurses, and social workers, IPF executives and administrators, individuals with experience as patients in IPFs, and an interoperability expert.³⁰ Through this

process we selected the IPF-PAI assessment items from an initial set of dozens of candidate assessment items based on the item’s relevance, feasibility, validity, extent to which it meets the statutorily mandated requirements, and whether it was supported. We then used results from alpha and beta testing, and input from the TEP, to select the final set of items to propose. We may consider additional domains or items through future rulemaking.

Comment: A few commenters expressed concern that the field test was limited to approximately 1 percent of IPFs which may not be a representative sample.

Response: We note that while recruitment for the field test used convenience sampling, the IPFs that participated in the field test represented a heterogeneous mix with respect to facility type, size, ownership, geographic region, patient case mix, and urban and rural facilities to improve the validity of the results and applicability to a national program.

Comment: A commenter expressed concern that testing results may be improved by using actual assessment of real IPF patients instead of relying on hypothetical case data.

Response: Field (beta) testing used both hypothetical case studies and an observational field test with real patients in participating IPFs. The hypothetical case studies assessed inter-rater reliability, while the observational field test confirmed feasibility and validity in a real-world setting. Both testing modes were used to collect data on time-to-complete.

Comment: A few commenters stated that the IPF-PAI uses different numeric codes for the same response options, such as Yes and No, across assessment items which may increase the risk of coding errors or increase training burden.

Response: The CMS Data Element Library assigns numbers to the response options on our standardized patient assessment instruments. These numbers serve as identifiers to support data management and long-term comparability across systems. These numbers are not intended to imply rank, order, or severity. Instead, each number simply points to a predefined category used for data management and long-term comparability across systems. The meaning of each response option is conveyed entirely by the text label, and users should rely on those labels rather

³⁰ More information on the two meetings of the TEP held during IPF-PAI development is available

under IPF-PAI Development and Testing resources at <https://qualitynet.cms.gov/ipf/PAI>.

than the numeric codes when selecting a response option.

Comment: A few commenters recommended that CMS provide clear coding guidance to increase the feasibility and consistency of implementation, with some commenters specifically recommending guidance with respect to “Other” response categories. A commenter recommended ensuring the Guidance Manual is concise so that it can be used effectively for implementation and training.

Response: We note that the revised IPF-PAI Guidance Manual, posted with the publication of this final rule, incorporates additional guidance based on comments received in response to our proposals. The IPF-PAI Guidance Manual describes the intent for each assessment item, the steps for assessment, coding instructions, coding tips, and examples. For assessment items with “Other” response options, the appropriate use of this response, coding tips, and examples are included in the guidance manual. To support systematic collection of IPF-PAI data and improve clarity, we will continue to work with IPF staff, clinicians, and other interested parties, to provide training and improve guidance materials in advance of implementation. We will monitor questions received by the help desk and the IPF-PAI data that is submitted to CMS to identify areas for additional guidance or training.

Comment: A commenter stated that many inpatient psychiatric patients are unable to appropriately answer assessment questions, and that the proposed IPF-PAI does not have exclusions for patients who are unwilling or unable to answer questions.

Response: Although we did not propose a patient-level exclusion to the IPF-PAI as a whole due to patient refusal or inability to respond, IPFs are able to indicate nonresponse as a valid response option for certain applicable assessment items (for example, Suicide Screening).

Comment: A commenter recommended that CMS provide guidance regarding which staff are appropriate to complete the IPF-PAI.

Response: We recognize that treatment team composition and staff roles vary across IPFs, and therefore, we provide IPFs the flexibility to implement the IPF-PAI into their existing assessment workflows as appropriate. IPFs are responsible for ensuring that staff members participating in the assessment process, and completing the section(s) of the IPF-PAI, have the requisite knowledge and are qualified to complete an

accurate assessment per facility, state, and federal policy and requirements. For purposes of estimating information collection burden, we assumed that the IPF-PAI would most often be completed by a variety of clinical or other IPF staff, including Medical Records Specialists, Registered Nurses, Licensed Practical or Licensed Vocational Nurses, and Mental Health and Substance Abuse Social Workers.

Comment: Many commenters stated that significant mobility limitations are typically identified during existing screening and intake processes to ensure the facility can safely meet a patient’s medical needs. Many commenters stated that some IPFs do not provide physical therapy or occupation therapy and may not admit patients who require these services. A few commenters stated that IPFs typically admit only ambulatory patients, based on not having the capacity to care for patients with significant physical health needs, such as those that impact mobility or those that are not able to transfer from chair to bed independently.

Response: We appreciate this feedback. We maintain that patient functional status provides important information to CMS on resource intensity.

Comment: Many commenters stated the Mobility: Chair/Bed-to-Chair Transfer item reflects other care settings (such as post-acute settings) rather than the acute psychiatric setting. Many commenters stated that most IPF admissions are not related to mobility rehabilitation. A few commenters stated that while function is important in inpatient psychiatric treatment, it is not the focus of psychiatric treatment and therefore that Chair/Bed-to-Chair Transfer is not a meaningful dimension of behavioral health. A commenter recommended that we exclude mobility from bonus payment calculations if the IPF-PAI is used for payment and consider it only for cost adjustment if evidence shows reduced mobility increases IPF clinical needs or costs.

Response: We acknowledge that mobility is generally not related to the patient’s primary reason for being admitted to an IPF and that a patient at an IPF likely will not receive services during their IPF stay related to improving mobility if they have mobility limitations, whereas mobility may be more closely tied to a patient’s reason for admission and treatment plan in post-acute care settings. We note that we did not propose Mobility: Chair/Bed-to-Chair Transfer in the IPF-PAI because we believe that IPFs are providing or should be providing specialized services related to mobility

treatment and rehabilitation. Rather, we proposed this assessment item because a majority of TEP members supported its inclusion on the IPF-PAI, noting that this information is routinely collected as it informs service delivery during the inpatient stay and discharge planning. In addition, this assessment item meets the statutorily required category of Functional Status, specifically the mobility example set forth in the CAA, 2023. A patient’s ability to transfer to and from a bed to a chair or wheelchair, including the level of assistance required when the patient does not complete activities independently, reflects added resource intensity and this information could therefore be used to adjust payments to IPFs. For example, patients that require assistance to transfer from a bed to a chair may also require assistance to transfer to a dining chair to participate in meals. We acknowledge the commenter’s recommendation to only consider this assessment item for payment adjustment if we find that mobility is related to IPF resource use. We note that the IPF Quality Reporting Program is a pay-for-reporting program; an IPF’s performance on any of the assessment items in the IPF-PAI will not impact payments. Rather, the only impact on payments would be if an IPF does not comply with reporting requirements or meet the compliance threshold (see section V.C.4.b. of this final rule).

Comment: Several commenters stated that mobility or other items related to functional status, impairments, medical conditions, or comorbidities are unlikely to change meaningfully during shorter IPF stays. These commenters stated that assessing this topic at admission and discharge was duplicative and would not produce meaningful information. Several commenters stated that, because IPFs generally cannot improve mobility during a typical stay, the assessment item may not produce meaningful quality information. A few commenters recommended assessing mobility only at admission.

Response: We note that although we proposed requiring this item on both admission and discharge assessments, we did not propose that this item would be used to assess change in functional status between admission and discharge. However, in response to comments and in recognition that meaningful change in mobility is not expected for an IPF stay, we are finalizing to require the Mobility: Chair/Bed-to-Chair Transfer assessment item at the admission only. Under this finalized policy, IPFs that collect and submit the Mobility: Chair/Bed-to-Chair

Transfer item with respect to admission will be deemed to have collected and submitted it with respect to both admission and discharge. In our convenience sample of IPF patients in the field (beta) test, around 10 percent of patients were assessed as having functional limitations (mobility) at admission. Although the sample is small and not nationally representative, the findings indicate that some patients in IPFs require assistance that may impact resource use. We maintain that assessing this information in a standardized way will enable comparison across IPFs and will provide useful information to CMS for understanding the resource needs of IPFs.

Comment: A few commenters recommended assessing mobility through patient self-report rather than through structured observation.

Response: We acknowledge the importance of patient self-report when assessing mobility and note that the Guidance Manual states that the steps for assessing the Mobility: Chair/bed-to-chair transfer assessment item includes the option of incorporating patient-self report combined with direct observation. Specifically, the Guidance Manual states that assessors should “assess the patient’s mobility performance based on direct observation, incorporating patient self-report and reports from qualified clinicians, care staff, or family documented in the patient’s medical record during the assessment period.”

Comment: A few commenters recommended different functional status items for the statutorily mandated Functional Status data category, including self-care, medication management, activities for daily living (ADLs), need for walking assistance, need for modifications and accommodations, and fall risk.

Response: We thank commenters for these recommendations. During the development of the IPF-PAI, including in alpha and beta testing, and in meetings with the TEP, we considered a broader range of functional status topics, including self-care, mobility (other than bed-to-chair transfer), medication management, use of assistive devices, and other ADL-related items. To select appropriate assessment items for the IPF-PAI we took into account testing results, reported clinical usefulness, and perceived challenges or workflow issues identified by the TEP and in field (beta) testing. This approach helps minimize burden while capturing core functional status information, as required by statute. We may consider whether additional or different

functional status assessment items should be included in future versions of the IPF-PAI through future rulemaking.

Comment: A few commenters supported including the suicide screening assessment item at admission and discharge.

Response: We thank the commenters for their support for the inclusion of Suicide Screening on the IPF-PAI at admission and discharge.

Comment: A few commenters stated that reporting on suicide screening may not produce valuable information because suicide screening is a routine activity that is already required under accreditation requirements. Many commenters stated the suicide screening item records whether screening occurred and by what assessment method, rather than information such as assessed risk level, ideation, whether the individual was actively suicidal or homicidal, violent tendencies, safety plan, protective factors, clinical response, treatment planning needs, or change over time. These commenters stated that these limitations decrease the usefulness of the item for patient care, quality measurement, outcomes, and cross-facility comparison. A few commenters also recommended that the item show whether risk was identified and addressed.

Response: As discussed in section V.C.3.b.ii. of this final rule, we identified screening for suicidal thoughts and behaviors as an important clinical topic with relevance to quality of care and resource use. We note that all TEP members responded Strongly Agree or Agree to including a Suicide Screening assessment item on the IPF-PAI. We chose not to require use of a specific standardized suicide risk assessment tool which could provide more detailed information—for example, on the patient’s risk level and treatment plans—in the initial version of the IPF-PAI because TEP members noted that IPFs use a variety of established screening and assessment approaches, and expressed preferences for different screening tools. Instead, we designed the item to collect standardized information on whether suicide screening occurred and the method of assessment, which supports comparability across facilities while preserving the flexibility to use the screening or assessment approach that best fits their clinical practice and the patient’s needs. We recognize that the additional types of information commenters suggested we include are important for clinicians in IPFs, and CMS may consider collecting this information through future rulemaking; however, we maintain that collecting

whether and how patients were screened for suicide risk will provide CMS with standardized information across IPFs on an important topic.

Comment: A few commenters stated that suicide risk changes during an IPF stay and should be assessed at clinically appropriate points, including admission or intake, during the stay, and discharge. A commenter stated the *Suicide Screening* item is a process measure and raised concerns about the assessment window and stated discharge-related suicide screening should occur within 24 hours of discharge, not any time after the first three days.

Response: We proposed that the Suicide Screening assessment item be collected at admission and discharge, however IPFs may assess for suicide risk throughout the stay, as clinically appropriate. As with other aspects of the IPF-PAI, in this initial version we strived to collect the most important information while minimizing burden to facilities. This includes burden that may be introduced if the IPF-PAI is unnecessarily restrictive, for example, by requiring a specific screening tool or clinical care process, such as screening for suicide risk within 24 hours of discharge, when a less restrictive data collection was likely to yield the information we need at this time. We wish to clarify that we did not propose *Suicide Screening* as a quality measure. Its inclusion on the IPF-PAI is intended to collect standardized data across IPFs that could inform payment and aspects of the IPF Quality Reporting Program. This assessment item collects information that is not currently available to CMS. For this initial version of the IPF-PAI, we sought to meet the statutorily mandated categories while minimizing data collection burden, and we may consider this recommendation as we evaluate potential future refinements to the IPF-PAI through future rulemaking.

Comment: A few commenters stated that converting the suicide assessment into a process item may render prior testing conclusions inapplicable to the new assessment item. A few commenters recommended additional testing or monitoring to ensure that the assessment item is relevant and valid.

Response: We interpret these comments as referring to changes that were made to the Suicide Screening item between alpha and beta testing, and subsequent to beta testing. We maintain that the changes between beta testing and the initial version of the IPF-PAI do not undermine evidence of face validity and feasibility drawn from the testing and TEP input. We note that

all members of the TEP (100 percent) responded Strongly Agree or Agree to inclusion of a *Suicide Screening* item on the IPF-PAI indicating that the assessment item is relevant. Descriptive statistics in the field (beta) test supported face validity for a question that asks whether the patient has been screened for suicide risk.³¹

To clarify, we included Columbia Suicide Severity Rating Scale (C-SSRS) in alpha testing, and in beta testing, as an optional assessment item, if the assessor first indicated that the patient was screened using this tool. For the *Suicide Screening* assessment item on the initial version of the IPF-PAI, we do not include the C-SSRS. During developing of the IPF-PAI, we received feedback from alpha test participants as well as the TEP that while the C-SSRS was in widespread use, there are other suicide risk screening tools used in IPFs. The TEP encouraged CMS to allow flexibility to IPFs, and to not require the use of a standardized screening that they would not otherwise use. Although the C-SSRS was included in the field (beta) test, requiring it to be collected for all patients could have been burdensome and duplicative of other standardized suicide screening tools. In addition, the inclusion of the C-SSRS as an optional screening—to be used if the IPF did not indicate they screened with another tool—would have produced incomplete data for IPF patients, limiting its usefulness. Because of broad support for this topic being on the IPF-PAI, and based on the information about workflow and processes, we proposed an item that would collect the information that is important to CMS at this time, meets the statutory requirement, and is applicable across IPFs.

Comment: A few commenters recommended separating “patient declined” from “unable to respond.”

Response: In response to these comments, we are updating the response options for this assessment item. The final version of the IPF-PAI will include separate response options for “patient declined” and “unable to respond” for the *Suicide Screening* assessment item.

Comment: Several commenters recognized the importance of suicide screening but stated that it does not measure cognitive function or broader mental status. The commenters recommended addition of assessment items on functional cognition,

fluctuations in cognitive function, and other dimensions of mental status.

Response: We do not consider suicide-related thoughts and behaviors to be indicative of cognitive impairment. Rather, we understand mental status to encompass a wide range of cognition, orientation, mood, and decision-making capacities, including thought content. Of the candidate assessment items considered for the IPF-PAI in this category, results of our development and testing activities consistently identified *Suicide Screening* as the most important, broadly applicable, and feasible topic to use to meet this statutorily mandated category. We acknowledge commenters’ recommendations to add functional cognition or other aspects of mental status, and we may consider these recommendations as we evaluate potential future refinements to the IPF-PAI through future rulemaking.

Comment: A few commenters include broader mental status and symptom-improvement measures in the domain of Cognitive Function and Mental Status, such as Patient Health Questionnaire-9 (PHQ-9), Generalized Anxiety Disorder 7-item scale (GAD-7), or Positive and Negative Syndrome Scale (PANSS).

Response: We also acknowledge commenters’ recommendation to include broader mental status and symptom-improvement measures, such as PHQ-9, GAD-7, or PANSS. In the development of the IPF-PAI, we did consider screening tools for depression and anxiety, such as the PHQ-9 and the GAD-7, even including the PHQ-9 in the alpha test. However, we received feedback in the alpha test that the PHQ-9 was not in widespread use in IPFs, and participants believed it was a tool designed for use in primary care or outpatient behavior health settings, rather than for individuals facing acute psychiatric symptoms who are being treated in an IPF. In addition, IPF staff described a preference to use the assessment tools appropriate for their patient population, for example, a depression assessment tailored for geriatric patients. With regard to symptom improvement, while we acknowledge the importance of the IPF stay in moderating severe symptoms, we also understand that improvement for many symptoms often happens over weeks or months.

The initial version of the IPF-PAI is intended to meet the statutorily mandated requirement to collect standardized patient assessment data across the required categories while being mindful of reporting burden on IPFs. For that reason, we proposed a minimal set of assessment items for the

initial IPF-PAI. Adding additional symptom-improvement would expand the initial IPF-PAI beyond the assessment items proposed for this rulemaking. We may reconsider these recommendations in the future.

Comment: A commenter was supportive of the Primary Medical Condition Category assessment item.

Response: We thank the commenter for supporting the Primary Medical Condition Category assessment item. Most TEP members responded Strongly Agree or Agree to including this item on the IPF-PAI. Field (beta) testing also supported the feasibility and reliability of this item, with no feasibility challenges identified and good IRR.

Comment: Several commenters expressed concern that the Medical Condition category assessment item may increase burden because the response options are not aligned with ICD-10 diagnostic codes which are used on claims. A commenter stated that this assessment item duplicates information that CMS already gets through claims.

Response: We note that these categories are aligned with the categories on which IPFs report annually as part of the IPF Quality Reporting Program, not with ICD-10 diagnostic codes, with the exception of the Eating Disorders response option, which was added at the recommendation of the TEP. To support assessors in correctly classifying primary diagnosis category, we will provide crosswalk tables of ICD-10-CM codes with the primary diagnosis categories on the IPF Quality Reporting Program page on QualityNet.

This item is intended to collect a structured primary diagnosis category that supports comparability across IPFs. We note that diagnosis information submitted through claims is limited to Medicare patients only, and data collection for the IPF-PAI is applicable to all IPF patients aged 18 years and older.

Comment: A few commenters expressed concerns about inconsistent coding, stating that it is difficult to code primary diagnosis appropriately because the reasons for admission are not present or are represented in multiple diagnostic categories. A commenter recommended that CMS revise this assessment item to allow free text completion.

Response: In our development and testing activities, we found that the Primary Medical Condition Category had no feasibility challenges and good IRR. Detailed instructions for administration, including guidance for situations in which a patient’s reason for admission could relate to more than

³¹ See Exhibit 23 in Appendix B of the IPF-PAI Testing Report. Available at: https://qualitynet.cms.gov/files/69cd2666346406199a2239f2?filename=IPF-PAI_Testing_Report.pdf.

one diagnostic category, will be provided through training and the IPF–PAI Guidance Manual. We are requiring structured data instead of free text to comply with the CAA, 2023 by enabling comparison of data across IPFs.

Comment: A commenter recommended that CMS collect this information once per stay, stating that primary diagnosis is unlikely to change meaningfully between admission and discharge, making repeated collection unnecessary and burdensome.

Response: Input from IPF clinicians during development and testing affirmed that many patients are admitted with a provisional diagnosis that may be updated during the IPF stay. Therefore, we will retain the requirement to assess Primary Medical Condition Category at admission and discharge.

Comment: Several commenters stated that some conditions listed in the response options for the Primary Medical Condition Category assessment item, including delirium, dementia, amnesic disorders, and substance use disorder are not eligible primary diagnoses for IPF stays.

Response: The response options to the Primary Medical Condition Category assessment item are based on the categories on which IPFs report annually to CMS at the facility level, as part of the IPF Quality Reporting Program (79 FR 45973). For reference, a 2024 report showed approximately 15.5 percent of Medicare beneficiaries treated in an IPF had a primary diagnosis of Alzheimer's Disease and Related Dementias and approximately 6.3 percent had a primary diagnosis of alcohol or drug abuse or dependence.³² We note that the IPF–PAI is intended to collect comparable data for all IPF patients regardless of payer, and that not all payers have the same eligibility policies.

Comment: A few commenters stated that the data generated from the Primary Medical Condition Category assessment item would not be meaningful or useful to the public, because they are too broad to understand facility expertise in treating specific conditions and do not provide data on patient outcomes.

Response: We are not publicly reporting data from the IPF–PAI at this time. We proposed this assessment item to fulfill the statutorily mandated category of Medical Conditions and Co-

Morbidities to collect information that can, for example inform resource intensity, or be used to stratify patient data, not as a metric of the quality or effectiveness of treatment.

Comment: A few commenters recommended that CMS include secondary diagnoses and comorbidities as indicators of medical complexity, stating that comorbidities are common in this patient population and can require additional resources. A few commenters stated that the IPF–PAI does not assess illness presentation, acuity, co-occurring behavioral health or medical conditions, or trauma history and adverse childhood experiences, that would impact costs of care and could be used to adjust payments. A commenter recommended that CMS include an assessment item, “Consultation from a non-psychiatric medical specialist was required” to better address the resources required in caring for patients with significant medical comorbidities.

Response: We thank commenters for their suggestions regarding additional assessment items related to Medical Conditions or Co-Morbidities that they believe could help inform resource use across IPFs. For this initial version, we sought to meet the statutory categories while minimizing data collection burden. We may consider additional assessment items to collect information on medical complexity, including information about secondary diagnoses or comorbidities in future rulemaking.

Comment: A commenter supported the IPF–PAI assessment items for impairments related to hearing, speech clarity, and vision at admission.

Response: We thank the commenter for this support.

Comment: Many commenters stated that hearing, speech clarity, and vision assessments do not support psychiatric treatment planning because these items are rarely aligned with the reason for psychiatric treatment. These commenters stated that these assessments appeared to be drawn from non-psychiatric settings. Many commenters stated that IPF staff are not experienced in administering hearing, speech clarity, and vision assessments and therefore including these items would require staff training. A few commenters also stated that reporting hearing, speech clarity, and vision would not provide useful clinical, quality, or outcomes information.

Response: As described earlier in this section of this final rule, we undertook a multi-step process to identify appropriate assessment items for each statutorily mandated category. One step of that process was to review standardized assessment items used in

other settings for clinical relevance and the ability to reflect resource use. As part of that review, we determined that the hearing, speech clarity, and vision assessment items are clinically relevant to IPF patients, in that comprehensive assessment is a basic component of good inpatient care, and information such as whether a patient can hear, see, and speak clearly is important for communication, safety, and care planning. In testing and TEP review, these assessment items were described as clinically useful and already part of routine IPF assessment practices, supporting their inclusion in the IPF–PAI. We will provide training and guidance on how IPF staff can assess a patient's hearing, vision, and speech clarity. We wish to clarify that completing these assessment items requires only usual interaction with the patient or review of the medical record, and does not require a comprehensive hearing or vision exam, or evaluation of speaking ability. Data collected on these assessment items could reflect resource intensity. We note that these are standardized assessment items, not quality measures, and their inclusion on the IPF–PAI is not to provide information on quality or outcomes. The IPF–PAI is intended to collect standardized patient assessment data across IPFs using the same assessment items, response options, standards, and definitions.

Comment: Many commenters stated that hearing, speech clarity, and vision assessments may be difficult or inappropriate for patients experiencing acute psychiatric symptoms. A few commenters stated that medication side effects or psychiatric symptoms such as hallucinations may affect these assessments. A few commenters recommended an option for patient refusal or clinician inability to assess. A few commenters stated that hearing, vision, and speech clarity are typically identified prior to admission to ensure that the facility can meet the patient's needs.

Response: We note that these are not patient interview items, but rather assessments of level of impairment completed by IPF staff based on information in the medical record and interactions with the patient. The IPF–PAI Guidance Manual includes information including “Coding Tips” to help IPF staff complete these assessment items for patients who may be unable to respond to standard assessments including due to acute psychiatric

³² Office of the Assistant Secretary for Planning and Evaluation (ASPE). Use of Inpatient Psychiatric Facilities by Medicare Beneficiaries with Dementia. November 2024. <https://aspe.hhs.gov/sites/default/files/documents/6056d67f812cb75290d9d9fc3bb31715/ipf-use-medicare-beneficiary-dementia.pdf>.

symptoms.³³ The causes of any impairments, such as an impairment resulting from the side effects of a psychiatric medication side effects, are not relevant to the completion of the assessment items. Furthermore, assessors have until day 3 of the IPF stay to assess the patient's hearing, speech clarity, and vision, which provides time for IPF staff to interact with and observe patients in ways that can inform their completion of the assessment items. We intend the policy we are finalizing in Section V.C.4.B. of this final rule, which lowers the compliance threshold from that which we proposed, to provide flexibility for IPFs when they encounter challenges with completing the IPF-PAI during initial implementation.

Comment: A few commenters recommended changes to the impairment items, including assessing speech clarity at both admission and discharge, collecting static impairment-related items only once during the IPF stay, modifying hearing, speech clarity, and vision to yes/no questions, combining mobility and sensory impairments into one item, and adding assessment items for urinary incontinence, bowel incontinence, and dysphagia.

Response: We proposed Hearing, Speech Clarity, and Vision for admission-only collection based on testing and clinician input and to reflect the fact that these items are unlikely to change during the IPF stay. As a result, IPFs that collect and submit Hearing, Speech Clarity, and Vision with respect to admission will be deemed to have collected and submitted these items with respect to both admission and discharge. For the purpose of reflecting resource intensity, the multi-level response options will provide more granular information than a binary yes/no option. We may consider refinements or additional impairment items through future rulemaking.

Comment: A few commenters supported the data elements for the Special Services, Treatments, and Interventions Category, specifically the Other Restrictive Interventions item (which includes unit restrictions, one-to-one observation, and line-of-sight supervision) and the non-pharmacological therapies. Commenters stated that these assessment items will provide information that is important for the IPF setting.

Response: We thank commenters for their support for these assessment items within the Special Services, Treatments, and Interventions Category and agree that these items are important for the IPF setting. We note that we have revised the name of the Other Restrictive Interventions response option to be Other Interventions as it is a response option to the Restrictive Interventions section of the Special Services, Treatments, and Interventions in the Inpatient Psychiatric Setting assessment item.

Comment: Several commenters stated that guidance was limited or unclear for components of the Special Services, Treatments, and Interventions in the Inpatient Psychiatric Setting item. Commenters specifically recommended clarifying the Medications item, the Non-Pharmacological Treatment item, Unit Restrictions, One-to-One Observations, and "Other" response options. Several commenters stated that nearly all patients receive interventions in the psychiatric treatments item and recommended additional response options (for example, categories of medication type) to improve the value of the data.

Response: We appreciate these recommendations. The revised IPF-PAI Guidance Manual, posted with the publication of this final rule, will incorporate additional guidance based on comments received in response to our proposals. In addition, to support collection of accurate standardized IPF-PAI data, we will offer training in advance of implementation, as well as a help desk for ongoing support, and continue to improve guidance materials as challenges are identified. We will monitor data submitted for the initial IPF-PAI to determine if additional assessment items or response options would increase the value of these data.

Comment: Several commenters stated that CMS underestimated the burden of reporting data on Special Services, Treatments, and Interventions. Several commenters stated that information on special services and restrictive interventions is not readily available in structured EHR fields so data collection would require burdensome mapping between the EHR and the IPF-PAI.

Response: We understand commenters' concerns about our estimate of collection of information burden for the Special Services, Treatments, and Interventions Category. As discussed in the FY 2027 IPF PPS proposed rule (91 FR 17749), our estimates for completing each assessment item part of 0.30 minutes per assessment item part is similar to estimates used in other CMS PAI data

collections, and was supported by field (beta) testing, in which we calculated that median time to complete was 0.15 minutes per assessment item part (see section VI.C.2. of this final rule for more information). We also acknowledge that reporting data directly from the EHR may require updates to existing documentation processes and workflows. To provide IPFs more time to make these and other updates and in response to concerns raised by commenters, we are providing three quarters of voluntary reporting prior to mandatory reporting of the IPF-PAI in Q3 of 2028. To further reduce burden and because these data are specific to the IPF stay, we are making a modification to require data for the Special Services, Treatments, and Interventions Category to be collected at Discharge only, with a lookback period of the entire IPF stay. This extended lookback period will ensure that the data is submitted with respect to the entirety of the IPF stay, including admission and discharge.

Comment: A commenter expressed concern that documenting Special Services, Treatments, and Interventions at discharge for patients with longer stays would be burdensome because patients may have received many different special services, treatments, and interventions throughout their stay, and identifying those would require review of the patient's entire medical record.

Response: The data reported in response to the Special Services, Treatments, and Interventions Category collects important elements of IPF treatment for all patients for whom the IPF-PAI is completed. We note that the discharge assessment captures whether the patient received each listed service, treatment, or intervention at least once during the inpatient stay. Facilities are not expected to determine the number of occurrences or dates on which services were provided. We encourage IPFs that routinely treat patients with longer stays to identify strategies, such as incorporating ongoing tracking of these services through developing logs for these items, rather than relying on retrospective review of patient medical records at discharge.

Comment: Several commenters recommended that CMS not include the Seclusion and Restraint sections of this assessment item because of duplication with the Hours of Physical Restraint Use (HBIPS-2) and Hours of Seclusion Use (HBIPS-3) quality measures in the IPF Quality Reporting Program or the Conditions of Participation reporting requirements. A commenter stated that CMS had previously proposed removing

³³ CMS, Draft Inpatient Psychiatric Facilities Patient Assessment Instrument Manual. https://qualitynet.cms.gov/files/69cd28a56c16b5dc32991a9b?filename=IPF-PAI_GuidManual_v1.0.pdf (For Hearing, Speech, and Vision Guidance, see Chapter 3: Section B).

the HBIPS–2 and HBIPS–3 measures because of high and unvarying performance and that collecting data on similar data elements will not provide meaningful information to compare IPFs. A few commenters recommended modified or additional response options (such as distinguishing between manual and mechanical restraint) to collect more meaningful data.

Response: We recognize that IPFs currently collect and report similar information related to seclusion and restraint use to CMS. Because IPFs routinely collect and maintain records of the use of seclusion and restraint in compliance with the Conditions of Participation, we believe reporting whether a patient received these interventions during the applicable assessment period represents a limited additional burden. We also believe there is value in collecting patient-level information on the use of seclusion and restraint during an individual's inpatient psychiatric stay, in addition to the facility-level rates of restraint and seclusion hours per 1,000 patient hours captured by the HBIPS–2 and HBIPS–3 quality measures. We also note that the IPF–PAI will collect more granular data than existing requirements, including type of restraint (chemical or physical), and use of other interventions such as unit restrictions, line of sight supervision, and 1:1 observation. We appreciate commenters' suggestions to add additional response options to add more granularity, such as manual versus mechanical restraint, and will consider these recommendations as we evaluate potential future refinements to the IPF–PAI through future rulemaking. Regarding the comment that we previously proposed removing HBIPS–2 and HBIPS–3 because these measures had high and unvarying performance, we note that we did not finalize that proposal because we agreed with many commenters who stated that these measures continued to provide meaningful information despite their performance (83 FR 38603), and we believe that collecting complimentary information through the IPF–PAI will also provide meaningful information.

Comment: A few commenters expressed concern about including information regarding ECT utilization because of the sensitive nature of ECT data and potential uses of publicly available data sets. A commenter stated that CMS already receives data regarding ECT use as part of IPF claims.

Response: We note that under the Special Services, Treatments, and Interventions Category we require IPFs to report data on Brain Stimulation treatments received by the patient.

While we do receive some information regarding ECT on claims for Medicare patients, data on the use of brain stimulation, including ECT, Transcranial Magnetic Stimulation, and other types of brain stimulation, would provide valuable information about resource use in the IPF setting. We note that we do not currently have any policies under which we would publicly report data collected under the IPF–PAI.

Comment: A few commenters recommended additional assessment items for the Special Services, Treatments, and Interventions Category, specifically “high-cost technology, treatments, and interventions” and “Involuntary Commitment/Treatment Over Objection.” A commenter recommended including detailed information about the timing and use of recreational therapy in the IPF setting.

Response: We thank the commenters for these recommendations. We may consider refinements or additional items related to Special Services, Treatments, and Interventions through future rulemaking. We note that we included an item for voluntary/involuntary admission in the administrative data required for submission of the IPF–PAI.

Comment: A commenter supported aligning administrative data elements between the IPF–PAI and existing patient assessment instruments.

Response: We thank the commenter for their support.

Comment: A commenter requested clarification regarding whether patient name, birth date, and sex are required if other identifiers like Medicare number and SSN are submitted.

Response: As discussed in the FY 2027 IPF PPS proposed rule (91 FR 17742), assessment items in the Administrative category, will support accurate linkage of assessment records within iQIES. Because some individuals share names and birth dates, iQIES' matching algorithm uses multiple pieces of information for each patient to ensure that the correct records are matched; internal analysis has found that having multiple pieces of information about a patient increases the likelihood of correct matching. Patient name, birth date, and sex are therefore essential for record matching. As discussed later in this section, we are not finalizing the inclusion of SSN for this initial version of the IPF–PAI, and we will require Medicare Number only for patients for whom Medicare is the primary payer.

Comment: Several commenters stated that SSN may be unavailable because some facilities do not routinely collect this information or because SSN is unknown. Several commenters stated

that collecting detailed identification information, including SSN, would likely not be approved by patient advocacy committees and may impact patient trust, engagement, and willingness to disclose sensitive information throughout the course of their stay. Several commenters expressed concerns that collection of SSN poses a privacy risk. A commenter stated that CMS has neither demonstrated the necessity of requiring SSNs for all patients, regardless of payer, nor that there are not less burdensome options available to operate the IPF Quality Reporting Program and recommended that CMS designate SSN as optional.

Response: We appreciate these comments. We proposed collecting SSN because it improves our ability to uniquely identify patient records and to match assessment data for the same patient longitudinally. After consideration of public comments regarding the collection of SSN, we are removing SSN from the initial version of the IPF–PAI.

Comment: A commenter expressed concerns that the items in the Administrative Data category are covered under HIPAA and raise concerns about breach-risk and associated penalties. A few commenters recommended providing additional information about the necessity of data collection, the intended uses of these data, and the planned data protections because of the sensitive nature of psychiatric inpatient admission and the importance of maintaining patient privacy.

Response: We appreciate these comments. We are collecting certain identifiable data in the Administrative Data category to support patient identification, record matching, and database management functions associated with standardized assessment data. We are collecting these data on all patients aged 18 and older because the IPF–PAI is to be collected for all such patients in an IPF. In the FY 2027 IPF PPS proposed rule (91 FR 17745), we stated that submission of IPF–PAI data to CMS through the web app, PARIT, would follow standard HIPAA-compliant encryption protocols. For IPFs who work with vendors to develop custom HL7® FHIR® submission pathways—for example, to extract data directly from the EHR—we expect IPFs to operate in compliance with applicable privacy and security requirements for transmitting health care data. After IPF–PAI data are received by CMS, they will be stored in iQIES, a CMS system that operates under federal security requirements and

is compliant with the Federal Information Security Management Act of 2014 (FISMA).³⁴ In practice, this level of security means that users must verify their identity, use multi-factor authentication, and have approved access roles, and that the system is subject to ongoing security and privacy reviews and monitoring.

Comment: A few commenters asked CMS to provide guidance on how facilities should respond to assessment items where a patient refuses to provide information on their Sex, and if CMS will consider an assessment incomplete if a patient declines to provide this information.

Response: We thank the commenter for these questions. Sex remains a required administrative data element, as proposed, to support record matching and database management. If a patient declines to self-report sex during their intake process, we defer to the IPF's policy on medical recordkeeping for how to complete this information.

Comment: A commenter recommended that CMS replace the term "sex" with "sex at birth."

Response: We thank the commenter for the feedback. It is the policy of HHS to use the term "sex" when referring to person's biological classification as male or female.³⁵ We intend for IPFs to populate this field with the corresponding information, even if it is labeled differently in the IPF's medical recording keeping system.

Comment: A commenter stated that Payer information may be burdensome to collect, as this information is often stored separately from the patient's record of treatment.

Response: We appreciate this feedback. We maintain that payer information will be useful to CMS for stratifying patients in analyses and understanding differences in case mix and resource use across payer type. Although it may require some additional effort to collect, it provides important standardized information for CMS and can usually be obtained from administrative records.

Comment: Several commenters expressed concern about the proposed use of multiple administrative assessment items for patient matching, stating that routine variations or errors in data entry in these fields could result in mismatched assessment data and financial consequences for IPFs. A commenter stated that CMS has

acknowledged that minor discrepancies can trigger financial penalties.

Response: We thank the commenters for their feedback. We wish to clarify that the matching process described in section V.C.3.b.vi. of this final rule supports CMS in associating admission assessments with discharge assessments in our databases. We wish to clarify that data matching is not required to meet the compliance threshold, and therefore, variations or errors in data entry in the administrative fields will not have financial consequences for IPFs.

Comment: A commenter expressed concerns about manual entry requirements for NPI, CCN, and assessment reference dates and recommended that these be automated.

Response: We appreciate this feedback and recognize that automating some administrative assessment items would reduce burden and data entry errors. IPFs that use the FHIR® APIs for data submission have flexibility in how the tool is integrated into their EHR. That is, some IPFs may purchase or develop solutions that reduce burden by auto-populating administrative data or other information. For the initial version of PARIT, the free web app, we are not able to offer this functionality. We will consider this functionality for future versions of the web app.

Comment: A few commenters stated that additional patient-level information would provide useful information about resource needs. These commenters specifically recommended language and cultural factors, social determinants of health, and information about social isolation. A few commenters also recommended including items regarding the need for patients and providers to attend legal hearings and the need for staff to collaborate with outside entities.

Response: For this initial version of the IPF-PAI, we sought to meet the statutorily mandated categories while minimizing data collection burden. We may consider refinements or additional items related to Special Services, Treatments, and Interventions through future rulemaking.

Final Decision: After consideration of the comments received, we are finalizing these assessment items for the IPF-PAI, to fulfill the categories named in the CAA, 2023, and to establish a new category of Administrative Data, with modifications. We will require the assessment item Mobility: Chair/Bed-to-Chair Transfer to be collected at admission only. IPFs that collect and submit Mobility: Chair/Bed-to-Chair Transfer with respect to admission will be deemed to have collected and submitted it with respect to both admission and discharge. We will

require that the assessment item Special Services, Treatments, and Interventions in the Inpatient Psychiatric Setting be collected at Discharge only, with an extended lookback period of the entire IPF stay, from admission through discharge. In the Administrative Data category, we are not finalizing inclusion of SSN for the IPF-PAI, and the Medicare Number will only be required for patients for whom Medicare is the primary payer (see section V.C.4.b. of this final rule).

4. Form, Manner, and Timing of Data Collection and Submission of the IPF-PAI

a. Reporting Periods and Data Submission Deadlines for the IPF-PAI

In the FY 2027 IPF PPS proposed rule, we proposed mandatory reporting of the IPF-PAI beginning with a reporting period of October 1, 2027, through December 31, 2027, impacting the FY 2029 payment determination. That is, IPFs would be required to collect and submit IPF-PAI admission and discharge assessments for all patients aged 18 years and older, regardless of payer, beginning October 1, 2027; admission and discharge assessments conducted October 1, 2027, through December 31, 2027, would impact the FY 2029 payment determination.

We proposed that beginning with the FY 2030 payment determination and for subsequent years, IPF would be required to report data with respect to admissions and discharges for all patients age 18 years and older that occur during the calendar year from January 1 through December 31, that is, the calendar year two years preceding the FY payment determination year (for example, January 1, 2028 through December 31, 2028 for the FY 2030 payment determination, January 1, 2029 through December 31, 2029 for the FY 2031 payment determination, and so on). We proposed that for each calendar year reporting period, the IPF-PAI data must be submitted as quarterly reporting periods by a submission deadline of the 15th day of the second month after the end of the calendar quarter, as outlined in Table 7. See Table 7 for proposed submission deadlines through the FY 2031 payment determination. We stated that we would also publish upcoming submission deadlines on the CMS QualityNet website at <https://qualitynet.cms.gov/>.

Specifically for the purpose of determining which applicable reporting quarter the admission or discharge falls within, we proposed to use the Assessment Reference Date (ARD) associated with each admission and

³⁴ Federal Information Security Modernization Act of 2014, Public Law 113–283, 128 Stat. 3073 (2014).

³⁵ HHS, Office on Women's Health. "Sex-Based Definitions." <https://womenshealth.gov/article/sex-based-definitions>. Accessed June 19, 2026.

discharge. The Admission ARD would be not later than 3 days after the admission and the Discharge ARD would be the day of discharge. We proposed to require that an IPF submits an admission assessment by the 15th day of the second month after the end of the calendar quarter in which the

ARD for the admission assessment occurred. We likewise proposed that an IPF submits a discharge assessment by the 15th day of the second month following the calendar quarter in which the ARD for the discharge occurred. The submission deadlines and associated payment determination years that we

proposed for the first nine quarters of IPF-PAI data collection are shown in Table 7. We noted that when the submission deadline falls on a Friday, Saturday, Sunday, or Federal holiday, we would move the data submission deadline to the next business day.

TABLE 7: PROPOSED DATA SUBMISSION DEADLINES AND ASSOCIATED PAYMENT DETERMINATION YEARS FOR THE IPF-PAI

Quarter of IPF-PAI data collection	Data Submission deadline*	Applicable Payment Determination
Q4 2027 (Oct 1 – Dec 31, 2027)	February 15, 2028	FY 2029
Q1 2028 (Jan 1 – Mar 31, 2028)	May 15, 2028	FY 2030
Q2 2028 (Apr 1 – Jun 30, 2028)	August 15, 2028	
Q3 2028 (Jul 1 – Sept 30, 2028)	November 15, 2028	
Q4 2028 (Oct 1 – Dec 31, 2028)	February 15, 2029	
Q1 2029 (Jan 1 – Mar 31, 2029)	May 15, 2029	FY 2031
Q2 2029 (Apr 1 – Jun 30, 2029)	August 15, 2029	
Q3 2029 (Jul 1 – Sept 30, 2029)	November 15, 2029	
Q4 2029 (Oct 1 – Dec 31, 2029)	February 19, 2030	

* Submission deadlines reflect consideration of Federal holidays and weekends. When that occurs, the data submission deadline will be moved to the next business day.

We noted that notwithstanding the quarterly submission deadlines for IPF-PAI data described in this section, based on best practices learned from our long-standing experience with standardized patient assessment instruments for post-acute care providers, we recommended rolling submissions of IPF-PAI records to CMS throughout the data collection period as patients are admitted and discharged for more timely, accurate, and efficiently collected assessment data. The data submission methods we proposed are described in section V.C.4.c. of this final rule. We noted that ongoing submission of IPF-PAI records allows an IPF to monitor their compliance rates through on-demand provider reports available through internet Quality Improvement and Evaluation System (iQIES). We stated that we would issue technical sub-regulatory guidance for the IPF-PAI assessment items and data collection, including recommended frequency of submissions via the IPF-PAI Guidance Manual (draft available under IPF-PAI Resources at <https://qualitynet.cms.gov/ipf/pai>).

We received public comment on these proposals.

Comment: A commenter expressed support for the consistency of IPF-PAI reporting periods and data submission deadlines with existing Inpatient Rehabilitation Facility –Patient

Assessment Instrument (IRF-PAI) processes.

Response: We thank the commenter for their support. We agree that alignment across standardized patient assessment instruments can be helpful.

Comment: Many commenters recommended that CMS delay implementation until additional instrument development and interested parties engagement take place. Several commenters recommended less burdensome reporting structures, including completing the PAI only at admission, using one PAI rather than separate admission and discharge PAIs, avoiding an initial one-quarter partial-year reporting period, delaying reporting until January 1, 2028, or avoiding payment impacts during initial implementation.

Response: We are finalizing our proposal to require separate IPF-PAI submissions for admission and discharge, but based on commenters' feedback, we are modifying the requirements to no longer require some items to be collected at both time points. As described in section V.C.3. of this final rule, we will require the Mobility assessment item at Admission only—rather than at Admission and Discharge, as proposed. IPFs that collect and submit the Mobility assessment item with respect to admission will be deemed to have collected and submitted

it with respect to both admission and discharge. We will require the Special Services, Treatments, and Interventions in the Inpatient Psychiatric Setting assessment item at Discharge only—rather than at both Admission and Discharge—with an extended lookback period to ensure that the data is collected with respect to the entirety of the IPF stay, from admission through discharge. These modifications reduce the reporting burden at each time point.

Additionally, based on commenters' feedback we are modifying the proposed beginning date for mandatory reporting. As described in section V.C.4.b. of this final rule, we are finalizing a policy in which IPFs may begin voluntary reporting of the IPF-PAI beginning October 1, 2027. Mandatory reporting of the IPF-PAI then begins on July 1, 2028 for Q3 CY 2028. Successful submission of IPF-PAI data for Q3 2028 and Q4 2028 will impact the FY 2030 payment determination under the IPF Quality Reporting Program. We interpret commenters' concern regarding partial year reporting periods to be based on the potential for small data sets reported through an unfamiliar reporting structure to impact IPF payments. Because we are providing three quarters of voluntary data submission during which IPFs can become familiar with IPF-PAI data collection and reporting, and increasing the partial year reporting

period from one quarter to two quarters this concern is mitigated by our modified policies.

Comment: Several commenters recommended aligning with IPF Quality Reporting Program data submission requirements by requiring annual reporting rather than aligning with quarterly patient assessment reporting in other settings.

Response: We understand commenters' concerns that quarterly submission deadlines for the IPF-PAI will increase the number of reporting deadlines that IPFs are required to meet. However, as described in the FY 2027 IPF PPS proposed rule (91 FR 17744), based on best practices learned from our experience with standardized patient assessment instruments for post-acute care providers, we recommended rolling submissions of IPF-PAI records to CMS throughout the data collection period as patients are admitted and discharged for more timely, accurate, and efficiently collected assessment data. We note that we define timeframes for data collection for both Admission and Discharge: the Admission ARD of 3 days and the Discharge ARD of the day of discharge. We expect an IPF to complete the IPF-PAI during those timeframes, rather than attempting to complete the IPF-PAI retrospectively at the time of the data submission requirement. In addition, to support accuracy, ongoing submission of IPF-PAI records allows IPFs to monitor their compliance rate through the provider reports available through iQIES.

Comment: A few commenters raised burden concerns, including significant workflow changes and labor resource needs, difficulty recruiting and maintaining staff for the work, the risk that smaller facilities may struggle with quarterly submission deadlines, and clinical concerns with assessing patients during the first two days of psychiatric admission when they may be in acute crisis, medically unstable, or unable to meaningfully participate in assessment.

Response: As described in section V.C.4.b. of this final rule, based on commenters' feedback we are finalizing a policy in which IPFs will have three voluntary quarters of data submission beginning October 1, 2027, to become familiar with the IPF-PAI and adapt their workflows as needed, before mandatory submission. We are also finalizing a lower compliance threshold than the proposed 80 percent, beginning at 50 percent for when the quarterly

reporting periods become mandatory, then increasing to 70 percent beginning with the CY 2030 reporting period, which starts January 1, 2030 (see section V.C.4.b.). Additionally, our finalized policy reduces the number of assessment items collected at each time point, as described in this section. These several modifications to reduce reporting burden, provide a longer implementation timeline for IPFs, and provide additional flexibilities including the voluntary reporting period help address the anticipated challenges described by commenters including for smaller facilities in order to facilitate successful implementation. We understand the commenters' concern that patients may be in acute crisis or medically unstable during the first days of their stay. We note that the ARD for the admission assessment is 3 days from the date of admission, not two as indicated by the commenter. We acknowledge there may be situations in which IPFs may report data as "not applicable" if they are unable to assess patients due to acute crisis or medical instability. We refer readers to the IPF PAI Manual for additional information on use of the "not applicable" code.³⁶ As discussed in response to other comments in this section and described in the FY 2027 IPF PPS proposed rule (91 FR 17744), we maintain that there are benefits to the quarterly submission deadlines for IPF-PAI data that will support IPFs in submitting accurate data on an ongoing basis, and allowing them to monitor their compliance rates throughout the year, providing early feedback on compliance issues, should they occur.

Comment: A commenter stated that Special Services, Treatments, and Interventions reporting would be more feasible using the first three days of admission, a seven-day lookback before discharge, or prospective tracking of physician-ordered special treatments, rather than requiring long lookbacks across hybrid records and multiple reporting systems.

Response: We acknowledge the commenter's concerns about challenges related to completing the Special Services, Treatments, and Interventions in the Inpatient Psychiatric Setting assessment item. We note that, as described in section V.C.3. of this final rule, based on commenters' feedback, we are finalizing a modified policy to require the Special Services, Treatments, and Interventions (SSTI)

assessment item at Discharge only—rather than at both Admission and Discharge. Because the first three days will no longer be captured under the Admission assessment for this assessment item, we are also changing the lookback period for it to the entire stay. That is, the modified assessment item will be collected only at the Discharge time point, but assessors will populate this item with treatments and interventions administered during the first three days of the stay (the Admission period), as well as during the remainder of the stay. We intend for this change to reduce some reporting burden for this item, while still providing information on SSTI in the Inpatient Psychiatric Setting from across the entire stay, from admission to discharge. This information is valuable for CMS to understand resource intensity and the types of treatments and interventions used in IPFs.

Final Decision: After consideration of the public comments received, we are finalizing the reporting periods and data submission policies and deadlines with modifications. Because of concerns expressed by commenters regarding the burden and complexity associated with requiring both admission and discharge assessments for patients with stays of less than 3 calendar days we are finalizing a policy under which IPFs will not be required to complete a separate discharge assessment for patients whose length of stay is less than 3 calendar days. Instead, for these patients, IPFs will be required to collect limited items from the discharge assessment item set as part of the admission assessment.³⁷ This modification reduces burden and simplifies processes while still collecting the important patient assessment information. In addition, we are finalizing that, for the purpose of determining which applicable reporting quarter the admission or discharge falls within, the IPF should use the admission or the discharge date, rather than the Admission ARD and the Discharge ARD, as we had proposed.

Table 8. shows data submission deadlines through the FY 2031 payment determination using the finalized reporting period and data submission deadline policies, updated to reflect the voluntary reporting period and starting reporting quarter for mandatory reporting, as described in section V.C.4.b. of this final rule.

³⁶ IPF-PAI Guidance Manual—Draft, Available at <https://qualitynet.cms.gov/ipf/PAI#tab2>.

³⁷ The assessment items from the Discharge assessment required for patients with stays of less

than 3 days will be specified in the Guidance Manual and represented as skip patterns in the FHIR® Implementation Guides. For the implementation of the IPF-PAI on October 1, 2027,

those items are Discharge Date, Discharge Type, and Special Services, Treatments, and Interventions in the Inpatient Psychiatric Setting.

TABLE 8: DATA SUBMISSION DEADLINES AND ASSOCIATED PAYMENT DETERMINATION YEARS FOR THE IPF-PAI

Quarter of Patient Admission or Discharge Date	Data Submission deadline*	Applicable Payment Determination
Q4 2027 (Oct 1 – Dec 31, 2027)	February 15, 2028	N/A (Voluntary)
Q1 2028 (Jan 1 – Mar 31, 2028)	May 15, 2028	N/A (Voluntary)
Q2 2028 (Apr 1 – Jun 30, 2028)	August 15, 2028	N/A (Voluntary)
Q3 2028 (Jul 1 – Sept 30, 2028)	November 15, 2028	FY 2030
Q4 2028 (Oct 1 – Dec 31, 2028)	February 15, 2029	FY 2030
Q1 2029 (Jan 1 – Mar 31, 2029)	May 15, 2029	FY 2031
Q2 2029 (Apr 1 – Jun 30, 2029)	August 15, 2029	FY 2031
Q3 2029 (Jul 1 – Sept 30, 2029)	November 15, 2029	FY 2031
Q4 2029 (Oct 1 – Dec 31, 2029)	February 19, 2030	FY 2031

* Submission deadlines reflect consideration of federal holidays and weekends. When that occurs, the data submission deadline will be moved to the next business day.

b. Compliance Threshold for the IPF-PAI To Receive the Applicable Annual Payment Update Beginning With the FY 2029 Payment Determination

In the FY 2027 IPF PPS proposed rule, we proposed that an IPF would need to complete 100 percent of the IPF-PAI assessment items on 80 percent of the IPF-PAIs submitted to satisfy the IPF Quality Reporting Program data reporting requirements for the applicable annual payment determination. We proposed that an IPF that fails to submit 100 percent of the assessment items on at least 80 percent of the IPF-PAIs submitted to CMS would be deemed non-compliant with the IPF Quality Reporting Program reporting requirements and, as a result, would be subject to a 2-percentage point reduction to its annual payment update as required by section 1886(s)(4)(A) of the Act.

We proposed this 80 percent compliance threshold as a starting point (rather than proposing a 100 percent threshold), understanding that it will take time for IPFs to become familiar with the data collection and submission workflows of this new program requirement. We stated that we will monitor data completion rates and provide training and other implementation resources to help IPFs be successful in meeting or exceeding the 80 percent compliance threshold. We stated that over time, in future rulemaking, we plan to incrementally increase the compliance rate that an IPF would need to achieve in order to be considered compliant with the IPF Quality Reporting Program IPF-PAI requirement. We noted that we adopted a similar approach of incrementally increasing the compliance threshold over time with the standardized patient

assessment instruments used by post-acute care providers.

We proposed that for the FY 2029 payment determination, the compliance rate for each IPF would be calculated for the Q4 2027 reporting quarter, and that for the FY 2030 payment determination and subsequent years, the compliance rate for each IPF would be calculated based on the entire CY 2028 reporting period (that is, four CY reporting quarters of IPF-PAI data).

We proposed to codify the data completion requirement of 100 percent of required assessment items for at least 80 percent of submitted assessments for the IPF-PAI at the proposed new § 412.433(h).

We received public comments on this proposal.

Comment: A commenter expressed support for the alignment of IPF-PAI compliance thresholds with IRF-PAI compliance thresholds.

Response: We thank the commenter for their support.

Comment: Several commenters expressed concern that the 80 percent compliance threshold for complete assessments is too high for initial implementation. These commenters described implementation challenges and stated that it will take time for the IPF-PAI to be integrated into workflows in a way that IPFs will be able to achieve such a high completion rate. A few commenters expressed concern regarding the effects of a 2-percentage point payment reduction and recommended reducing the compliance threshold, postponing payment reductions, or both. A commenter recommended a three-year phased implementation transitioning from 60 percent in year 1 to 80 percent by year 3. A commenter suggested that CMS could consider adjustments to the

threshold based on facility size, stating that smaller facilities are often under resourced and understaffed, especially rural facilities.

Response: We appreciate the commenters' concerns. Based on commenters' feedback we are finalizing a compliance policy with a lower compliance threshold than proposed. Specifically for the initial mandatory reporting period of Q3 and Q4 CY 2028, impacting the 2030 payment determination, the compliance threshold will be 100 percent of the required data elements on 50 percent of the IPF-PAIs submitted. The compliance threshold will increase to 100 percent of the required data elements on 70 percent of the IPF-PAIs submitted beginning with the CY 2029 reporting period. We intend that this modification will give IPFs, including under-resourced facilities, additional flexibility during implementation of the IPF-PAI. We refer readers to Table 9 at the end of this section for more information on these updated requirements. We note that in section V.C.3.b of this final rule we are also establishing policies under which some data elements will not be required or will only be required at admission or discharge, not both. Table 10, which is included at the end of this section, summarizes which data elements are required to meet the 100 percent completion requirement.

Comment: A commenter stated that IPFs may falsely report items to meet the compliance threshold, given what the commenter stated was the IPF-PAI's lack of clinical relevance, inappropriateness for patients with acute mental health needs, burden on staff, and financial risk for non-completion.

Response: We expect IPFs to submit accurate and complete data in accordance with the reporting requirements. We refer readers to section V.C.2 of this final rule in which we describe the multi-stage process we undertook to identify assessment items that would be responsive to the statutory mandate and clinically appropriate for patients in the IPF setting. To reduce burden on staff we are also finalizing policies to provide more flexibilities to IPFs as they become familiar with the IPF-PAI and adjust their workflows as needed. These flexibilities include three quarters of voluntary submission before mandatory submission, a lower compliance threshold than proposed, and a reduction in the number of assessment items collected at each time point (see section V.C.3.b. of this final rule).

Comment: Several commenters stated that the admission and discharge assessment windows may overlap, especially for patients who are discharged on Day 2 or Day 3, creating duplicative documentation or uncertainty about whether both assessments would be required. They asked CMS to provide guidance on how to complete the IPF-PAI when the assessment windows overlap and recommended that CMS allow for a combined or single IPF-PAI to meet the requirement for assessment at admission and discharge.

Response: We understand commenters' concerns regarding the overlap in assessment windows. In response to this concern we are establishing a modified policy under which IPFs will not be required to complete a separate discharge assessment for patients whose length of stay is less than 3 calendar days. Instead, for these patients, IPFs will be required to collect limited items from the discharge assessment item set as part of the admission assessment thus eliminating duplicative documentation. In addition, for the purposes of calculating the compliance threshold, when an IPF completes an IPF-PAI on a patient whose length of stay is less than 3 calendar days, that IPF-PAI will be counted as both an admission and a discharge assessment in the IPF-PAI compliance calculation. At this time, we do not plan to change any requirements for patients with longer lengths of stay, but we intend to monitor data submissions and help desk questions associated with such patients.

Comment: Several commenters stated that the IPF-PAI Guidance Manual was unclear on how blank assessment items due to missing data or patient refusals are included in the compliance calculation.

Response: As described in section V.C.3.b of this final rule, we are finalizing a policy where Medicare Number will be required only for patients for whom Medicare is the primary payer. In addition, IPFs are able to indicate nonresponse or inability to assess as a valid response option for certain applicable assessment items (for example, Suicide Screening, Mobility: Chair/Bed-to-Chair Transfer). We will provide additional guidance and training on data completeness with respect to the compliance threshold as the IPF-PAI is implemented. We note that the updated Guidance Manual, which is available on the QualityNet website (<https://qualitynet.cms.gov/ipf/PAI#tab2>) includes guidance on indicating when items are unable to be assessed.

Comment: A commenter expressed concern about an 80 percent match and described a data match requirement in other payment programs. This commenter discussed the possibility of mismatched data due to spelling or keystroke errors.

Response: For clarification, the proposed 80 percent completion requirement was referring to the percent of IPF-PAIs submitted to CMS that must be complete for the IPF to meet the IPF Quality Reporting Program IPF-PAI requirement and not to any matching. In the proposed rule we described the need to collect certain administrative information to enable database management and record matching, but these database management and record matching capabilities are not related to the compliance thresholds.

Final Decision: After consideration of the public comments received, we are finalizing, with modification, the compliance threshold for the IPF-PAI. We are making four modifications from the policy which was proposed:

- We are finalizing three quarters of voluntary reporting beginning October 1, 2027, with mandatory reporting of the IPF-PAI beginning July 1, 2028.
- We are finalizing a policy in which the compliance threshold—that is, the required percent of IPF-PAIs submitted by an IPF that are 100 percent complete in order to meet the IPF Quality Reporting Program IPF-PAI requirement

for the applicable annual payment determination—will begin at 50 percent for the Q3 and Q4 CY 2028 and CY 2029 reporting periods, and increase to 70 percent for CY 2030 and subsequent reporting periods. In other words, to comply with IPF Quality Reporting Program requirements for the IPF-PAI, at least 50 percent of IPF-PAIs submitted by an IPF must be contain responses for all required items for Q3 and Q4 CY 2028 and CY 2029 reporting periods, and at least 70 percent of IPF-PAIs submitted by an IPF must be fully complete for CY 2030 and subsequent reporting periods. For the FY 2030 payment determination, the compliance rate for each IPF would be calculated using the 2028 Q3 and Q4 reporting period, and for the FY 2031 payment determination and subsequent years, the compliance rate for each IPF would be calculated based on the entire CY reporting period (that is, four CY reporting quarters of IPF-PAI data). An IPF that does not submit 100 percent of the assessment items on at least the required percent of the IPF-PAIs submitted to CMS, as determined by the reporting period, would not meet the IPF Quality Reporting Program IPF-PAI requirement. As a result, the IPF would be subject to a 2 percentage-point reduction to its annual payment update, as required by section 1886(s)(4)(A) of the Act. We are codifying these data completion thresholds for the IPF-PAI at § 412.433(h).

- We are finalizing that Medicare Number will be required only for patients for whom Medicare is the primary payer.
- We are also finalizing that an IPF-PAI submitted for patients whose length of stay is less than 3 calendar days, will be counted as both an admission and a discharge assessment determining whether the IPF meets the compliance threshold. Specifically, although there will not be a separate discharge IPF-PAI for these patients, the admission assessment with some select discharge items will be counted as two assessments for purposes of determining whether the IPF meets the compliance threshold. That is, if all required items are completed, it will be counted as two complete assessments, while if some required items are not complete, it will count as two incomplete assessments for purposes of determining whether the IPF meets the compliance threshold.

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TABLE 9: COMPLIANCE THRESHOLDS FOR THE IPF-PAI

Data collection period	Completeness requirements (for mandatory assessment items)	Compliance Threshold (percent of submissions meeting completeness requirements)	Applicable payment determination
Q4 2027 (Oct 1 – Dec 31, 2027)	N/A (Voluntary)	N/A (Voluntary)	N/A (Voluntary)
Q1 and Q2 2028 (Jan 1 – Jun 30, 2028)	N/A (Voluntary)	N/A (Voluntary)	N/A (Voluntary)
Q3 and Q4 2028 (Jul 1 – Dec 31, 2028)	100 percent	50 percent	FY 2030
CY 2029 (Jan 1, 2029 – Dec 31, 2029)	100 percent	50 percent	FY 2031
CY 2030 (Jan 1, 2030 – Dec 31, 2030)	100 percent	70 percent	FY 2032

TABLE 10. ASSESSMENT ITEMS REQUIRED TO MEETS THE 100 PERCENT COMPLETENESS REQUIREMENT

	Patient Stay Less Than 3 Calendar Days	Patient Stay Greater Than or Equal to 3 Calendar Days	
Assessment Item	Admission	Admission	Discharge
Legal Name of Patient	Yes	Yes	Yes
Birth Date	Yes	Yes	Yes
Sex	Yes	Yes	Yes
Medicare Number	Yes*	Yes*	Yes*
National Provider Identifier	No	No	No
CMS Certification Number	Yes	Yes	Yes
Admission Date	Yes	Yes	No
Discharge Date	Yes	No	Yes
Payer Information—Primary Payer	Yes	Yes	Yes
Type of Record	Yes	Yes	Yes
Assessment Reference Date	Yes	Yes	Yes
Reason for Assessment	Yes	Yes	Yes
Type of Admission	Yes	Yes	No
Type of Discharge	Yes	No	Yes
Mobility: Chair/bed-to-chair transfer	Yes	Yes	No
Suicide Screening	Yes	Yes	Yes
Special Services, Treatments, and Interventions in the Inpatient Psychiatric Setting	Yes	No	Yes
Primary Medical Condition Category	Yes	Yes	Yes
Hearing	Yes	Yes	No
Speech Clarity	Yes	Yes	No
Vision	Yes	Yes	No
IPF-PAI Completion Date	Yes	Yes	Yes

* Medicare Number is required for patients for whom Medicare is the primary payer, that is, where A1405. Payer Information - Primary Payer is “01. Medicare - Part A (traditional fee-for-service)” or “02. Medicare - Part C (Medicare Advantage)”

c. Methods of Data Submission for the IPF–PAI

i. Background

In the FY 2026 IPF PPS proposed rule (90 FR 18520 through 18523), we requested comments on the potential use of the HL7® FHIR® standard for IPF–PAI data submission because we believe that the collection and submission of data through health information technology (IT), including digital capture and transfer of program data through FHIR®, could reduce administrative burden on IPFs submitting the IPF–PAI in the long-term. In response to this request for comment, commenters expressed support for CMS' intent to transition to the FHIR®-based standard in the IPF Quality Reporting Program, particularly for the IPF–PAI, noting the opportunity for a FHIR®-based standard to improve care coordination, enable actionable insights, and integrate structured data into electronic health records (EHRs) (90 FR 37665 through 37666). A few commenters responding to the request for comment highlighted the potential for FHIR® to modernize behavioral health data reporting, enhance discharge planning, and enable meaningful performance measurement. In the FY 2027 IPF PPS proposed rule (91 FR 17744), we acknowledged that, as IPFs have not yet used FHIR® for program data submission, technological, monetary, and staffing barriers may present challenges to adoption and use in some facilities. Therefore, we proposed that for the submission of IPF–PAI data, we would offer facilities two tools to integrate into their existing systems and workflows:

- Web application (web app)
- FHIR® application programming interfaces (APIs)

We describe these submission methods in detail in the following sections.

In the proposed rule, we noted that both methods of data submission would require user or system authentication using CMS' Health Care Quality Information Systems (HCQIS) Access Roles and Profile (HARP), or a successor or equivalent CMS-designated identity management system, consistent with CMS security and access control requirements. We stated that this is the same identity management system that IPFs and their vendors currently use to submit other IPF Quality Reporting Program data to the CMS Hospital Quality Reporting system, and that both proposed methods of IPF–PAI data submission would transmit IPF–PAI data securely to CMS, using data security standards required for any CMS

system, where it would be received and reside in the iQIES environment. iQIES is CMS' long-standing system for patient assessment data; post-acute care providers have been reporting assessment data electronically to iQIES since 2019. We clarified that data transfer to CMS via either method—the FHIR® API or web app—would follow standard HIPAA-compliant encryption protocols. Since the proposed rule, we named the web app the Patient Assessment Reporting Interoperability Tool, or PARIT.

We stated that, if finalized, the IPF Quality Reporting Program would be the first CMS statutory quality reporting program to use the FHIR® standard to support patient assessment data submission, as both data submission methods—the free web app (that is, PARIT) and the FHIR® API—are reliant on underlying FHIR® resources.³⁸ Additionally, we stated that introducing the FHIR® standard to the IPF Quality Reporting Program's IPF–PAI requirement involves establishing related policies and requirements, such as submission methods, data standards and formats, and other program-specific requirements.

ii. Web App Method of Data Submission for IPF–PAI Data

In the FY 2027 IPF PPS proposed rule, we proposed a CMS-developed web app, PARIT, as a method for collecting and submitting IPF–PAI data to the iQIES system via the internet. We proposed that we would provide and maintain this web app for IPFs to use, free of charge, to enter and submit the IPF–PAI admission and discharge assessments for individual patients. We proposed that an IPF would be able to review, correct, and change these data until the close of each submission deadline using the web app. An IPF could use a third party vendor to submit IPF–PAI data via the web app on the IPF's behalf. We stated that the open-source web app would be accessible in one of two ways: (1) directly through a web browser, or (2) configured for launch from an EHR using Substitutable Medical Applications and Reusable Technologies (SMART) on FHIR®. In accordance with the Source code Harmonization And Reuse in Information Technology Act (SHARE IT

³⁸ Either method of IPF–PAI data submission includes an opportunity to use the Substitutable Medical Applications and Reusable Technologies (SMART) on FHIR® framework to either configure an EHR-launched workflow that securely authenticates and launches the web app, or to implement a custom SMART on FHIR® application, developed by an IPF or a third-party vendor, that integrates with the publicly available CMS FHIR® APIs.

Act; Pub. L. 118–187), we stated that we would ensure that the source code, documentation, configuration scripts, as appropriate, revision history, and other files are located in a software storage location (that, a public repository) to which access is open to the public.

We stated that we plan to make this web app available in spring or summer 2027, prior to the start of the proposed reporting period that would begin October 1, 2027, to allow time for IPFs to gain familiarity with the web app and for CMS to provide training.

We received public comments on this proposal.

Comment: A commenter recognized the flexibility of offering multiple forms of submission but expressed concern that the web application would not be available for testing until spring or summer of 2027. Another commenter recommended that the web app be released at least six months before implementation to allow IPFs time to become familiar with the tool. A commenter stated that it is important that CMS is planning to provide training on the application and recommended that CMS also consider usability testing and technical assistance, such as short video tutorials, for users after training.

Response: We appreciate the commenters' concerns about needing time for IPFs to train their staff and become familiar with the PARIT web app. We plan to provide training on the IPF–PAI, which will support staff in becoming familiar with the assessment items and coding guidance. Training on the PARIT web app—as one of the available tools for data submission—will begin at least six months before the web app becomes available for IPF–PAI data submission, with the web app itself going “live” for IPF–PAI data submission no later than October 1, 2027 when the first voluntary reporting quarter begins. As described in section V.C.4.b. of this final rule, we are finalizing a policy in which IPFs may begin voluntary reporting of the IPF–PAI beginning October 1, 2027. Mandatory reporting of the IPF–PAI then begins on July 1, 2028 for Q3 CY 2028, at which time the PARIT web app will have been available for use by IPFs and their vendors for approximately nine months. Assessments submitted for Q3 2028 and Q4 2028 will impact the FY 2030 payment determination. We expect that the voluntary period will provide an opportunity to address any significant challenges encountered during the data submission process.

Final Decision: After consideration of the comments received, we are finalizing the web app—PARIT, or a successor tool—as a method of data

submission for the IPF–PAI data as proposed.

iii. HL7® FHIR® API Method of Data Submission for IPF–PAI Data

In the FY 2027 IPF PPS proposed rule, we proposed the use of two APIs built from the HL7® FHIR® specification, based on FHIR® v4.0.1, as another method for submitting IPF–PAI data to iQIES via the internet. An API is a documented set of rules and specifications that lets one computer program or system request and receive information or data from another; specifically, it defines how one software component or system can request and use the functions or data of another software component or system through a defined interface, without requiring knowledge of its internal implementation. For healthcare data exchange using an API, the FHIR® standard defines how such data are structured and exchanged. It organizes the data into discrete clinical and administrative units called resources, such as Patient, Observation, Condition, Medication, and Encounter. This method would be suitable for IPFs that use health IT that can be modified to support these APIs or that engage with third party vendors to implement a custom tool or a custom SMART on FHIR® application using the APIs we have developed to collect and submit IPF–PAI data to CMS. Under the proposed submission method, we described how an IPF could integrate IPF–PAI data collection and submission within their EHR workflow using one API to retrieve the applicable IPF–PAI assessment items from the EHR, and another API to submit IPF–PAI data to CMS. We stated that an IPF could also use a third party vendor to submit IPF–PAI data via the FHIR® API on the IPF's behalf.

For the proposed implementation of the IPF–PAI, we stated that the Data Element Library (DEL) FHIR® API and associated DEL FHIR® Implementation Guide would support the retrieval of the assessment items, and the iQIES FHIR® API and associated iQIES FHIR® Receiving System Implementation Guide would support the assessment data submission to CMS. We made draft versions of the DEL FHIR® Implementation Guide and the iQIES FHIR® Receiving System Implementation Guide available at <https://qualitynet.cms.gov/ipf/pai>. We noted that these implementation guides will be updated as needed on an annual basis for technical updates and published at the same location. We proposed that annual updates will be limited to technical, non-substantive

updates. Substantive changes to the IPF–PAI will be implemented through notice and comment rulemaking. IPFs and their vendors will need to use the most recently published implementation guides for the applicable IPF–PAI reporting period, which we will publish at least six months before the beginning of the applicable reporting period. We stated that additional technical resources for IPFs and health IT vendors will be made available at <https://qualitynet.cms.gov/ipf/pai> to support FHIR® API implementation. We noted that we will also engage with software developers and vendors through various interested party engagement efforts, during which we will respond to questions, comments, and suggestions about technical requirements.

We recognized that IPFs and the health IT vendors supporting IPFs will require time to develop and implement data collection and submission tools for the IPF–PAI. Therefore, we proposed that, if an IPF does not submit IPF–PAI data via the FHIR® API method described in section V.C.4.d.ii. of this final rule, the IPF would be required to use the web app for IPF–PAI data submission. Likewise, we proposed that if an IPF does not submit IPF–PAI data using the web app, the IPF would not meet the IPF–PAI data submission requirement unless the IPF submits the data via the FHIR® API method described in section V.C.4.d.iii. of this final rule.

We received public comments on this proposal.

Comment: Several commenters supported or recognized the value of offering both a web application and FHIR®-based submission pathway, stating that multiple pathways could reduce long-term burden, support interoperability, or accommodate varying facility readiness. Several commenters also stated that the web application, FHIR® APIs, implementation guides, specifications, sandbox environments, and training should be available early enough for facilities and vendors to evaluate, test, train, and implement workflows before mandatory reporting.

Response: We appreciate the commenters' support for multiple submission methods, and the recommendation that we provide sufficient time for IPFs and vendors to implement and test data submission solutions. We are updating the DEL FHIR® Implementation Guide and the iQIES FHIR® Receiving System Implementation Guide based on the modified policies in this final rule as soon as feasible, between six to twelve

months in advance of the voluntary reporting period that begins October 1, 2027. In addition, we plan to make available testing and validation tools, so that vendors and IPFs will be able to verify that files are being transmitted in the proper format to be received by CMS systems. We also note that, as described in section V.C.4.b. of this final rule, we are finalizing a policy in which IPFs may begin voluntary reporting of the IPF–PAI beginning October 1, 2027. Mandatory reporting of the IPF–PAI then begins on July 1, 2028 for Q3 CY 2028. Assessments submitted in Q3 and Q4 2028 will be considered for the FY 2030 payment determination. We expect that the voluntary period will provide an opportunity to address any significant challenges encountered during the data submission process.

Comment: Many commenters stated concerns that IPFs and behavioral health lag behind other healthcare settings with regard to EHR adoption and interoperability readiness. Several commenters attribute this to IPFs being left out of federal EHR incentive programs. The commenters said that required FHIR®-based reporting beginning October 1, 2027 may be premature for the IPF setting and would require time for specification development, EHR development, training, workflow testing, submission validation, and identification of problems. Many commenters recommended delaying, phasing, or extending implementation.

Response: By offering PARIT, the free web app, an IPF can meet the IPF–PAI submission requirements regardless of its existing EHR capabilities. That is, PARIT uses the same FHIR® APIs specified in this rule that EHR vendors or third-party intermediaries would use to submit IPF–PAI data to CMS. By providing a web-based user interface to these APIs, PARIT enables an IPF to submit IPF–PAI data without needing an EHR, EHR development, or its own implementation of the FHIR® specifications or a FHIR®-based reporting system. However, whether an IPF chooses to utilize the PARIT web application or FHIR API integration, we recommend training of relevant staff, testing, and submission validation. We note that, as described in section V.C.4.b. of this final rule, we are finalizing a policy in which IPFs may begin voluntary reporting of the IPF–PAI beginning October 1, 2027, with mandatory reporting beginning July 1, 2028, which is a phased implementation responsive to commenters' recommendations. While not all provider types were eligible for EHR meaningful use incentives payments

under the Health Information Technology for Economic and Clinical Health (HITECH) Act and this may partly explain the slower start for many IPFs, survey data from 2024 found that approximately 78 percent of psychiatric hospitals and 86 percent of separate psychiatric units of general hospitals use EHRs.³⁹ This indicates that although EHR adoption among IPFs is lower relative to other hospital provider types and often occurs alongside paper-based documentation, many IPFs have implemented EHRs.

Comment: Several commenters stated that IPF-PAI data may be difficult to retrieve from their facilities' EHR, as currently configured, and that the manual entry, manual aggregation, or temporary web app processes that would be required may necessitate additional staffing. A few commenters recommended that we consider technological solutions or data-extraction mechanisms that use assessment data already documented in EHRs, automate extraction as much as possible, work with existing EHR infrastructure, and avoid additional implementation costs for IPFs.

Response: We acknowledge the systems and data extraction challenges that facilities may face in their initial implementation of the IPF-PAI. We took these challenges into account in our decision to develop FHIR APIs to support the collection and reporting of the IPF-PAI. We understand that the transition to automated data reporting via the FHIR APIs will take time, and that IPFs may need to integrate IPF-PAI assessment items in their EHRs and in their clinical workflows in a way that will avoid an ongoing need for manual data extraction. We note that we are providing PARIT, the free web app for data submission, as an interim solution for IPFs that are not yet ready to adopt EHR-integrated technical solutions for data collection and reporting. We intend to provide robust training, technical documentation, and technical help desk support to help IPFs and health IT vendors, and staff understand and operationalize the extraction of EHR data and submission required by the IPF-PAI.

Comment: A few commenters recommended implementation guides, sample data, regular feedback channels, technical collaboration with EHR vendors and implementers, production-like testing, consistent iQIES-connected

authentication and endpoint conventions, and bulk or batch submission capability. A few commenters also expressed concern about submission accuracy, payment penalties, workflow disruption, compliance risk, or data integrity if implementation was rushed or guidance was unclear. A few commenters stated that the new data collection and submission process would create administrative burden, particularly for facilities submitting through FHIR® for the first time, meeting a high data threshold, or managing accuracy, payment penalty, compliance, and data integrity concerns.

Response: We agree that technical resources and communication mechanisms are important for the successful implementation of the IPF-PAI. In addition to the DEL FHIR® Implementation Guide and the iQIES FHIR® Receiving System Implementation Guide, we will provide comprehensive documentation, engagement opportunities, and access to a technical help desk to help resolve issues with submitting FHIR® data to CMS systems. Regarding authentication and endpoint conventions, there are two endpoints, one for the DEL, to support retrieval of the assessment items, and one for iQIES, to support the assessment data submission. The DEL endpoint does not require authentication, as it provides the assessment items only and does not handle any user-specific or patient information. The iQIES endpoint requires HARP authentication to associate the user with the IPF or its authorized vendor(s) and endorse authorization controls regarding what users can see, edit, and submit. For the initial version of the IPF-PAI, CMS' FHIR® receiving system will not be able to support batch submission, but we will actively evaluate this functionality. We will provide more information on validation tools and other resources after the publication of this final rule.

We recognize commenters' concerns regarding submission accuracy, workflow impacts, compliance risk, data integrity, and potential payment implications. We believe that the advance availability of the IPF-PAI implementation guides, together with the release of training and educational materials at least 6 months before voluntary reporting begins, will provide stakeholders with sufficient opportunity to prepare for implementation and support accurate and timely data submission. We are allowing for three quarters of voluntary data reporting prior to the first mandatory reporting, which will be in the third quarter of 2028. Additionally, CMS also

anticipates using implementation support resources, such as the Patient Information Quality Improvement (PIQI) Framework,⁴⁰ to help providers and vendors identify and address issues related to data accuracy, completeness, structure, and conformance before production submission. We will continue to engage with stakeholders and consider operational feedback throughout the implementation process. We note we are finalizing a policy to begin mandatory reporting with a 50 percent compliance threshold, increasing to 70 percent beginning with the CY 2030 reporting period (for the FY 2032 payment determination), which should alleviate commenters' concerns about an immediate burden to meet a high level of completion before the IPF has had time to adjust.

Final Decision: After consideration of the comments received, we are finalizing the FHIR® API method of data submission for IPF-PAI data as proposed. As discussed in section V.C.4., we are implementing the IPF-PAI on October 1, 2027 with three quarters of voluntary data submission. Mandatory reporting will begin on July 1, 2028. We intend that the voluntary data submission period will provide IPFs and their health IT vendors with sufficient time to develop and implement data submission processes.

Additionally, in the FY 2027 IPF PPS proposed rule (91 FR 17746), we invited public comment on ways that CMS could reduce burden in implementing the IPF-PAI. For example, we asked if any of the requirements currently proposed for the IPF-PAI are duplicative of any other CMS reporting and recordkeeping requirements.

We received public comments on this issue which we addressed in the sections of this final rule to which they most directly applied.

5. Maintenance of Technical Specifications for the IPF-PAI

a. Background

In the FY 2013 IPPS/LTCH PPS final rule, we adopted a policy to use subregulatory process to make non-substantive updates to measures used in the IPF Quality Reporting Program, to make the determination of what constitutes a substantive versus a non-substantive change on a case-by-case basis, and to continue to use rulemaking to adopt substantive updates (77 FR 53653). In addition, in the FY 2014 IPPS/LTCH PPS final rule, we established a policy under which we provide and maintain information to

³⁹ Internal analysis of National Substance Use and Mental Health Services Survey, 2024. Source: <https://datatools.samhsa.gov/das/n-sumhss/2024/n-sumhss-2024-ds0001/crosstab?row=EHR1A&column=FACILITYTYPE>. Accessed on July 19, 2026.

⁴⁰ <https://build.fhir.org/ig/HL7/piqi/en/>, Accessed July 6, 2026.

support collection of measures used in the program (78 FR 50896). As part of this policy, we provide a user manual with links to measure specifications, data abstraction information, data submission information, and other information necessary for IPFs to participate in the IPF Quality Reporting Program. We maintain this manual at the IPF Quality Reporting Program Quality Net website at <https://qualitynet.cms.gov/ipf/specifications-manuals>. In addition, we update technical specifications in this manual periodically, notify program participants of changes, and strive to provide sufficient time to allow users to respond to changes.

b. Policy for Maintenance of Technical Specifications for the IPF-PAI

In alignment with our policy for maintaining the IPF Quality Reporting Program specifications manual for quality measures, and as described in section IV.C.5.a of the FY 2027 IPF PPS proposed rule (91 FR 17746), we proposed that non-substantive updates to the technical specifications for the IPF-PAI would be made through subregulatory mechanisms such as website postings and listserv messaging. Non-substantive updates could include minor changes to data collection or submission specifications which might be required to align with updates to HL7® FHIR® or other health IT standards, and will be determined on a case-by-case basis. We stated that we will provide notification of any future changes to the CMS designated system and the required format for IPF-PAI data submission designated by CMS to IPFs and vendors using subregulatory mechanisms including updates of technical specifications in the Guidance Manual and Implementation Guides as well as through our regular program communication channels such as website postings, listserv messaging, and webinars. We clarified that substantive changes to the IPF-PAI, such as the addition or removal of data categories or assessment items, or changes in the data collection deadlines, will be done through rulemaking.

We received public comments on this proposal.

Comment: Several commenters expressed concerns about CMS' statement that the IPF-PAI may be modified in future rulemaking. The commenters stated that modifications would create burden related to system updates, retraining, workflow redesign, and reconfiguration.

Response: We acknowledge that future changes to the requirements for IPF-PAI data may result in burden for

IPFs. We strive to collect meaningful data about inpatient psychiatric stays while minimizing burden. We note that if we make subregulatory technical updates they will be changes required to align with updates to FHIR® or other health IT standards. In the case of modifications through future rulemaking, we will carefully evaluate the impact of these changes with respect to IPF burden.

Comment: A few commenters recommended limiting or stabilizing future technical changes, including keeping IPF-PAI changes minor for at least three years, limiting FHIR® changes, and standardizing FHIR® technology across vendors and data recipients. A commenter also recommended expanding communication methods to keep IPFs and vendors informed, avoiding subregulatory processes for large or impactful changes, and preserving adequate testing and implementation timelines.

Response: We appreciate these comments. We understand that IPFs and vendors need clear guidance and time to incorporate the IPF-PAI. We will continue to provide guidance manuals, implementation materials, webinars, listserv updates, and other technical support. We also intend to make substantive changes through future notice-and-comment rulemaking, while keeping technical updates as limited and targeted as possible so the IPF-PAI can be implemented in a stable manner.

Comment: A commenter recommended detailed implementation guidance on FHIR® API privacy and security features, stating that IPFs must be able to evaluate the privacy and security architecture before integrating technology that may retrieve and transmit sensitive behavioral health information.

Response: We appreciate this comment and recognize the importance of privacy and security. CMS will provide technical documentation and a technical help desk so that IPFs and vendors can understand the submission architecture and assess readiness before implementation. We also expect that IPFs and vendors will ensure that FHIR®-based submission operates with applicable privacy and security requirements for IPFs. We will continue to refine operational guidance as necessary through future technical updates and rulemaking.

Final Decision: After consideration of the comments received, we are finalizing our policy for maintenance of technical specifications for the IPF-PAI as proposed.

VI. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520, we are required to provide notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, 44 U.S.C. 3506(c)(2)(A) requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

The following changes will be submitted to OMB for review under control number 0938–1171 (CMS–10432). In addition, we are submitting a Paperwork Reduction Act package for the IPF Patient Assessment Instrument (IPF-PAI) required by section 4125(b)(1) of the Consolidated Appropriations Act of 2023, to OMB for review under a new control number.

In section VI.C.1. of this final rule, we restate our currently approved burden estimates. In section VI.C.2. of this final rule, we estimate the changes in burden associated with the update to more recent wage rates. In section VI.C.3. of this final rule, we discuss the policies in this final rule that will impact information collection burden.

A. Wage Estimates

In the FY 2026 IPF PPS final rule, we utilized the median hourly wage rate of \$27.69 for Medical Records Specialists, in accordance with the Bureau of Labor Statistics (BLS), to calculate our burden estimates for the IPF Quality Reporting Program (90 FR 37667). In the FY 2027 IPF PPS proposed rule, using the most recent data from the BLS for medical records specialists (SOC 29–2072), entitled, the May 2024 Occupational Employment and Wage Estimates, we used the median hourly wage for medical records specialists for the industry, “general medical and surgical hospitals,” (Industry# 622100) which is \$27.53.⁴¹ We stated the industry of

⁴¹ U.S. Bureau of Labor Statistics. Occupational Employment and Wage Statistics: General Medical and Surgical Hospitals, Medical Records Specialists. Accessed December 29, 2025. Available at <https://data.bls.gov/oes/#/home>.

“general medical and surgical hospitals” is more specific to the IPF setting for use in our calculations compared to other industries under medical records specialists, such as “office of physicians” or “nursing care facilities.” We calculated the cost of overhead, including fringe benefits, at 100 percent of the median hourly wage, consistent with previous years. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly by employer and methods of estimating these costs vary widely in the literature. Nonetheless, we believe that doubling the hourly wage rate ($\$27.53 \times 2 = \$55.06$) to estimate total cost is a reasonably accurate estimation method. Unless otherwise specified, we will calculate cost burden to hospitals using a wage plus benefits estimate of \$55.06 per hour throughout the discussion in this section of this final rule. As noted in the FY 2027 IPF PPS proposed rule, although BLS released updated wage rates after the proposed rule appeared in the **Federal Register** and before this final rule will appear in the **Federal Register**, we are maintaining the wage rates used in the proposed rule (91 FR 17746).

Some of the activities previously finalized for the IPF Quality Reporting Program require patients’ time and

attention, such as responding to survey questions. In the FY 2026 IPF PPS final rule, we estimated the hourly wage rate for these activities to be \$25.63/hr (90 FR 37667). We are updating that estimate to a post-tax wage of \$25.89/hr. The Valuing Time in U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices identifies the approach for valuing time when individuals undertake activities on their own time. In the FY 2027 IPF PPS proposed rule, we derived the costs for patients using the usual weekly earnings of wage and salary workers of \$1,204, divided by 40 hours to calculate an hourly pre-tax wage rate of \$30.10/hr. We adjusted this rate downwards by an estimate of the effective tax rate for median income households of about 14 percent calculated by comparing pre and post-tax income, resulting in the post-tax hourly wage rate of \$25.89/hr. Unlike state and private sector wage adjustments, we are not adjusting beneficiary wages for fringe benefits and other indirect costs since the individuals’ activities, if any, would occur outside the scope of their employment.

B. Estimates of the Number of Respondents

In the FY 2026 IPF PPS final rule, we based estimates of information collection burden on the assumption that 1,596 IPFs would report data for 1,261 discharges, on average per facility, for the IPF Quality Reporting Program in CY 2026 and subsequent years. For this final rule, based on data from the FY 2027 payment determination, we are updating our assumption and estimate that 1,564 IPFs will report data for an average of 1,342 discharges annually per facility for the IPF Quality Reporting Program in CY 2027 and subsequent years.

C. Information Collection Requirements for the IPF Quality Reporting Program

1. Previously Finalized IPF Quality Reporting Program Estimates

For the purposes of calculating burden, we attribute the costs to the year in which the costs begin. Under our previously finalized policies, data submission for the measures that affect the FY 2029 payment determination occurs during CY 2028 and generally reflects care provided during CY 2027. Our currently approved burden for CY 2027 is set forth in Table 11.

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**TABLE 11: PREVIOUSLY FINALIZED IPF QUALITY REPORTING PROGRAM
INFORMATION COLLECTION BURDEN FOR CY 2027 (UNDER OMB CONTROL
NUMBER 0938-1171)**

Measure/Response Description	Number Respondents	Number of Responses/Respondent	Total Annual Responses	Time per Response (hrs)	Time per Facility (hrs)	Total Annual Time (hrs)	Applicable Wage Rate (\$/hr)	Cost per Facility (\$)	Total Annual Cost (\$)
Hours of Physical Restraint Use	1,596	1,261	2,012,556	0.25	315	503,139	55.38	17,459	27,863,838
Hours of Seclusion Use	1,596	1,261	2,012,556	0.25	315	503,139	55.38	17,459	27,863,838
Follow-Up After Psychiatric Hospitalization	1,596	0	0	0	0	0	55.38	0	0
Alcohol Use Brief Intervention Provided or Offered and Alcohol Use Brief Intervention*	1,596	609	971,964	0.25	152	242,991	55.38	8,432	13,456,842
Alcohol and Other Drug Use Disorder Treatment Provided or Offered at Discharge and Alcohol and Other Drug Use Disorder Treatment at Discharge	1,596	609	971,964	0.25	152	242,991	55.38	8,432	13,456,842
Tobacco Use Treatment Provided or Offered at Discharge and Tobacco Use Treatment at Discharge*	1,596	609	971,964	0.25	152	242,991	55.38	8,432	13,456,842
Influenza Immunization	1,596	609	971,964	0.25	152	242,991	55.38	8,432	13,456,842
Transition Record with Specified Elements Received by Discharged Patients (Discharges from an Inpatient Facility to Home/Self Care or Any Other Site of Care)	1,596	609	971,964	0.25	152	242,991	55.38	8,432	13,456,842
Screening for Metabolic Disorders	1,596	609	971,964	0.25	152	242,991	55.38	8,432	13,456,842
Thirty-Day All-	1,596	0	0	0	0	0	55.38	0	0

Measure/Response Description	Number Respondents	Number of Responses/Respondent	Total Annual Responses	Time per Response (hrs)	Time per Facility (hrs)	Total Annual Time (hrs)	Applicable Wage Rate (\$/hr)	Cost per Facility (\$)	Total Annual Cost (\$)
Cause Unplanned Readmission Following Psychiatric Hospitalization in an Inpatient Psychiatric Facility									
30-Day Risk-Standardized All-Cause Emergency Department Visit Following an Inpatient Psychiatric Facility Discharge measure	1,596	0	0	0	0	0	55.38	0	0
Medication Continuation Following Inpatient Psychiatric Discharge	1,596	0	0	0	0	0	55.38	0	0
Psychiatric Inpatient Experience Survey Data Submission	1,596	300	478,800	0.25	75	119,700	55.38	4,154	6,628,986
Non Measure Data Collection	1,596	4	6,384	0.5	2	3,192	55.38	111	176,773
<i>Subtotal for Medical Records Specialists</i>	<i>1,596</i>	<i>6,480</i>	<i>10,342,080</i>	<i>Varies</i>	<i>1,621</i>	<i>2,587,116</i>	<i>55.38</i>	<i>89,771</i>	<i>143,274,484</i>
Psychiatric Inpatient Experience Survey	1,596	300	478,800	0.121	36	57,935	25.63	930	1,484,869
<i>Subtotal for Individuals</i>	<i>1,596</i>	<i>300</i>	<i>478,800</i>	<i>0.121</i>	<i>36</i>	<i>57,935</i>	<i>25.63</i>	<i>930</i>	<i>1,484,869</i>
Totals	1,596	6,780	10,820,880	Varies	1,657	2,645,051	N/A	90,702*	144,759,353**

* In Section V.B, we finalize policies to remove these measures.

** Due to rounding, totals may not equal the sum of respondent totals.

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2. Updates Due to More Recent Information

In section VI.A. of this final rule, we describe our updated wage rates which

decrease from \$55.38/hr to \$55.06/hr (a decrease of \$0.32/hr) for activities performed by Medical Records Specialists and increase from \$25.63/hr to \$25.89/hr (an increase of \$0.26/hr) for

activities performed by individuals. The effects of these updates are set forth in Table 12.

TABLE 12: EFFECTS OF WAGE RATE UPDATES

Respondent	Total Annual Responses	Time Per Response (hrs)	Time per Facility (hrs)	Total Annual Time (hrs)	Change in Applicable Wage Rate (\$/hr)	Change in Cost per Facility (\$)	Change in Total Annual Cost (\$)
Subtotal for Medical Records Specialists	10,342,080	Varies	1,621	2,587,116	-0.32	-519	-827,877
Subtotal for Individuals	478,800	Varies	36	57,935	0.26	9	15,063
Totals	10,820,880	Varies	1,657	2,645,051	Varies	-509*	-812,814*

*Due to rounding, totals may not equal the sum of respondent totals.

In section VI.B. of this final rule, we describe our updated assumptions of the number of responses which decrease

from 1,596 facilities to 1,564 (a decrease of 32) and an increase in the number of annual discharges per IPF from 1,261 to

1,342 (an increase of 81). The effects of these updates are set forth in Table 13.

TABLE 13: EFFECTS OF UPDATED RESPONDENT ESTIMATES

Measure/Response Description	Total Annual Responses	Change in Total Annual Responses	Time Per Response (hrs)	Time per Facility (hrs)	Total Annual Time (hrs)	Change in Total Annual Time (hrs)	Change in Cost per Facility (\$)*	Change in Total Annual Cost (\$)
Subtotal for Medical Records Specialists	10,388,088	46,008	Varies	1,662	2,598,586	11,470	2,230	631,538
Subtotal for Individuals	469,200	-9,600	Varies	36	56,773	-1,162	0	-30,074
Totals	10,857,288	36,408	Varies	1,698	2,655,359	10,308	2,230	601,464

*Calculated using updated wage rates

The total net impact of updates due to more recent information is an increase of 10,308 hours and \$601,464 annually.

3. Updates Due to Policies Finalized in This Rule

In section V.B.1. of this final rule, we are removing the Alcohol Use Brief Intervention Provided or Offered (SUB-2) and subset Alcohol Use Brief Intervention (SUB-2a) measure from the IPF Quality Reporting Program beginning with the FY 2028 payment determination and subsequent years. This measure and the associated information collection burden were previously finalized in the FY 2016 IPF

PPS final rule and are approved under OMB control number 0938-1171 (expiration date February 29, 2028) (80 FR 46699 through 46701 and 46720 through 46721). Using the currently approved burden estimate under OMB control number 0938-1171 of 15 minutes (0.25 hours) per case per IPF, we estimate this policy will result in a decrease in burden of 238,119 hours (0.25 hours × 609 cases × 1,564 IPFs) at a savings of \$13,110,832 (238,119 × \$55.06/hour) across all 1,564 IPFs.

In section V.B.2. of this final rule, we are removing the Tobacco Use Treatment Provided or Offered at Discharge (TOB-3) and subset Tobacco

Use Treatment at Discharge (TOB-3a) measure from the IPF Quality Reporting Program beginning with the FY 2028 payment determination and subsequent years. This measure and the associated information collection burden were previously finalized in the FY 2016 IPF PPS final rule and are approved under OMB control number 0938-1171 (expiration date February 29, 2028) (80 FR 46696 through 46701 and 46720 through 46721). Using the currently approved burden estimate under OMB control number 0938-1171 of 15 minutes (0.25 hours) per case per IPF, we estimate this policy will result in a decrease in burden of 238,119 hours

(0.25 hours $\times$ 609 cases $\times$ 1,564 IPFs) at a savings of \$13,110,832 (238,119 $\times$ \$55.06/hour) across all 1,564 IPFs.

In section V.C. of this final rule, we are modifying our proposal to implement the IPF-PAI beginning with Quarter 4 of the CY 2027 reporting period/FY 2029 payment determination, and instead are finalizing voluntary data submission beginning October 1, 2027, followed by mandatory data submission beginning July 1, 2028. The IPF-PAI consists of two assessments, one administered at the time of patient admission and the other administered at discharge. As proposed in the FY 2027 IPF PPS proposed rule, the IPF-PAI consisted of 26 and 23 assessment item parts at admission and discharge, respectively (91 FR 17740 through 17743). In Section V.C.3., we finalized a modification of the proposal of assessment items for the IPF-PAI that reduces the number of assessment items: we will require the Mobility assessment item at Admission only—rather than at Admission and Discharge, as proposed; we will require the SSTI assessment item at Discharge only—rather than at both Admission and Discharge; and we are not finalizing the inclusion of SSN on this initial version of the IPF-PAI. These modifications reduce the number of assessment item parts by 9 (1 assessment item part for Mobility, 6 assessment item parts for SSTI, and 2 assessment item parts for SSN [at Admission and Discharge]). As finalized, the IPF-PAI consists of 19 assessment item parts at Admission and 21 assessment item parts at Discharge. For the purpose of estimating collection of information burden, we estimate that each assessment item part in the IPF-PAI will require approximately 0.3 minutes (18 seconds) to complete. Our estimate of 0.3 minutes is similar to estimates used in other CMS PAI data collections and is supported by the IPF-PAI field (beta) test. In field testing, which used volunteer assessors and a convenience sample of patients, assessors completed the beta test assessments, which contained 86 assessment item parts at Admission and 85 assessment parts at Discharge, in a median time of 13 minutes, or approximately 0.15 minutes per assessment item part; time per assessment item part was slightly higher for admission assessments (median time to complete of 16 minutes, or 0.19 minutes per assessment item part) than for discharges (median time to complete of 11 minutes, or 0.13 minutes). We proposed using 0.3 minutes for each assessment item part and estimated that the IPF-PAI would require 14.7 minutes

(0.3 minutes $\times$ 49 assessment item parts) or 0.245 hours per patient. In Section V.C.3., we finalized a modification of the proposal of assessment items for the IPF-PAI that reduces the number of assessment item parts in the IPF-PAI to 40 for admission and discharge combined. Under finalized policies, using 0.3 minutes for each assessment item part, we estimate that the IPF-PAI will require 12 minutes (0.3 minutes $\times$ 40 assessment item parts) or 0.2 hours per patient.

We also assumed the IPF-PAI will be completed by a variety of clinical or support staff. We estimated that approximately 50 percent of data collected associated with the IPF-PAI will be completed by Medical Records Specialists with the remaining 50 percent being split equally by Registered Nurses (RNs), Licensed Practical/Licensed Vocational Nurses (LP/LVNs), and Mental Health and Substance Abuse Social Workers. Similar to our calculation of the wage rate for Medical Records Specialists discussed in section VI.A. of this final rule, we utilize the BLS median hourly wage rates of \$46.74/hour, \$28.09/hour, and \$37.49/hour for RNs (SOC 29-1141), LP/LVNs (SOC 29-2061), and Mental Health and Substance Abuse Social Workers (SOC 21-1023) for the industry, “general medical and surgical hospitals” (Industry #622100) and calculated the cost of overhead, including fringe benefits, at 100 percent of the median hourly wage.⁴² As a result, we calculate a weighted average labor rate of \$65.04/hour [(\$55.06/hour $\times$ 50 percent) + (\$46.74/hour $\times$ 2 $\times$ 16.7 percent) + (\$28.09/hour $\times$ 2 $\times$ 16.7 percent) + (\$37.49/hour $\times$ 2 $\times$ 16.7 percent)]. To calculate the number of patients for which the IPF-PAI will be administered, we multiply the number of IPFs by the average discharges per IPF, for a total of 2,098,888 patients (1,564 IPFs $\times$ 1,342 discharges/IPF). We estimate this policy will result in an increase in burden of 419,778 hours annually (0.2 hours $\times$ 2,098,888 patients) at a cost of \$27,302,361 (419,778 $\times$ \$65.04/hour), beginning with the CY 2029 reporting period which is the first full reporting period that the IPF-PAI will be implemented with mandatory data submission. For voluntary data submission in Quarter 4 of the CY 2027 reporting period and Quarters 1 and 2 of the CY 2028 reporting period, we assume 50 percent

of IPFs will administer the IPF-PAI to 25 percent of patients on average, resulting in a total number of 65,590 patients ((50 percent $\times$ 1,564 IPFs) $\times$ (25 percent $\times$ ((1,342 discharges/IPF $\div$ 4 quarters) $\times$ 1 quarter))) and 131,181 patients ((50 percent $\times$ 1,564 IPFs) $\times$ (25 percent $\times$ ((1,342 discharges/IPF $\div$ 4 quarters) $\times$ 2 quarters))) in the CY 2027 and CY 2028 reporting periods, respectively. For the CY 2027 reporting period, we estimate this policy will result in an increase in burden of 13,118 hours (0.2 hours $\times$ 65,590 patients) at a cost of \$853,195 (13,118 hours $\times$ \$65.04/hour). For mandatory data submission in Quarters 3 and 4 of the CY 2028 reporting period, we estimate the number of patients for which the IPF-PAI will be administered to be 50 percent of the annual total of 2,098,888 patients, or 1,049,444 patients (2,098,888 patients $\times$ 50 percent). We note that 50 percent is because it is mandatory for half of the year. As a result, for the CY 2028 reporting period, we estimate this policy will result in an increase in burden of 236,125 hours (0.2 hours $\times$ (1,049,444 + 131,181 patients)) at a cost of \$15,357,570 (236,125 hours $\times$ \$65.04/hour). Because IPF-PAI data will be submitted using the same web application or FHIR® API used to enter assessment item responses into the assessment, the time to transmit data to CMS is negligible, and therefore we assume no additional burden for IPFs to submit IPF-PAI data. We note that our burden estimate assumes manual entry of patient assessment data (that is, entry using the web application) for all IPFs and therefore represents the most conservative estimate. We expect that some IPFs will utilize the FHIR® API and related guidance to partially or fully automate their data collection and submission process, thereby reducing the collection of information burden.

4. Summary of Information Collection Requirements and Associated Burden

In this final rule, we are finalizing as proposed removal of the Alcohol Use Brief Intervention Provided or Offered (SUB-2) and subset Alcohol Use Brief Intervention (SUB-2a) measure, as well as the Tobacco Use Treatment Provided or Offered at Discharge (TOB-3) and subset Tobacco Use Treatment at Discharge (TOB-3a) measure beginning with the CY 2026 reporting period/FY 2028 payment determination. In the FY 2027 IPF PPS proposed rule, we proposed to implement the IPF-PAI beginning with Quarter 4 of the CY 2027 reporting period/FY 2029 payment determination and assumed the 26 item admission assessment and 23 item discharge assessment would require a

⁴² U.S. Bureau of Labor Statistics. Occupational Employment and Wage Statistics: General Medical and Surgical Hospitals, Medical Records Specialists. Accessed December 29, 2025. Available at: <https://data.bls.gov/oes/#/home>.

total of 14.7 minutes per patient to complete. As discussed in this final rule, we are removing a total of 9 assessment items and decreasing burden per patient to 12 minutes, while also finalizing implementation of the IPF-PAI with voluntary data submission beginning October 1, 2027, followed by mandatory data submission beginning July 1, 2028.

As a result of policies finalized in this rule, beginning with the CY 2029

reporting period/FY 2031 payment determination when all finalized policies will be mandatory for a full CY, the net information collection burden associated with the IPF Quality Reporting Program is estimated to decrease by 56,460 hours and increase \$1,080,697 in costs associated with these policies.

We will submit a revised PRA package for OMB control number 0938–1171 reflecting the information

collection burden decrease of 476,238 hours at a cost of \$26,221,664 associated with removal of the SUB–2/2a and TOB–3/3a measures. We will also submit a new PRA package under a new OMB control number reflecting the information collection burden of 419,778 hours at a cost of \$27,302,361 associated with implementation of the IPF–PAI.

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TABLE 14: TOTAL CY 2027 IPF INFORMATION COLLECTION BURDEN CHANGES

Measure/Response Description	Number Respondents	Number of Responses / Respondent	Total Responses	Time per Response (hrs)	Time per Facility (hrs)	Total Time (hrs)	Total Cost (\$)
Removal of Alcohol Use Brief Intervention Provided or Offered and Alcohol Use Brief Intervention (SUB-2/2a)	1,564	(609)	(952,476)	0.25	(152)	(238,119)	(13,110,832)
Removal of Tobacco Use Treatment Provided or Offered at Discharge and Tobacco Use Treatment at Discharge (TOB-3/3a)	1,564	(609)	(952,476)	0.25	(152)	(238,119)	(13,110,832)
Implementation of IPF-PAI*	782	83.9	65,590	0.2	16.8	13,118	853,195
Total	1,564	(1,134.1)	(1,839,362)	Varies	(287.2)	(463,120)	(25,368,469)

*Information collection burden for the IPF-PAI in CY 2027 is prorated to reflect our expectation of IPF's participation in voluntary reporting, which begins October 1, 2027. We estimate that 50 percent of IPFs will submit data on 25 percent of their patients in Q4 of CY 2027.

**TABLE 15: TOTAL ANNUAL IPF INFORMATION COLLECTION BURDEN
CHANGES ASSOCIATED WITH ALL PROPOSALS IN THIS RULE**

Measure/Response Description	Number Respondents	Number of Responses/ Respondent	Total Annual Responses	Time per Response (hrs)	Time per Facility (hrs)	Total Annual Time (hrs)	Total Annual Cost (\$)
Removal of Alcohol Use Brief Intervention Provided or Offered and Alcohol Use Brief Intervention (SUB-2/2a)	1,564	(609)	(952,476)	0.25	(152)	(238,119)	(13,110,832)
Removal of Tobacco Use Treatment Provided or Offered at Discharge and Tobacco Use Treatment at Discharge (TOB-3/3a)	1,564	(609)	(952,476)	0.25	(152)	(238,119)	(13,110,832)
Implementation of IPF-PAI	1,564	1,342	2,098,888	0.2	268	419,778	\$27,302,361.00
Total	1,564	124	193,936	Varies	(36)	(56,460)	1,080,697

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We received comments on this proposal.

Comment: A commenter stated that the burden estimate was generally appropriate once the proposed web app and FHIR® interfaces were available.

Response: We thank the commenter for this feedback. Our burden estimation process was based on field (beta) test data, and we intend it to reflect typical clinical practice. We will monitor and update burden estimates associated with the new PRA package for the IPF-PAI as needed as IPFs gain more experience reporting IPF-PAI data.

Comment: Several commenters stated that field (beta) test results could not be applied to the final instrument and that the 14.7-minute estimate understated complexity.

Response: With respect to time-to-complete estimates, the field (beta) test informed the burden estimate by providing total times for data collection across the entire test instrument, which we used to calculate the average per-assessment item part estimate. We maintain that our time estimate for each assessment item part is valid; we used only the portions of the field (beta) test in which IPF staff were assessing real patients.

Comment: Many commenters stated that CMS' burden estimate focused too narrowly on item completion time and

understated the real-world effort needed for EHR reconfiguration, vendor work, staff training, workflow redesign, data correction, internal validation, quality assurance, FHIR® or iQIES submission, reporting steps, interoperability needs, and ongoing compliance monitoring. Several commenters stated that treating the IPF-PAI like a single IPF Quality Reporting Program measure understated the number of assessments.

Response: We recognize that there will be costs associated with implementing the IPF-PAI that are not accounted for in these estimates of collection of information. Consistent with PRA requirements, our collection of information estimates are limited to recurring data collection costs. These estimates were calculated using data collected during the field (beta) test in which IPF clinicians assessed real patients. These estimates do not extend to workforce training and other start-up costs, nor to any data monitoring activities that IPFs may choose to conduct. We note that the option of automated or semi-automated reporting using FHIR® APIs, for IPFs that have or develop that capability, is likely to reduce actual collection of information burden. We acknowledge the systems and data extraction challenges that facilities may face in their initial implementation of the IPF-PAI. We took

these challenges into account in our decision to develop FHIR APIs to support the collection and reporting of the IPF-PAI. We understand that the transition to automated data reporting via the FHIR APIs will take time, and that IPFs may need to integrate IPF-PAI assessment items in their EHRs and in their clinical workflows in a way that will avoid an ongoing need for manual data extraction. We note that we are providing PARIT, the free web app for data submission, as an interim solution for IPFs that are not yet ready to adopt EHR-integrated technical solutions for data collection and reporting. We intend to provide robust training, technical documentation, and technical help desk support to help IPFs and health IT vendors, and staff understand and operationalize the extraction of EHR data and submission required by the IPF-PAI. In addition, we are finalizing a delay in mandatory reporting, to July 1, 2028, and allowing IPFs three quarters of voluntary data submission beginning October 1, 2027. We intend for this period to allow IPFs more flexibility on when and how they integrate the IPF-PAI into their workflows and systems in a way that minimizes burden.

VII. Regulatory Impact Analysis

A. Statement of Need

This rule updates the prospective payment rates for Medicare inpatient hospital services provided by IPFs for discharges occurring during FY 2027 (October 1, 2026, through September 30, 2027). We applied the 2021-based IPF market basket increase for FY 2027 of 3.2 percent, reduced by the productivity adjustment of 0.9 percentage point as required by section 1886(s)(2)(A)(i) of the Act for a total FY 2027 payment rate update of 2.3 percent. In this final rule, we updated the outlier fixed dollar loss threshold amount, updated the IPF labor-related share, and updated the IPF wage index to reflect the FY 2027 hospital inpatient wage index. Section 1886(s)(4) of the Act requires IPFs to report data in accordance with the requirements of the IPF Quality Reporting Program for purposes of measuring and making publicly available information on health care quality; and links the quality data submission to the annual applicable percentage increase.

B. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866, “Regulatory Planning and Review”; Executive Order 13132, “Federalism”; Executive Order 13563, “Improving Regulation and Regulatory Review”; Executive Order 14192, “Unleashing Prosperity Through Deregulation”; the Regulatory Flexibility Act (RFA) (Pub. L. 96–354); section 1102(b) of the Social Security Act; and section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4); and the Congressional Review Act (5 U.S.C. 801–808).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or

planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President’s priorities.

A regulatory impact analysis (RIA) must be prepared for a regulatory action that is significant under section 3(f)(1) of E.O. 12866. We estimate that the total impact of these changes for FY 2027 payments compared to FY 2026 payments will be an increase of approximately \$60 million. This reflects a \$60 million increase from the update to the payment rates (+\$80 million from the 2021-based IPF market basket increase of 3.2 percent, and –\$20 million for the productivity adjustment of 0.9 percentage point). Outlier payments are estimated to remain at 2.0 percent of total estimated IPF payments in FY 2027.

Based on our estimates, OMB’s Office of Information and Regulatory Affairs has determined that this rulemaking is “significant” under section 3(f) of Executive Order 12866, though not significant under section 3(f)(1). Nevertheless, because of the potentially substantial impact to IPF providers, we have prepared an RIA that to the best of our ability presents the costs and benefits of the rulemaking. OMB has reviewed these final regulations, and the Departments have provided the following assessment of their impact.

C. Detailed Economic Analysis

In this section, we discuss the historical background of the IPF PPS and the impact of the final rule on the Federal Medicare budget and on IPFs.

1. Budgetary Impact

As discussed in the RY 2005 and RY 2007 IPF PPS final rules, we applied a budget neutrality factor to the Federal per diem base rate and ECT payment per treatment to ensure that total estimated payments under the IPF PPS in the implementation period would equal the amount that would have been paid if the IPF PPS had not been implemented. This budget neutrality factor included the following components: outlier adjustment, stop-loss adjustment, and the behavioral offset. As discussed in the RY 2009 IPF PPS notice (73 FR 25711), the stop-loss adjustment is no longer applicable under the IPF PPS.

As discussed in section IV.D.1.c. of this final rule, we updated the wage index and labor-related share in a budget neutral manner by applying a wage index budget neutrality factor to the Federal per diem base rate and ECT payment per treatment. Therefore, the

budgetary impact to the Medicare program of this final rule is due to the market basket increase for FY 2027 of 3.2 percent (see section IV.A.2. of this final rule) reduced by the productivity adjustment of 0.9 percentage point required by section 1886(s)(2)(A)(i) of the Act and the update to the outlier fixed dollar loss threshold amount.

We estimate that the impact of the FY 2027 IPF PPS final rule would be a net increase of \$60 million in payments to IPF providers. This reflects an estimated \$60 million increase from the update to the payment rates. There is no impact as a result of the update to the outlier threshold amount as noted earlier. This estimate does not include the implementation of the required 2.0 percentage point reduction of the market basket update factor for any IPF that fails to meet the IPF Quality Reporting requirements (as discussed in section V.B.3. of this final rule).

2. Impact on Providers

To show the impact on providers of the changes to the IPF PPS discussed in this final rule, we compared estimated payments under the final IPF PPS rates and factors for FY 2027 versus those under FY 2026. We determined the percent change in the estimated FY 2027 IPF PPS payments compared to the estimated FY 2026 IPF PPS payments for each category of IPFs. In addition, for each category of IPFs, we have included the estimated percent change in payments resulting from the update to the outlier fixed dollar loss threshold amount; the updated wage index data and labor-related share; and the market basket increase for FY 2027, as reduced by the productivity adjustment according to section 1886(s)(2)(A)(i) of the Act.

To illustrate the impacts of the FY 2027 changes to the IPF PPS discussed in this final rule, our analysis begins with FY 2025 IPF PPS claims (based on the 2025 MedPAR claims, December 2025 update). We estimated FY 2026 IPF PPS payments using these 2025 claims, the finalized FY 2026 IPF PPS Federal per diem base rate and ECT per treatment amount, and the finalized FY 2026 IPF PPS patient- and facility-level adjustment factors (as published in the FY 2026 IPF PPS final rule (90 FR 37628)). We then estimated the FY 2026 outlier payments based on these simulated FY 2026 IPF PPS payments using the same methodology as finalized in the FY 2026 IPF PPS final rule (90 FR 37653 and 37654) where total outlier payments are maintained at 2 percent of total estimated FY 2026 IPF PPS payments.

Each of the following changes is added incrementally to this baseline model in order to isolate the effects of each change:

- The update to the outlier fixed dollar loss threshold amount.
- The FY 2027 IPF wage index and the FY 2027 labor-related share.

- The IPF market basket increase for FY 2027 of 3.2 percent reduced by the productivity adjustment of 0.9 percentage point in accordance with section 1886(s)(2)(A)(i) of the Act for a FY 2027 payment rate update of 2.3 percent.

Our column comparison in Table 16 illustrates the percent change in payments from FY 2026 (that is, October 1, 2025, to September 30, 2026) to FY 2027 (that is, October 1, 2026, to September 30, 2027) including all the final payment policy changes.

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TABLE 16: FY 2027 IPF PPS PAYMENT IMPACTS

[Percent Change in columns 3 through 5]

Facility by Type	Number of Facilities	Outlier	Final FY27 Wage Index, Labor-Related Share, and COLA	Total Percent Change ¹
(1)	(2)	(3)	(4)	(5)
All Facilities	1,336	0.0	0.0	2.3
Total Urban	1,105	0.0	-0.1	2.2
Urban unit	585	0.0	0.3	2.6
Urban hospital	520	0.0	-0.5	1.8
Total Rural	231	0.0	0.4	2.7
Rural unit	167	0.0	0.4	2.7
Rural hospital	64	0.0	0.4	2.7
By Type of Ownership:				
Freestanding IPFs				
Urban Psychiatric Hospitals				
Government	106	0.0	0.2	2.5
Non-Profit	65	0.0	0.1	2.4
For-Profit	349	0.0	-0.7	1.6
Rural Psychiatric Hospitals				
Government	32	0.0	0.9	3.3
Non-Profit	10	0.0	1.6	4.0
For-Profit	22	0.0	-0.1	2.2
IPF Units				
Urban				
Government	96	0.0	0.4	2.8
Non-Profit	370	0.0	0.2	2.5
For-Profit	119	0.0	0.5	2.8
Rural				
Government	46	0.0	0.9	3.2
Non-Profit	91	0.0	0.4	2.7
For-Profit	30	0.0	0.0	2.3
By Teaching Status:				
Non-teaching	1,127	0.0	-0.2	2.1
Less than 10% interns and residents to beds	109	0.0	0.7	3.1
10% to 30% interns and residents to beds	75	0.0	0.4	2.7
More than 30% interns and residents to beds	25	0.0	-0.1	2.1
By Region:				
New England	93	0.0	0.6	2.9

Facility by Type	Number of Facilities	Outlier	Final FY27 Wage Index, Labor-Related Share, and COLA	Total Percent Change ¹
(1)	(2)	(3)	(4)	(5)
Mid-Atlantic	189	0.0	1.1	3.4
South Atlantic	213	0.0	-0.1	2.2
East North Central	203	0.0	-0.7	1.6
East South Central	132	0.0	-1.0	1.3
West North Central	85	0.0	-0.1	2.2
West South Central	206	0.0	-0.8	1.5
Mountain	90	0.0	-0.1	2.1
Pacific	125	0.0	0.2	2.5
By Bed Size:				
Psychiatric Hospitals				
Beds: 0-24	87	0.0	-0.2	2.1
Beds: 25-49	69	0.0	-1.1	1.2
Beds: 50-75	95	0.0	-0.6	1.7
Beds: 76 +	333	0.0	-0.2	2.1
Psychiatric Units				
Beds: 0-24	383	0.0	0.0	2.3
Beds: 25-49	211	0.0	0.4	2.7
Beds: 50-75	87	0.0	0.4	2.7
Beds: 76 +	71	0.0	0.8	3.1
¹ This column includes the impact of the updates in columns (3) and (4) above, and of the final IPF market basket update factor for FY 2027 (3.2 percent), reduced by 0.9 percentage point for the productivity adjustment as required by section 1886(s)(2)(A)(i) of the Act.				

BILLING CODE 4169-69-C**3. Impact Results**

Table 16 displays the results of our analysis. The table groups IPFs into the categories listed here based on characteristics provided in the Provider of Services file, the IPF PSF, and cost report data from the Healthcare Cost Report Information System:

- Facility Type.
- Location.
- Teaching Status Adjustment.
- Census Region.
- Size.

The top row of Table 16 shows the overall impact on the 1,336 IPFs included in the analysis. In column 2, we present the number of facilities of each type that had information available in the PSF and had claims in the MedPAR dataset for FY 2025.

In column 3, we present the effects of the update to the outlier fixed dollar loss threshold amount. We estimate that

IPF outlier payments as a percentage of total IPF payments are 2.0 percent in FY 2026. However, as discussed in section IV.E.c. of this final rule, we are adjusting the outlier threshold amount to maintain total estimated outlier payments equal to 2.0 percent of total payments in FY 2027, which results in no change in aggregate IPF PPS payments.

In column 4, we present the effects of the budget-neutral update to the IPF wage index, the labor-related share, and the final COLA changes. In addition, this column includes the application of the 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year as finalized in the FY 2023 IPF PPS final rule (87 FR 46856 through 46859). The change in this column represents the effect of using the concurrent hospital wage data as discussed in section IV.D.1.c. of this final rule. That is, the impact

represented in this column reflects the update from the FY 2026 IPF wage index to the FY 2027 IPF wage index, which includes basing the FY 2027 IPF wage index on the FY 2027 pre-floor, pre-reclassified IPPS hospital wage index data, applying a 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year, and updating the labor-related share from 79.0 percent in FY 2026 to 78.9 percent in FY 2027. We note that there is no projected change in aggregate payments to IPFs, as indicated in the first row of column 4; however, there would be distributional effects among different categories of IPFs. For example, we estimate the largest increase in payments to be 1.6 percent for non-profit IPF hospitals located in rural areas, and the largest decrease in payments to be 1.1 percent for IPF hospitals with 25–49 beds.

Overall, IPFs are estimated to experience a net increase in payments of 2.3 percent as a result of the updates in this final rule. IPF payments are therefore estimated to increase by 2.2 percent in urban areas and 2.7 percent in rural areas. The largest payment increase is estimated at 4.0 percent for non-profit IPF hospitals located in rural areas.

4. Effect on Beneficiaries

Under the FY 2027 IPF PPS, IPFs will continue to receive payment based on the average resources consumed by patients for each day. Our longstanding payment methodology reflects the differences in patient resource use and costs among IPFs, as required under section 124 of the BBRA. We expect that updating IPF PPS rates in this rule will improve or maintain beneficiary access to high-quality care by ensuring that payment rates reflect the best available data on the resources involved in inpatient psychiatric care and the costs of these resources. We continue to expect that paying prospectively for IPF services under the FY 2027 IPF PPS will enhance the efficiency of the Medicare program.

5. Effects of the Updates to the IPF Quality Reporting Program

In section V.B. of this final rule, we finalized the removal of two measures from the IPF Quality Reporting Program beginning with the FY 2028 payment determination: Alcohol Use Brief Intervention Provided or Offered and Alcohol Use Brief Intervention (SUB-2/2a) and Tobacco Use Treatment Provided or Offered at Discharge (TOB-3/3a). Because these measures require IPFs to abstract data from a sample of patients' medical records, we estimate the removal of these measures to reduce 476,238 hours of annual information collection burden on IPFs, valued at \$26,221,664, in CY 2027.

In section V.C. of this final rule, we finalized the implementation of the IPF Patient Assessment Instrument (IPF-PAI), required by section 4125(b)(1) of the Consolidated Appropriations Act of 2023, beginning with voluntary reporting starting October 1, 2027—that is, Quarter 4 of CY 2027—and mandatory reporting beginning July 1, 2028—that is, Quarter 3 of CY 2028. Quarters 3 and 4 of CY 2028 will impact the FY 2030 payment determination. IPFs will have the option of two methods for submission of IPF-PAI data to CMS: web application and FHIR® API. As IPFs have not yet used FHIR® for program data submission, we acknowledge that technological, financial, and staffing barriers may

present challenges to adoption and use in some facilities. We also recognize that IPFs and the health IT vendors that support IPFs will require time to develop and implement data collection and submission tools for the proposed IPF-PAI. Because each IPF and health IT vendor is unique and we lack sufficient insight into the individual workflows and decisions for each, the extent of these costs is difficult to quantify. However, in Section VII.C.3. of this final rule, we estimate the adoption of the IPF-PAI to increase collection of information burden by 419,778 hours annually, valued at \$27,302,361, when fully implemented.

In accordance with section 1886(s)(4)(A) of the Act, we will apply a 2-percentage point reduction to the FY 2027 market basket update for IPFs that have failed to comply with the IPF Quality Reporting Program requirements for the FY 2027 payment determination, including reporting on the mandatory measures. Historically, approximately 70 IPFs, or about 5 percent of IPFs that participate in the IPF Quality Reporting Program do not receive the full annual percentage increase in any fiscal year due to the failure to meet all requirements of the program. We anticipate that the number of IPFs not receiving the full annual percentage increase will be approximately the same as in past years based on review of previous performance. We intend to closely monitor the effects of the IPF Quality Reporting Program on IPFs and help facilitate successful reporting outcomes through ongoing education, national trainings, and a technical help desk.

6. Regulatory Review Costs

If regulations impose administrative costs on private entities, such as the time needed to read and interpret this final rule, we should estimate the cost associated with the regulatory review. Due to the uncertainty involved with accurately quantifying the number of entities that will review this final rule, we assume that the total number of unique commenters on the most recent IPF PPS proposed rule will be the number of reviewers of this final rule. For this FY 2027 IPF PPS final rule, the most recent IPF proposed rule was the FY 2027 IPF PPS proposed rule, and we received 176 unique comments on the proposed rule. We acknowledge that this assumption may understate or overstate the costs of reviewing this rule. It is possible that not all commenters reviewed the FY 2027 IPF proposed rule in detail, and it is also possible that some reviewers chose not to comment on the proposed rule. For

these reasons we thought that the number of commenters would be a fair estimate of the number of reviewers of this rule. We welcomed public comments on the approach in estimating the number of entities that would review the proposed rule. We did not receive any public comments specific to our solicitation.

We also recognize that different types of entities are in many cases affected by mutually exclusive sections of the proposed rule, and therefore for the purposes of our estimate, we assume that each reviewer reads approximately 50 percent of the rule. We sought public comments on this assumption. We did not receive any public comments specific to our solicitation.

Using the May, 2025 mean (average) wage information from the Bureau of Labor Statistics (BLS) for medical and health service managers (Code 11-9111), we estimate that the cost of reviewing this final rule is \$135.54 per hour, including overhead and fringe benefits (<https://data.bls.gov/oes/#/area/0000000/2025>). Assuming an average reading speed of 250 words per minute, we estimate that it would take approximately 2.24 hours for the staff to review half of this final rule which contains a total of approximately 67,300 words. For each entity that reviews the rule, the estimated cost is \$303.61 (2.24 hours × \$135.54). Therefore, we estimate that the total cost of reviewing this regulation is \$53,435.29 (\$303.61 × 176 reviewers).

D. Alternatives Considered

The statute gives the Secretary discretion in establishing an update methodology to the IPF PPS. We continued to believe it is appropriate to routinely update the IPF PPS so that it reflects the best available data about differences in patient resource use and costs among IPFs, as required by the statute. Therefore, we are updating to the IPF PPS using the methodology published in the RY 2005 IPF PPS final rule (our “standard methodology”), with the pre-floor, pre-reclassified IPPS hospital wage index as its basis. Additionally, we apply a 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year.

As discussed in section IV.E.1. of this final rule, we considered multiple alternative policy approaches, including maintaining the current methodology, adjusting the fixed-dollar loss threshold alone, implementing targeted audits, and establishing alternative cap levels. We considered implementing the proposed changes to the outlier cap policy effective for FY 2027, however,

we intend to conduct additional analysis of the potential drivers of cost. Based on the available claims and cost report data, CMS concludes that the finalized policy most effectively advances the statutory objective of appropriately accounting for differences in patient resource use while preserving access to care and maintaining payment accuracy.

Lastly, as discussed in section IV.D.4. of this final rule, we are adjusting non-labor related costs for IPFs located in Alaska and Hawaii using the Overseas

Cost-of-Living Allowance (COLA) data published by the DOW for FY 2027 consistent with payments for other hospitals located in Alaska and Hawaii. We considered, but did not propose, updating the COLA factors for IPFs based on the results of our existing methodology.

E. Accounting Statement

Consistent with OMB Circular A–4 (available at <https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf>), in Table 17, we have prepared an

accounting statement showing the classification of the expenditures associated with the updates to the IPF wage index and payment rates in this final rule. Table 17 provides our best estimate of the increase in Medicare payments under the IPF PPS as a result of the changes presented in this final rule and based on 1,336 IPFs that had data available in the PSF and claims in our FY 2025 MedPAR claims dataset. Lastly, Table 17 also includes our best estimate of the costs of reviewing and understanding this final rule.

TABLE 17: ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED COSTS, SAVINGS, AND TRANSFERS (in Millions)

Category	Primary estimate (\$million/year)	Year dollars	Period covered
Regulatory Review Costs	0.053435	2026	FY 2027
IPF Quality Reporting Information Collection Burden	1.080	2026	FY 2027
Annualized Monetized Transfers from Federal Government to IPF Medicare Providers	60	2026	FY 2027

F. Regulatory Flexibility Act (RFA)

The RFA requires agencies to analyze options for regulatory relief of small entities if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions.

1. The Need for, Objectives of, and Legal Basis for the Rule

Section 124 of the Medicare, Medicaid, and State Children’s Health Insurance Program Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106–113) required the establishment and implementation of an IPF PPS in a budget neutral manner. Specifically,

section 124 of the BBRA mandated that the Secretary of Health and Human Services (the Secretary) develop a per diem prospective payment system (PPS) for inpatient hospital services furnished in psychiatric hospitals and excluded psychiatric units including an adequate patient classification system that reflects the differences in patient resource use and costs among psychiatric hospitals and excluded psychiatric units.

Sections 3401(f) and 10322 of the Patient Protection and Affordable Care Act (Pub. L. 111–148) as amended by section 10319(e) of that Act and by section 1105(d) of the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (“the Affordable Care Act”) added subsection (s) to section 1886 of the Act.

Section 1886(s)(1) of the Act titled “Reference to Establishment and Implementation of System,” refers to section 124 of the BBRA, which relates to the establishment of the IPF PPS.

2. Identify the Impacted Small Entities

According to the SBA’s website at <http://www.sba.gov/content/small-business-size-standards>, IPFs fall into the North American Industrial Classification System (NAICS) code 622210, Psychiatric and Substance Abuse hospitals. The SBA defines small Psychiatric and Substance Abuse hospitals as businesses having less than \$47 million in total annual revenue. USB data shows there are 190 firms below this threshold.

TABLE 18: CONCENTRATION RATIOS (NAICS 622210) PSYCHIATRIC AND SUBSTANCE ABUSE HOSPITALS

Firm Size (by Receipts)	Firm Count	% of Small Firms	Average Revenue
SMALL HOSPITALS	190	100.0%	\$ 19,736,628.87
<100,000	4	2.1%	\$ 20,000
100,000-499,999	6	3.2%	\$ 225,667
1,000,000-2,499,999	5	2.6%	\$ 1,890,000
2,500,000-4,999,999	10	5.3%	\$ 3,622,800
5,000,000-7,499,999	6	3.2%	\$ 5,485,333
7,500,000-9,999,999	20	10.5%	\$ 8,288,050
10,000,000-14,999,999	12	6.3%	\$ 11,324,833
15,000,000-19,999,999	24	12.6%	\$ 15,943,667
20,000,000-24,999,999	22	11.6%	\$ 20,138,000
25,000,000-29,999,999	18	9.5%	\$ 23,777,278
30,000,000-34,999,999	19	10.0%	\$ 28,946,895
35,000,000-39,999,999	21	11.1%	\$ 30,214,762
40,000,000-47,000,000	23	12.1%	\$ 40,439,152
LARGE HOSPITALS			
Receipts > 47 million	228	NA	\$ 123,983,594.37

Source: US Census 2022 SUBS

According to Table 18, 190 psychiatric and substance abuse hospitals, at the firm level, can be considered small according to the SBA. As we stated earlier, the SBA defines small Psychiatric and Substance Abuse hospitals (firms) as businesses having less than \$47 million in total annual revenue. According to the U.S. Census, a firm is a legal entity or parent company that owns and operates the

business, or hospital, in this case. Therefore, Table 17 only reflects data at the firm level and not at the establishment level, where multiple establishments could be owned by a firm.

3. Define “Significant Impact” and “Substantial Number” Thresholds

As its measure of significant economic impact on small entities, HHS

uses a change in revenue of more than 3 to 5 percent. The agency considers the rule to have a significant impact on a substantial number of small businesses when more than 5 percent of impacted small entities meet the significant economic impact threshold defined above.

**TABLE 19: (NAICS 622210) PSYCHIATRIC AND SUBSTANCE ABUSE HOSPITALS
IMPACTS ON SMALL ENTITIES**

Firm Size (by Receipts)	Avg. Annual Revenue	Annualized Cost per Firm	% of Small Firms	Revenue Test
All Hospitals	\$317,625,550.10	\$ 995	N/A	0.00%
Small Hospitals	\$19,736,628.87	\$ 995	100%	0.01%
<100,000	\$ 20,000	\$ 995	2.1%	4.98%
100,000-499,999	\$ 225,667	\$ 995	3.2%	0.44%
1,000,000-2,499,999	\$ 1,890,000	\$ 995	2.6%	0.05%
2,500,000-4,999,999	\$ 3,622,800	\$ 995	5.3%	0.03%
5,000,000-7,499,999	\$ 5,485,333	\$ 995	3.2%	0.02%
7,500,000-9,999,999	\$ 8,288,050	\$ 995	10.5%	0.01%
10,000,000-14,999,999	\$ 11,324,833	\$ 995	6.3%	0.01%
15,000,000-19,999,999	\$ 15,943,667	\$ 995	12.6%	0.01%
20,000,000-24,999,999	\$ 20,138,000	\$ 995	11.6%	0.00%
25,000,000-29,999,999	\$ 23,777,278	\$ 995	9.5%	0.00%
30,000,000-34,999,999	\$ 28,946,895	\$ 995	10.0%	0.00%
35,000,000-39,999,999	\$ 30,214,762	\$ 995	11.1%	0.00%
40,000,000-47,000,000	\$ 40,439,152	\$ 995	12.1%	0.00%

Source: US Census 2022 SUBS

4. The Estimated Impact to Small Businesses

As discussed in sections VII.C.5 and VII.C.6, costs imposed by this final rule include the regulatory review costs which we estimate at \$303.61 per IPF (there were 176 IPFs that reviewed the rule); and the implementation of the Inpatient Psychiatric Facilities-Patient Assessment Instrument (IPF-PAI), which we estimate at \$17,456.75 per IPF (\$27,302,361.00/1,564) (based on the estimate of 1,564 IPFs described in section VI.B. of this final rule). However, as discussed in sections V.B.1. and V.B.2. of this final rule, the removal of the Alcohol Use Brief Intervention Provided or Offered (SUB-2) and subset Alcohol Use Brief Intervention (SUB-2a) measure and the Tobacco Use Treatment Provided or Offered at Discharge (TOB-3) and subset Tobacco Use Treatment at Discharge (TOB-3a)

measure from the IPF Quality Reporting Program would result in an estimated decrease in cost of \$8,382.88 per IPF (\$13,110,832.00/1,564) for each measure removal, totaling a decrease in cost of \$16,765.77 per IPF (\$8,382.88 * 2). As a result, there are increased costs of \$994.59 per IPF ((\$303.61 + \$17,456.75) – \$16,765.77) imposed as a result of this final rule.

As shown in Table 19, 100 percent of these small Psychiatric and Substance Abuse hospitals will incur costs as a result of this final rule.

5. Does the impact on small entities meet the two-part threshold?

According to Table 19, this final rule will have almost no impact (0.01 percent impact) on small Psychiatric and Substance Abuse hospitals. Costs for small Psychiatric and Substance Abuse hospitals are estimated to

increase by \$994.59 per IPF (\$690.98 as a result of the IPF Quality Reporting Program requirements (\$17,456.75 – \$16,765.77), and \$303.61 as a result of the regulatory review costs.) As its measure of significant economic impact on a substantial number of small entities, HHS uses a change in revenue of more than 3 to 5 percent. Moreover, given that the annual revenue for the 5th percentile firm is \$462,500 and 3 percent of this revenue gives a significant impact threshold of \$13,875, then any cost estimates smaller than this estimate will not have a significant impact on a substantial number of small entities.

Assuming the firm size distribution provided in Table 19, we expect the annualized costs estimated as a result of this final rule to fall below this significant impact threshold. We also believe this estimate to be an upper-

bound since the cost increase from the implementation of the IPF–PAI will scale based on the number of patients treated. As such, we anticipate that small Psychiatric and Substance Abuse hospitals will likely have a lower burden due to having fewer patient stays; and therefore, fewer IPF–PAI assessments to be completed on an annual basis. We believe that the threshold for significant economic impact on a substantial number of small entities will not be reached by the requirements in this final rule.

6. Steps Taken To Minimize Impact on Small Entities

Section 603(c) mandates that agencies shall contain a description of any significant alternatives to the final rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the final rule on small entities. As discussed in section V.C. of this final rule, we are implementing the IPF–PAI in the IPF Quality Reporting Program to comply with section 1886(s)(4)(E) of the Act, which requires each IPF participating in the IPF Quality Reporting Program to collect and submit to the Secretary certain standardized patient assessment data, using a standardized patient assessment instrument (PAI) implemented by the Secretary. We are finalizing several modifications to the IPF–PAI timelines for mandatory reporting and compliance thresholds to reduce burden. The revised burden estimate is discussed in section VII.C. of this final rule. At this time, we have not identified any viable alternative that would accomplish the stated objectives of section 1886(s)(4)(E) of the Act while further reducing the economic impact of the final rule on small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For the purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds.

As discussed in section VI.C.2. of this final rule, the rates and policies set forth in this final rule will not have an adverse impact on the rural hospitals based on the data of the 167 rural excluded psychiatric units and 64 rural psychiatric hospitals in our database of 1,336 IPFs for which data were available. Therefore, the Secretary has

certified that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

G. Unfunded Mandate Reform Act (UMRA)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2026, that threshold is approximately \$193 million. This final rule does not mandate any requirements for State, local, or tribal governments, or for the private sector. This final rule will not impose a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of more than \$193 million in 1 year.

H. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule does not impose substantial direct costs on state or local governments or preempt State law.

I. E.O. 14192, “Unleashing Prosperity Through Deregulation”

Executive Order 14192, entitled “Unleashing Prosperity Through Deregulation” was issued on January 31, 2025, and requires that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” This final rule is expected to be considered an Executive Order 14192 regulatory action. We estimate that this final rule will generate \$2.59 million in annualized cost at a 7 percent discount rate, over a perpetual time horizon.

This final regulation is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and has been transmitted to the Congress and the Comptroller General for review.

Mehmet Oz, Administrator of the Centers for Medicare & Medicaid Services, approved this document.

List of Subjects in 42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR part 412 as set forth below:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

■ 1. The authority citation for part 412 continues to read as follows:

Authority: 42 U.S.C. 1302 and 1395hh.

■ 2. Section 412.424 is amended by adding paragraph (d)(3)(i)(D) to read as follows:

§ 412.424 ≤Methodology for calculating the Federal per diem payment amount.

* * * * *

(d) * * *

(3) * * *

(i) * * *

(D) For discharges occurring in cost reporting periods beginning on or after October 1, 2027, an IPF’s total outlier payments are limited to no more than 20 percent of its total IPF PPS payments. If an IPF has fewer than 50 IPF PPS discharges in the cost reporting period, then the 20 percent cap on outlier payments shall not apply.

* * * * *

■ 3. Section 412.433 is amended by—
■ a. Revising paragraphs (a) and (d); and
■ b. Adding paragraph (h).

The revisions and addition read as follows:

§ 412.433 ≤Procedural requirements under the IPFQR Program.

(a) *Statutory authority.* Section 1886(s)(4) of the Act requires the Secretary to implement a quality reporting program for inpatient psychiatric hospitals and psychiatric units. Under section 1886(s)(4) of the Act, for an IPF paid under the IPF PPS that fails to submit data required for the quality measures and standardized patient assessment data selected by the Secretary in a form and manner and at a time specified by the Secretary, we reduce the otherwise applicable annual update to the standard Federal rate by 2.0 percentage points with respect to the applicable fiscal year.

* * * * *

(d) *Submission of IPFQR Program data.* In general, except as provided in paragraph (f) of this section, IPFs that participate in the IPFQR Program must submit to CMS data on measures selected under section 1886(s)(4)(D) of

the Act and specified non-measure data, including standardized patient assessment data under section 1886(4)(E) of the Act, in a form and manner, and at a time specified by CMS. With respect to data collection for the standardized patient assessment instrument, mandatory data collection will begin with the third quarter 2028 reporting period. Data submitted prior to this will not affect payment.

* * * * *

((h) *Compliance threshold for the IPF Patient Assessment Instrument (IPF-*

PAI). IPFs must meet or exceed a compliance threshold for standardized patient assessment data collected using the IPF-PAI to avoid receiving a 2 percentage point reduction to their annual payment update for a given fiscal year as set forth in paragraph (a) of this section. We define the compliance threshold as the required percent of assessments IPFs submit through the CMS designated data submission system that are 100 percent complete—that is, that contain all required IPF-PAI standardized patient

assessment items. For the FY 2030 and FY 2031 IPF Quality Reporting Program payment updates, the compliance threshold is set as at least 50 percent. For the FY 2032 and all subsequent payment updates, the compliance threshold is set at 70 percent.

Robert F. Kennedy, Jr.,
Secretary, Department of Health and Human Services.

[FR Doc. 2026–15588 Filed 7–29–26; 4:15 pm]

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Part III

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Part 413

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Updates to the Quality Reporting Program for Federal Fiscal Year 2027; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 413

[CMS–1843–F]

RIN 0938–AV75

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Updates to the Quality Reporting Program for Federal Fiscal Year 2027

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS)

ACTION: Final rule.

SUMMARY: This final rule finalizes changes and updates to the policies and payment rates used under the Skilled Nursing Facility (SNF) Prospective Payment System (PPS) for fiscal year (FY) 2027. This final rule also updates the requirements for the SNF Quality Reporting Program and the SNF Value-Based Purchasing Program.

DATES: These regulations are effective on October 1, 2026.

FOR FURTHER INFORMATION CONTACT:

PDPM@cms.hhs.gov for issues related to the SNF PPS.

Heidi Magladry, (410) 786–6034, for information related to the Skilled Nursing Facility Quality Reporting Program.

Christopher Palmer, (410) 786–8025, for information related to the Skilled Nursing Facility Value-Based Purchasing Program.

Availability of Certain Tables Exclusively Through the Internet on the CMS Website

As discussed in the FY 2014 SNF PPS final rule (78 FR 47936), tables setting forth the Wage Index for Urban Areas Based on Labor Market Areas aligned with CBSA delineations and the Wage Index Based on CBSA Labor Market Areas for Rural Areas are no longer published in the **Federal Register**. Instead, these tables are available exclusively on the CMS website. The

wage index tables for this final rule can be accessed on the SNF PPS Wage Index home page, at <https://www.cms.gov/medicare/payment/prospective-payment-systems/skilled-nursing-facility-snf/wage-index>.

Readers who experience any problems accessing any of these online SNF PPS wage index tables should contact Patricia Taft at (410) 786–4561.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose

This final rule will update the SNF prospective payment rates for FY 2027, as required under section 1888(e)(4)(E) of the Social Security Act (the Act). It would also implement section 1888(e)(4)(H) of the Act, which requires the Secretary to publish specified information relating to the payment update (see section II.C. of this final rule) in the **Federal Register** before the August 1 that precedes the start of each fiscal year. We proposed to continue to use the concurrent pre-floor, pre-reclassified Inpatient Prospective Payment System (IPPS) hospital wage index as the basis for the SNF wage index. In this final rule, we did not propose any substantive changes to the Patient Driven Payment Model (PDPM) International Classification of Diseases, 10th Revision, Clinical Modification (ICD–10) code mappings. This final rule updates the SNF Quality Reporting Program (QRP) requirements including removing two measures from the program, specifically the COVID–19 Vaccination Coverage Among Healthcare Personnel (HCP) Measure and the COVID–19 Vaccine: Percent of Patients/Residents Who Are Up to Date Measure. This final rule also revises the SNF QRP data submission deadlines and finalizes the requirement for the submission of minimum data set (MDS) data on each resident receiving covered skilled care in a SNF, regardless of payer. This final rule also discusses comments received in response to a request for information (RFI) on future measure concepts for the SNF QRP. Finally, this rule updates the Skilled Nursing Facility Value-Based Purchasing (SNF VBP) Program,

including providing final performance standards, updating the review and correction policy for measures calculated with MDS assessment data, and making technical updates to our regulatory text. This final rule also discusses comments received in response to an RFI on the methodology for quantifying and addressing case-mix creep under PDPM that was published in the proposed rule.

B. Summary of Major Provisions

In accordance with sections 1888(e)(4)(E)(ii)(IV) and (e)(5) of the Act, this final rule updates the annual rates that we published in the SNF PPS final rule for FY 2026 (90 FR 37310).

For the SNF QRP we are finalizing our proposal to remove two measures beginning with the FY 2028 SNF QRP: the COVID–19 Vaccination Coverage Among Healthcare Personnel Measure and the COVID–19 Vaccine: Percent of Patients/Residents Who are Up to Date Measure. Additionally, we are finalizing our proposal to change the data submission deadlines for data collected for the SNF QRP from 4.5 months after the end of each quarter to the 15th day of the second month after the end of the quarter, beginning with the FY 2029 SNF QRP. We are finalizing our proposal to require the submission of MDS data on all SNF residents admitted for covered skilled care regardless of payer beginning with the FY 2031 SNF QRP. Finally, we are summarizing comments received in response to an RFI on future measure concepts for the SNF QRP.

For the SNF VBP Program, we are providing final performance standards for the FY 2029 and FY 2030 program years to comply with the Program's statutory notice deadline. We are also finalizing revisions to the “snapshot date” codified at 42 CFR 413.338(f)(1)(v) for two measures that are calculated using MDS assessment data to maintain alignment with SNF QRP's revised submission deadlines for MDS assessment data, beginning with FY 2027 data. Lastly, we are finalizing technical updates to our regulatory text.

C. Summary of Cost and Benefits

TABLE 1: ESTIMATED COST AND BENEFITS

Updates	Estimated Total Transfers/Costs
FY 2027 SNF PPS payment rate update	The overall economic impact of this final rule is an estimated increase of \$882.74 million in aggregate payments to SNFs during FY 2027.
FY 2028 SNF QRP changes due to the removal of two measures	The overall economic impact of this final rule to SNFs is an estimated decrease of \$8.3 million annually to SNFs beginning with the FY 2028 SNF QRP.
FY 2031 SNF QRP changes due to the requirement to submit MDS data on each resident receiving covered skilled care regardless of payer	The overall economic impact of this final rule to those SNFs is an estimated increase of \$88.0 million annually to SNFs beginning with the FY 2031 SNF QRP.
FY 2027 SNF VBP changes	The overall economic impact of the SNF VBP Program is an estimated reduction of \$203.60 million in aggregate payments to SNFs during FY 2027.

II. Background on SNF PPS

A. Statutory Basis and Scope

As amended by section 4432 of the Balanced Budget Act of 1997 (BBA 1997) (Pub. L. 10533, enacted August 5, 1997), section 1888(e) of the Act provides for the implementation of a PPS for SNFs. This methodology uses prospective, case-mix adjusted per diem payment rates applicable to all covered SNF services defined in section 1888(e)(2)(A) of the Act. The SNF PPS is effective for cost reporting periods beginning on or after July 1, 1998, and covers virtually all costs of furnishing covered SNF services (routine, ancillary, and capital-related costs) other than costs associated with approved educational activities and bad debts. Under section 1888(e)(2)(A)(i) of the Act, covered SNF services include post-hospital extended care services for which benefits are provided under Medicare Part A, as well as those items and services (other than a small number of excluded services, such as physicians' services) for which payment may otherwise be made under Medicare Part B and which are furnished to Medicare beneficiaries who are residents in a SNF during a covered Medicare Part A stay. A comprehensive discussion of these provisions appears in the May 12, 1998, interim final rule (63 FR 26252). In addition, a detailed discussion of the legislative history of the SNF PPS is available online at https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/Downloads/Legislative_History_2018-10-01.pdf.

Section 215(a) of the Protecting Access to Medicare Act of 2014 (PAMA) (Pub. L. 113–93, enacted April 1, 2014) added new section 1888(g) to the Act, requiring the Secretary to specify an all-cause all-condition hospital readmission measure and an all-condition risk-adjusted potentially preventable hospital readmission measure for the

SNF setting. Additionally, section 215(b) of PAMA added section 1888(h) to the Act requiring the Secretary to implement a VBP program for SNFs. In 2014, section 2(c)(4) of the Improving Medicare Post-Acute Care Transformation (IMPACT) Act of 2014 (Pub. L. 113–185, enacted October 6, 2014) amended section 1888(e)(6) of the Act, which requires the Secretary to implement a QRP for SNFs under which SNFs report data on measures and resident assessment data. Finally, section 111 of the Consolidated Appropriations Act, 2021 (CAA, 2021) (Pub. L. 116–260, enacted December 27, 2020) amended section 1888(h)(2)(A) of the Act, authorizing the Secretary to apply up to ten measures to the VBP program for SNFs.

B. Initial Transition for the SNF PPS

Under sections 1888(e)(1)(A) and (e)(11) of the Act, the SNF PPS included an initial, three-phase transition that blended a facility-specific rate (reflecting the individual facility's historical cost experience) with the Federal case-mix adjusted rate. The transition extended through the facility's first 3 cost reporting periods under the prospective payment system, up to and including the one that began in FY 2001. Thus, the SNF PPS is no longer operating under the transition, as all facilities have been paid at the full Federal rate effective with cost reporting periods beginning in FY 2002. As we now base payments for SNFs entirely on the adjusted Federal per diem rates, we no longer include adjustment factors under the transition related to facility-specific rates for the upcoming FY.

C. Required Annual Rate Updates

Section 1888(e)(4)(E) of the Act requires the SNF PPS payment rates to be updated annually. The most recent annual update occurred in a final rule that set forth updates to the SNF PPS

payment rates for FY 2026 (90 FR 37310).

Section 1888(e)(4)(H) of the Act specifies that we provide for publication annually in the **Federal Register** the following:

- The unadjusted Federal per diem rates to be applied to days of covered SNF services furnished during the upcoming FY.
- The case-mix classification system to be applied for these services during the upcoming FY.
- The factors to be applied in making the area wage adjustment for these services.

Along with other revisions discussed in this preamble, this final rule will set out the required annual updates to the per diem payment rates for SNFs for FY 2027.

III. SNF PPS Rate Setting Methodology and FY 2027 Payment Update

A. Federal Base Rates

Under section 1888(e)(4) of the Act, the SNF PPS uses per diem Federal payment rates based on mean SNF costs in a base year (FY 1995) updated for inflation to the first effective period of the PPS. We developed the Federal payment rates using allowable costs from hospital-based and freestanding SNF cost reports for reporting periods beginning in FY 1995. The data used in developing the Federal rates also incorporated a Medicare Part B add-on, which is an estimate of the amounts that, prior to the SNF PPS, would be payable under Medicare Part B for covered SNF services furnished to individuals during a covered Medicare Part A stay in a SNF.

In developing the rates for the initial period, we updated costs to the first effective year of the PPS (the 15-month period beginning July 1, 1998) using the SNF market basket and then standardized for geographic variations in wages and for the costs of facility differences in case-mix. In compiling

the database used to compute the Federal payment rates, we excluded those providers that received new provider exemptions from the routine cost limits, as well as costs related to payments for exceptions to the routine cost limits. Using the formula that the BBA 1997 prescribed, we set the Federal rates at a level equal to the weighted mean of freestanding costs plus 50 percent of the difference between the freestanding mean and weighted mean of all SNF costs (hospital-based and freestanding) combined. We computed and applied separately the payment rates for facilities located in urban and rural areas and adjusted the portion of the Federal rate attributable to wage related costs by a wage index to reflect geographic variations in wages. We are finalizing as proposed.

B. SNF Market Basket Update

1. SNF Market Basket

Section 1888(e)(5)(A) of the Act requires us to establish a SNF market basket that reflects changes over time in the prices of an appropriate mix of goods and services included in covered SNF services. Accordingly, we have developed a SNF market basket that encompasses the most commonly used cost categories for SNF routine services, ancillary services, and capital-related expenses. In the SNF PPS final rule for FY 2025 (89 FR 64065 through 64082), we rebased and revised the SNF market basket, which included updating the base year from 2018 to 2022.

The SNF market basket is used to compute the market basket percentage increase that is used to update the SNF Federal rates on an annual basis, as required by section 1888(e)(4)(E)(ii)(IV) of the Act. This market basket percentage increase is adjusted by a forecast error adjustment, if applicable, and then further adjusted by the application of a productivity adjustment as required by section 1888(e)(5)(B)(ii) of the Act and described in section III.B.4. of this final rule.

As outlined in the proposed rule, we proposed a FY 2027 SNF market basket percentage increase of 3.2 percent based on IHS Global Inc.'s (IGI's) fourth-quarter 2025 forecast of the 2022-based SNF market basket (before application of the forecast error adjustment and productivity adjustment). We also proposed that if more recent data subsequently became available (for example, a more recent estimate of the market basket, the productivity adjustment, or the forecast error adjustment), we would use such data, if appropriate, to determine the FY 2027 SNF market basket percentage increase,

labor-related share relative importance, forecast error adjustment, and productivity adjustment in the SNF PPS final rule.

Since the proposed rule, we have updated the FY 2027 market basket percentage increase based on IGI's second quarter 2026 forecast with historical data through the first quarter of 2026. The FY 2027 growth rate of the 2022-based SNF market basket is estimated to be 3.3 percent.

2. Market Basket Update Factor for FY 2027

Section 1888(e)(5)(B) of the Act defines the SNF market basket percentage increase as the percentage change in the SNF market basket from the midpoint of the previous FY to the midpoint of the current FY. For the Federal rates outlined in this final rule, we use the percentage change in the SNF market basket to compute the update factor for FY 2027. This factor is based on the FY 2027 percentage increase in the 2022-based SNF market basket reflecting routine, ancillary, and capital-related expenses. Sections 1888(e)(4)(E)(ii)(IV) and (e)(5)(B)(i) of the Act require that the update factor used to establish the FY 2027 unadjusted Federal rates be at a level equal to the SNF market basket percentage increase. Accordingly, we determined the total growth from the average market basket level for the period of October 1, 2025, through September 30, 2026, to the average market basket level for the period of October 1, 2026, through September 30, 2027. As outlined in the proposed rule, this process yielded a proposed percentage increase in the 2022-based SNF market basket of 3.2 percent for FY 2027. For this final rule, based on IGI's second quarter 2026 forecast with historical data through the first quarter of 2026, the FY 2027 growth rate of the 2022-based SNF market basket is estimated to be 3.3 percent.

As further explained in section IV.B.3. of this final rule, as applicable, we adjust the percentage increase by the forecast error adjustment from the most recently available FY for which there is final data and apply this adjustment whenever the difference between the forecasted and actual percentage increase in the market basket exceeds a 0.5 percentage point threshold in absolute terms. Additionally, section 1888(e)(5)(B)(ii) of the Act requires us to reduce the market basket percentage increase by the productivity adjustment (the 10-year moving average of changes in annual economy-wide private nonfarm business total multifactor productivity for the period ending

September 30, 2027), which is estimated to be 0.9 percentage point, as described in section IV.B.4. of this final rule.

We also note that section 1888(e)(6)(A)(i) of the Act provides that, beginning with FY 2018, SNFs that fail to submit data, as applicable, in accordance with sections 1888(e)(6)(B)(i)(II) and (III) of the Act for a FY will receive a 2.0 percentage point reduction to their market basket update for the FY involved, after application of section 1888(e)(5)(B)(ii) of the Act (the productivity adjustment) and section 1888(e)(5)(B)(iii) of the Act (the market basket increase). In addition, section 1888(e)(6)(A)(ii) of the Act states that application of the 2.0 percentage point reduction (after application of section 1888(e)(5)(B)(ii) and (iii) of the Act) may result in the market basket percentage change being less than zero for a FY and may result in payment rates for a FY being less than such payment rates for the preceding FY. Section 1888(e)(6)(A)(iii) of the Act further specifies that the 2.0 percentage point reduction is applied in a noncumulative manner, so that any reduction made under section 1888(e)(6)(A)(i) of the Act applies only to the FY involved, and that the reduction cannot be taken into account in computing the payment amount for a subsequent FY.

We received public comments on the proposed FY 2027 SNF market basket percentage increase to the SNF PPS rates. The following is a summary of the comments we received and our responses.

Comment: Many commenters expressed appreciation for the proposed 3.2 percent increase in the market basket but expressed concern that the proposed increase is insufficient to address actual cost pressures facing skilled nursing facilities. Commenters stated that the 2.4 percent net update (after application of the 0.8 percentage point productivity adjustment) fails to keep pace with actual cost increases in the year they occur. Commenters stated that the 2025 Consumer Price Index for Medical Care was 3.2 percent and urged CMS to increase the net update to at least 3.0 percent.

Multiple commenters addressed the broader inflationary environment and its impact on SNF operations and profit margins. Commenters identified sustained inflationary pressures in labor, pharmaceuticals, medical supplies, and utilities as primary drivers of the perceived inadequacy of the proposed update.

Multiple commenters stated the severity of workforce-related cost pressures, including elevated wage pressures for nurses and nursing

assistants, with contract labor remaining above pre-pandemic levels. Commenters stated that SNFs continue to grapple with workforce shortages, and that nursing homes face increased competition from other healthcare providers for the same labor pool.

Several commenters raised concerns about the growth of drug expenses driven by higher utilization, increasing unit costs, and the continued introduction of high-cost specialty medications, and stated that Medicare beneficiaries that need SNF services typically require higher cost prescription drugs, including IV antibiotics and anticoagulants.

One commenter urged CMS to consider a prospective percentage add-on to reflect the impact of wage and benefit costs.

Response: We appreciate the comments regarding the proposed FY 2027 SNF PPS market basket update and recognize the concerns raised about inflationary pressures affecting skilled nursing facilities. Section 1888(e)(5)(A) of the Act requires us to establish a SNF market basket that reflects changes over time in the prices of an appropriate mix of goods and services included in covered SNF services. The 2022-based SNF market basket is a fixed-weight, Laspeyres-type price index that measures the change in price, over time, of the most commonly used cost categories for SNF routine services, ancillary services, and capital-related expenses.

We recognize that the market basket updates may differ from other overall inflation indexes such as the CPI; however, we would reiterate that these topline indexes are not comparable since they measure different mixes of products, services, or wages than the legislatively defined SNF market basket. We would highlight that the market basket percentage increase is a forecast of the price pressures that SNFs are expected to face in FY 2027. We also note that when IHS Global, Inc. (IGI) develops their forecast for the various price indexes used in the SNF market basket, they consider industry-specific and overall economic conditions. IGI is a nationally recognized economic and financial forecasting firm with which CMS contracts to forecast the components of the market baskets.

The proposed FY 2027 SNF market basket percentage increase of 3.2 percent reflected the most-recent forecast available at the time of

rulemaking. As stated in the SNF PPS proposed rule for FY 2027 (91 FR 17680), we proposed that if more recent data subsequently became available (for example, a more recent estimate of the market basket and/or the productivity adjustment), we would use such data, if appropriate, to determine the FY 2027 SNF market basket percentage increase in the SNF PPS final rule. For this final rule, we have incorporated the most recent historical data and forecasts provided by IGI to capture the expected price and wage pressures facing SNFs in FY 2027. The FY 2027 market basket update in this final rule reflects historical data through the first quarter of 2026 and forecasted data from the second quarter of 2026 through the third quarter of 2027. Accordingly, the final FY 2027 market basket update reflects an updated and revised outlook on the U.S. economy.

Based on IGI's second-quarter 2026 forecast with historical data through first-quarter 2026, the FY 2027 growth rate of the 2022-based SNF market basket is 3.3 percent. By incorporating the most recent estimates available of the market basket percentage increase, we believe these data reflect the best available projection of input price inflation faced by SNFs in FY 2027.

Comment: Some commenters referenced the Medicare Payment Advisory Commission (MedPAC) March 2026 Report to Congress in their comments, which recommended that CMS reduce SNF base payment rates by 4 percent for FY 2027. These commenters expressed support for the SNF base payment rate reduction discussed by MedPAC. Additionally, some commenters referenced MedPAC's payment adequacy analyses, which indicated that the aggregate fee-for-service (FFS) Medicare margin for freestanding SNFs in 2024 was 24.4 percent, and added that a reduction in payment rates would not impede beneficiary access to care given the adequate capacity and supply of providers.

Response: We thank commenters for their recommendation and agree that current law requires us to update SNF PPS payments by the market basket percentage increase reduced by a productivity adjustment, as directed by sections 1888(e)(4)(E)(ii)(IV) and 1888(e)(5)(B)(ii) of the Act.

After consideration of the comments received on the FY 2027 SNF market basket percentage increase, we are

finalizing a FY 2027 SNF market basket percentage increase of 3.3 percent (prior to the application of the forecast error adjustment and productivity adjustment, which are discussed later in this section).

3. Forecast Error Adjustment

As discussed in the June 10, 2003, supplemental proposed rule (68 FR 34768) and finalized in the August 4, 2003, final rule (68 FR 46057 through 46059), § 413.337(d)(2) provides for an adjustment to account for SNF market basket forecast error. The initial adjustment for SNF market basket forecast error applied to the update of the FY 2003 rate for FY 2004 and considered the cumulative forecast error for the period from FY 2000 through FY 2002, resulting in an increase of 3.26 percent to the FY 2004 update. Subsequent adjustments in succeeding FYs take into account the forecast error from the most recently available FY for which there is final data and apply the difference between the forecasted and actual change in the market basket when the difference exceeds a specified threshold. We originally used a 0.25 percentage point threshold for this purpose; however, for the reasons specified in the FY 2008 SNF PPS final rule (72 FR 43425), we adopted a 0.5 percentage point threshold effective for FY 2008 and subsequent FYs. As we stated in the final rule for FY 2004 that first issued the market basket forecast error adjustment (68 FR 46058), the adjustment will reflect both upward and downward adjustments, as appropriate.

For FY 2025 (the most recently available FY for which there is final data), the forecasted or estimated increase in the SNF market basket was 3.0 percent, and the actual increase for FY 2025 was 2.8 percent, resulting in the actual increase being 0.2 percentage point lower than the estimated increase. Accordingly, as the difference between the estimated and actual percentage increase in the market basket does not exceed the 0.5 percentage point threshold, under the policy previously described (comparing the forecasted and actual market basket percentage increase), the FY 2027 market basket percentage increase of 3.3 percent would not be adjusted to account for the forecast error correction.

Table 2 shows the forecasted and actual market basket percentage increases for FY 2025.

TABLE 2: DIFFERENCE BETWEEN THE ACTUAL AND FORECASTED SNF MARKET BASKET PERCENTAGE INCREASES FOR FY 2025

Index	Forecasted FY 2025 Percentage Increase*	Actual FY 2025 Percentage Increase**	FY 2025 Difference
SNF	3.0	2.8	-0.2

*Published in **Federal Register**; based on second quarter 2024 IHS Global Inc. forecast (2022-based SNF market basket).

** Based on the second quarter 2026 IHS Global Inc. forecast (2022-based SNF market basket), with historical data through first quarter 2026.

We received public comments on the forecast error adjustment. The following is a summary of the comments we received and our responses.

Comment: Commenters requested that CMS publicly disclose FY 2025 forecast error calculations and publish multi-year retrospective comparisons of projected versus actual market basket growth to identify potential systematic under-forecasting. Commenters stated that greater transparency in forecast error methodology would enable stakeholders to better assess the accuracy of market basket projections and their cumulative impact on SNF payment adequacy over time. Multiple commenters encouraged CMS to remain vigilant in monitoring forecast accuracy and to apply corrections promptly when the threshold is met. Some commenters urged CMS to consider implementing prospective percentage add-ons to reflect the impact of increasing wage and benefit costs.

Response: The SNF market basket updates are set prospectively, which means that the update relies on a mix of both historical data for part of the period for which the update is calculated and forecasted data for the remainder. For instance, the FY 2027 market basket update in this final rule reflects historical data through the first quarter of CY 2026 and forecasted data from the second quarter of 2026 through the third quarter of CY 2027.

Forecast error can be calculated by comparing the actual market basket increase for a given year less the forecasted market basket increase. Due to the uncertainty regarding future price trends, forecast errors can be both positive and negative. While we recognize the appeal of alternative approaches such as prospective adjustments during periods of economic volatility, this would have the potential to introduce more variable and unstable updates. The threshold at which forecast error adjustments are triggered under the SNF PPS is 0.5 percentage point in absolute terms, which is intended to distinguish typical statistical variances from more major

unanticipated impacts. The forecasted growth in the 2022-based SNF market basket for FY 2025 was 3.0 percent, and the actual historical growth was 2.8 percent, meaning the SNF market basket was over-forecast by 0.2 percent. Since this is below the 0.5 percentage point threshold, there will be no forecast error adjustment to the FY 2027 market basket percent change.

Historical forecast error adjustments under the SNF PPS are detailed in the “Actual Regulation Market Basket Updates” table, which can be found on the CMS website at <https://www.cms.gov/data-research/statistics-trends-and-reports/medicare-program-rates-statistics/market-basket-data>.

After consideration of public comments, we are finalizing our proposal that no forecast error adjustment will be applied for FY 2027, as the 0.5 percentage point threshold was not met.

4. Productivity Adjustment

Section 1888(e)(5)(B)(ii) of the Act, as added by section 3401(b) of the Patient Protection and Affordable Care Act (Affordable Care Act) (Pub. L. 111–148, enacted March 23, 2010), requires that, in FY 2012 and in subsequent FYs, the market basket percentage under the SNF payment system (as described in section 1888(e)(5)(B)(i) of the Act) is to be reduced annually by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act.

Section 1886(b)(3)(B)(xi)(II) of the Act, in turn, defines the productivity adjustment to be equal to the 10-year moving average of changes in annual economy-wide, private nonfarm business multifactor productivity (MFP) (as projected by the Secretary of the Department of Health and Human Services (Secretary) for the 10-year period ending with the applicable FY, year, cost reporting period, or other annual period) (the “productivity adjustment”).

The United States Department of Labor’s Bureau of Labor Statistics (BLS) publishes the official measure of productivity for the United States. The

productivity measure referenced in section 1886(b)(3)(B)(xi)(II) of the Act is published by BLS as private nonfarm business total factor productivity (TFP), previously referred to as multifactor productivity.¹ We refer readers to the BLS website at www.bls.gov/productivity for the BLS historical published TFP data. A complete description of IGI’s TFP projection methodology is available on CMS’s website at: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketResearch>.

Section 1888(e)(5)(B)(ii) of the Act further states that the reduction of the market basket percentage by the productivity adjustment may result in the market basket percentage being less than zero for a FY and may result in payment rates under section 1888(e) of the Act being less than such payment rates for the preceding FY. Thus, if the application of the productivity adjustment to the market basket percentage calculated under section 1888(e)(5)(B)(i) of the Act results in a productivity adjusted market basket percentage that is less than zero, then the annual update to the unadjusted Federal per diem rates under section 1888(e)(4)(E)(ii) of the Act would be negative, and such rates would decrease relative to the prior FY.

Based on the data available for the FY 2027 SNF PPS proposed rule, the proposed productivity adjustment (the 10-year moving average of changes in annual economy-wide private nonfarm business TFP for the period ending September 30, 2027) was projected to be 0.8 percentage point.

We received public comments on the productivity adjustment. The following is a summary of the comments received and our responses.

Comment: Multiple commenters, while acknowledging the statutory basis for the productivity adjustment, expressed concern that the productivity

¹ <https://www.bls.gov/productivity/notices/2021/mfp-to-tpf-term-change.htm>.

adjustment is inappropriate for the healthcare sector and overstates actual productivity gains achievable in labor-intensive care settings. Commenters stated that healthcare outputs—such as patient volume and procedures—do not equate to productivity gains in the manner applicable to goods-producing industries, and that healthcare providers cannot adjust prices like private businesses. Commenters stated that a CMS Office of the Actuary analysis in 2022 examined the TFP methodology and found that TFP lagged other private non-farm businesses by between 0.3 percent and 0.4 percent, and that BLS's industry-specific TFP indicates that hospital and nursing and residential care facilities' TFP in 2024 was –0.1 percent. Additionally, commenters stated that they continue to find it troubling that the productivity adjustment appears to be applied only when it reduces Medicare payments.

Commenters urged CMS to consider the cumulative financial impact on providers operating in a high-cost, labor-intensive care environment and to explore available mechanisms to mitigate the effect of the productivity adjustment on facilities facing the most significant cost pressures.

A few commenters urged CMS to reduce or waive the productivity adjustment using its “special exceptions and adjustments” authority, citing the disproportionate impact on labor-intensive SNF operations, or that CMS engage Congress on an alternative to the productivity adjustment that might be more representative of nursing home output.

Response: As commenters acknowledged, section 1888(e)(5)(B)(ii) of the Act requires the application of the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act to the SNF PPS market basket increase factor. As required by statute, the FY 2027 productivity adjustment is derived based on the 10-year moving average growth in economy-wide nonfarm business TFP for the period ending in FY 2027. We recognize the concerns of the commenters regarding the appropriateness of the productivity adjustment; however, we are required under section 1888(e)(5)(B)(ii) of the Act to apply the specific productivity adjustment described here.

We have always made available on the CMS website the general method for calculating the productivity adjustment. This includes providing a link (<https://www.bls.gov/productivity/>) to the most recent BLS historical TFP data, which currently allows interested parties to obtain historical TFP annual index levels for 1987 through 2025. We also

provided the IGI projection model (https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/medicareprogramratesstats/downloads/tfp_methodology.pdf), which for this final rule is used to derive annual TFP growth rates for 2026 and 2027. The annual index level derived from this method is then interpolated to quarterly levels, and the FY 2027 productivity adjustment is equal to the percent change in the 40-quarter moving average projected level for the period ending September 30, 2027, relative to the 40-quarter moving average projected level for the period ending September 30, 2026. We believe our methodology for the productivity adjustment is consistent with section 1886(b)(3)(B)(xi)(II) of the Act, which states that the productivity adjustment is equal to the 10-year moving average of changes in annual economy-wide private nonfarm business multi-factor productivity (as projected by the Secretary for the 10-year period ending with the applicable fiscal year, year, cost reporting period, or other annual period).

At the time of this final rule, the 2027 productivity adjustment reflects BLS historical TFP data through 2025 (released on March 19, 2026) and IGI's forecasted TFP growth for 2026 and 2027. The average annual growth rate of historical TFP published by BLS for 2018 through 2025 is currently 1.0 percent and IGI is projecting average TFP growth of about 0.7 percent for 2026 and 2027 based on IGI's second-quarter 2026 forecast. Combining the historical and projected TFP data over the entire 10-year time period and interpolating into quarterly index levels results in a 10-year moving average growth rate of TFP of 0.9 percent for FY 2027. The productivity adjustment (based on the 10-year period ending with FY 2027) for the FY 2027 final rule is 0.1 percentage point higher than the FY 2027 SNF PPS proposed rule mainly due to the incorporation of updated BLS historical data.

In response to commenters' concerns about the productivity adjustment only being applied if it reduces the payment update, and as noted in the FY 2026 SNF final rule (90 FR 37316), we note that the productivity adjustment was established under the Affordable Care Act with a specific policy intent to encourage efficiency improvements in healthcare delivery by linking Medicare payment updates to economy-wide productivity gains. The statutory language in section 1886(j)(3)(C)(ii) of the Act requires that the Secretary reduce the market basket percentage

increase by changes in economy-wide productivity; therefore, only productivity adjustments that reduce the market basket percentage increase in a given year are applied.

Comment: Commenters requested that CMS utilize its special exceptions and adjustments authority to waive the 0.8 percentage point productivity adjustment for FY 2027 due to the current economic environment.

Response: We appreciate the commenters' request to waive the 0.8 percentage point productivity adjustment. We recognize the concerns of the commenters regarding the economic environment; however, we are required under section 1888(e)(5)(B)(ii) of the Act to apply the specific productivity adjustment described here in this section. The productivity adjustment was established under the Affordable Care Act with a specific policy intent to encourage efficiency improvements in healthcare delivery by linking Medicare payment updates to economy-wide productivity gains.

In the proposed rule, the FY 2027 productivity adjustment was estimated to be 0.8 percentage point based on IGI's fourth quarter 2025 forecast. For this final rule, based on IGI's second quarter 2026 forecast, the productivity adjustment (the 10-year moving average of changes in annual economy-wide private nonfarm business TFP for the period ending September 30, 2027) is 0.9 percentage point.

Consistent with section 1888(e)(5)(B)(i) of the Act and § 413.337(d)(2), and as outlined previously in section III.B.1. of this final rule, the market basket percentage increase for FY 2027 for the SNF PPS, based on IGI's second quarter 2026 forecast of the SNF market basket percentage increase, is estimated to be 3.3 percent. As outlined earlier in this section, we are applying a proposed 0.9 percentage point productivity adjustment to the FY 2027 SNF market basket percentage increase. Therefore, the resulting FY 2027 SNF market basket update is equal to 2.4 percent.

5. Unadjusted Federal Per Diem Rates for FY 2027

As stated in the FY 2019 SNF PPS final rule (83 FR 39162), in FY 2020 we implemented a new case-mix classification system to classify SNF patients under the SNF PPS, the PDPM. As stated in section V.B.1. of that final rule (83 FR 39189), under PDPM, the unadjusted Federal per diem rates are divided into six components, five of which are case-mix adjusted components (physical therapy [PT], occupational therapy [OT], speech-

language pathology [SLP], nursing, and non-therapy ancillaries [NTA]), and one of which is a non-case-mix component, as existed under the previous Resource Utilization Groups, Version IV (RUG–IV) model. We proposed to use the SNF market basket update, adjusted as outlined previously in sections through III.B.4. of this final rule, to adjust each per diem component of the Federal rates forward to reflect the change in the average prices for FY 2027 from the average prices for FY 2026. We also proposed further adjusting the rates by a wage index budget neutrality factor outlined in section III.D. of this final rule.

Further, in the past, we used the revised Office of Management and Budget (OMB) delineations adopted in the FY 2015 SNF PPS final rule (79 FR 45632, 45634), with updates as reflected in OMB Bulletins Nos. 15–01 and 17–01 to identify a facility’s urban or rural status for the purpose of determining which set of rate tables apply to the facility. As discussed in the FY 2021 SNF PPS proposed and final rules, we adopted the revised OMB delineations identified in OMB Bulletin No. 18–04 (available at <https://www.cms.gov/medicare/payment/prospective-payment-systems/skilled-nursing-facility-snf>) to identify a facility’s urban

or rural status effective beginning with FY 2021. As discussed in the FY 2025 SNF PPS proposed and final rules, we adopted the revised OMB delineations identified in OMB Bulletin No. 23–01 (available at <https://www.whitehouse.gov/wp-content/uploads/2023/07/OMB-Bulletin-23-01.pdf>) to identify a facility’s urban or rural status effective beginning with FY 2025.

Tables 3 and 4 reflect the unadjusted Federal rates for FY 2027, prior to adjustment for case-mix.

TABLE 3: FY 2027 UNADJUSTED FEDERAL RATE PER DIEM—URBAN

Rate Component	PT	OT	SLP	Nursing	NTA	Non-Case-Mix
FY 2026 Per Diem Amount	\$75.73	\$70.49	\$28.28	\$132.00	\$99.59	\$118.21
FY 2027 Per Diem Amount*	\$77.46	\$72.10	\$28.93	\$135.02	\$101.87	\$120.91

* Reflects a 2027 SNF market basket update of 2.4 percent and the final wage index budget neutrality factor of 0.9989.

TABLE 4: FY 2027 UNADJUSTED FEDERAL RATE PER DIEM—RURAL

Rate Component	PT	OT	SLP	Nursing	NTA	Non-Case-Mix
FY 2026 Per Diem Amount	\$86.33	\$79.29	\$35.63	\$126.12	\$95.15	\$120.40
FY 2027 Per Diem Amount*	\$88.30	\$81.10	\$36.44	\$129.00	\$97.33	\$123.15

* Reflects a 2027 SNF market basket update of 2.4 percent and the final wage index budget neutrality factor of 0.9989.

We received public comments on the unadjusted Federal rates for FY 2027. The following is a summary of the comments we received and our responses.

Comment: Several commenters inquired about the rationale for the unadjusted Federal per diem nursing rates being lower for rural areas than urban areas. Commenters emphasized the need to eliminate rural-urban nursing payment disparities given the persisting nursing shortage, citing that rural areas are expected to face more severe deficits.

Response: We thank commenters for their recommendation to align nursing rates across rural and urban areas. As we continue to pursue the goal to improve rural access to care, we will take this under consideration during future rulemaking. We are finalizing our proposal as proposed.

C. Case-Mix Adjustment

Under section 1888(e)(4)(G)(i) of the Act, the Federal rate also incorporates an adjustment to account for facility case-mix, using a classification system

that accounts for the relative resource utilization of different patient types. The statute specifies that the adjustment is to reflect both a resident classification system that the Secretary establishes to account for the relative resource use of different patient types, as well as resident assessment data and other data that the Secretary considers appropriate. The previous RUG–IV model classified most patients into a therapy payment group and primarily used the volume of therapy services provided to the patient as the basis for payment classification, thus creating an incentive for SNFs to furnish therapy regardless of the individual patient’s unique characteristics, goals, or needs. PDPM eliminates this incentive and improves the overall accuracy and appropriateness of SNF payments by classifying patients into payment groups based on specific, data-driven patient characteristics, while simultaneously reducing the administrative burden on SNFs.

The PDPM uses clinical data from the MDS, a core set of screening, clinical, and functional status data elements,

including common definitions and coding categories, which form the foundation of a comprehensive assessment for all residents of nursing homes certified to participate in Medicare or Medicaid, consistent with the provisions of section 1888(e)(4)(G)(i) of the Act. As outlined in section IV.A. of this final rule, the clinical orientation of the case-mix classification system supports the SNF PPS’s use of an administrative presumption that considers a beneficiary’s initial case-mix classification to assist in making certain SNF level of care determinations. Further, because the MDS is used as a basis for payment, as well as a clinical assessment, we have provided extensive training on proper coding and the timeframes for MDS completion in our Resident Assessment Instrument (RAI) Manual. As previously stated, for an MDS to be considered valid for use in determining payment, the MDS assessment must be completed in compliance with the instructions in the RAI Manual in effect at the time the assessment is completed. For payment and quality monitoring purposes, the

RAI Manual consists of both the Manual instructions and the interpretive guidance and policy clarifications posted on the appropriate MDS website at <https://www.cms.gov/medicare/quality/nursing-home-improvement/resident-assessment-instrument-manual>.

Under section 1888(e)(4)(H) of the Act, each update of the payment rates must include the case-mix classification methodology applicable for the upcoming FY. The FY 2027 payment rates set forth in this final rule reflect the use of the PDPM case-mix classification system from October 1, 2026 through September 30, 2027. The case-mix adjusted PDPM payment rates for FY 2027 are listed separately for urban and rural SNFs, in Tables B4 and B5 with corresponding case-mix values.

Given the differences between the previous RUG–IV model and PDPM in terms of patient classification and billing, it was important that the format of Tables B4 and B5 reflect these differences. More specifically, under both RUG–IV and PDPM, providers use a Health Insurance Prospective Payment System (HIPPS) code on a claim to bill for covered SNF services. Under RUG–IV, the HIPPS code included the three-

character RUG–IV group into which the patient classified, as well as a two-character assessment indicator code that represented the assessment used to generate this code. Under PDPM, while providers still use a HIPPS code, the characters in that code represent different things. For example, the first character represents the PT and OT group into which the patient classifies. If the patient is classified into the PT and OT group “TA”, then the first character in the patient’s HIPPS code would be an “A.” Similarly, if the patient is classified into the SLP group “SB”, then the second character in the patient’s HIPPS code would be a “B.” The third character represents the Nursing group into which the patient classifies. The fourth character represents the NTA group into which the patient classifies. Finally, the fifth character represents the assessment used to generate the HIPPS code.

Tables 5 and 6 reflect the PDPM’s structure. Accordingly, Column 1 of Tables 5 and 6 represents the character in the HIPPS code associated with a given PDPM component. Columns 2 and 3 provide the case-mix index and associated case-mix adjusted component

rate, respectively, for the relevant PT group. Columns 4 and 5 provide the case-mix index and associated case-mix adjusted component rate, respectively, for the relevant OT group. Columns 6 and 7 provide the case-mix index and associated case-mix adjusted component rate, respectively, for the relevant SLP group. Column 8 provides the nursing case-mix group (CMG) connected with a given PDPM HIPPS character. For example, if the patient qualified for the nursing group CBC1, then the third character in the patient’s HIPPS code would be a “P.” Columns 9 and 10 provide the case-mix index and associated case-mix adjusted component rate, respectively, for the relevant nursing group. Finally, columns 11 and 12 provide the case-mix index and associated case-mix adjusted component rate, respectively, for the relevant NTA group.

Tables 5 and 6 do not reflect adjustments which may be made to the SNF PPS rates as a result of the SNF VBP Program, outlined in section VII. of this final rule, or other adjustments, such as the variable per diem adjustment.

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TABLE 5: PDPM CASE-MIX ADJUSTED FEDERAL RATES AND ASSOCIATED INDEXES—URBAN

PDPM Group	PT CMI	PT Rate	OT CMI	OT Rate	SLP CMI	SLP Rate	Nursing CMG	Nursing CMI	Nursing Rate	NTA CMI	NTA Rate
A	1.45	\$112.32	1.41	\$101.66	0.64	\$18.52	ES3	3.84	\$518.48	3.06	\$311.72
B	1.61	\$124.71	1.54	\$111.03	1.72	\$49.76	ES2	2.90	\$391.56	2.39	\$243.47
C	1.78	\$137.88	1.60	\$115.36	2.52	\$72.90	ES1	2.77	\$374.01	1.74	\$177.25
D	1.81	\$140.20	1.45	\$104.55	1.38	\$39.92	HDE2	2.27	\$306.50	1.26	\$128.36
E	1.34	\$103.80	1.33	\$95.89	2.21	\$63.94	HDE1	1.88	\$253.84	0.91	\$92.70
F	1.52	\$117.74	1.51	\$108.87	2.82	\$81.58	HBC2	2.12	\$286.24	0.68	\$69.27
G	1.58	\$122.39	1.55	\$111.76	1.93	\$55.83	HBC1	1.76	\$237.64	-	-
H	1.10	\$85.21	1.09	\$78.59	2.70	\$78.11	LDE2	1.97	\$265.99	-	-
I	1.07	\$82.88	1.12	\$80.75	3.34	\$96.63	LDE1	1.64	\$221.43	-	-
J	1.34	\$103.80	1.37	\$98.78	2.83	\$81.87	LBC2	1.63	\$220.08	-	-
K	1.44	\$111.54	1.46	\$105.27	3.50	\$101.26	LBC1	1.35	\$182.28	-	-
L	1.03	\$79.78	1.05	\$75.71	3.98	\$115.14	CDE2	1.77	\$238.99	-	-
M	1.20	\$92.95	1.23	\$88.68	-	-	CDE1	1.53	\$206.58	-	-
N	1.40	\$108.44	1.42	\$102.38	-	-	CBC2	1.47	\$198.48	-	-
O	1.47	\$113.87	1.47	\$105.99	-	-	CA2	1.03	\$139.07	-	-
P	1.02	\$79.01	1.03	\$74.26	-	-	CBC1	1.27	\$171.48	-	-
Q	-	-	-	-	-	-	CA1	0.89	\$120.17	-	-
R	-	-	-	-	-	-	BAB2	0.98	\$132.32	-	-
S	-	-	-	-	-	-	BAB1	0.94	\$126.92	-	-
T	-	-	-	-	-	-	PDE2	1.48	\$199.83	-	-
U	-	-	-	-	-	-	PDE1	1.39	\$187.68	-	-
V	-	-	-	-	-	-	PBC2	1.15	\$155.27	-	-
W	-	-	-	-	-	-	PA2	0.67	\$90.46	-	-
X	-	-	-	-	-	-	PBC1	1.07	\$144.47	-	-
Y	-	-	-	-	-	-	PA1	0.62	\$83.71	-	-

TABLE 6: PDPM CASE-MIX ADJUSTED FEDERAL RATES AND ASSOCIATED INDEXES—RURAL

PDPM Group	PT CMI	PT Rate	OT CMI	OT Rate	SLP CMI	SLP Rate	Nursing CMG	Nursing CMI	Nursing Rate	NTA CMI	NTA Rate
A	1.45	\$128.04	1.41	\$114.35	0.64	\$23.32	ES3	3.84	\$495.36	3.06	\$297.83
B	1.61	\$142.16	1.54	\$124.89	1.72	\$62.68	ES2	2.90	\$374.10	2.39	\$232.62
C	1.78	\$157.17	1.60	\$129.76	2.52	\$91.83	ES1	2.77	\$357.33	1.74	\$169.35
D	1.81	\$159.82	1.45	\$117.60	1.38	\$50.29	HDE2	2.27	\$292.83	1.26	\$122.64
E	1.34	\$118.32	1.33	\$107.86	2.21	\$80.53	HDE1	1.88	\$242.52	0.91	\$88.57
F	1.52	\$134.22	1.51	\$122.46	2.82	\$102.76	HBC2	2.12	\$273.48	0.68	\$66.18
G	1.58	\$139.51	1.55	\$125.71	1.93	\$70.33	HBC1	1.76	\$227.04	-	-
H	1.10	\$97.13	1.09	\$88.40	2.70	\$98.39	LDE2	1.97	\$254.13	-	-
I	1.07	\$94.48	1.12	\$90.83	3.34	\$121.71	LDE1	1.64	\$211.56	-	-
J	1.34	\$118.32	1.37	\$111.11	2.83	\$103.13	LBC2	1.63	\$210.27	-	-
K	1.44	\$127.15	1.46	\$118.41	3.50	\$127.54	LBC1	1.35	\$174.15	-	-
L	1.03	\$90.95	1.05	\$85.16	3.98	\$145.03	CDE2	1.77	\$228.33	-	-
M	1.20	\$105.96	1.23	\$99.75	-	-	CDE1	1.53	\$197.37	-	-
N	1.40	\$123.62	1.42	\$115.16	-	-	CBC2	1.47	\$189.63	-	-
O	1.47	\$129.80	1.47	\$119.22	-	-	CA2	1.03	\$132.87	-	-
P	1.02	\$90.07	1.03	\$83.53	-	-	CBC1	1.27	\$163.83	-	-
Q	-	-	-	-	-	-	CA1	0.89	\$114.81	-	-
R	-	-	-	-	-	-	BAB2	0.98	\$126.42	-	-
S	-	-	-	-	-	-	BAB1	0.94	\$121.26	-	-
T	-	-	-	-	-	-	PDE2	1.48	\$190.92	-	-
U	-	-	-	-	-	-	PDE1	1.39	\$179.31	-	-
V	-	-	-	-	-	-	PBC2	1.15	\$148.35	-	-
W	-	-	-	-	-	-	PA2	0.67	\$86.43	-	-
X	-	-	-	-	-	-	PBC1	1.07	\$138.03	-	-
Y	-	-	-	-	-	-	PA1	0.62	\$79.98	-	-

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We did not receive public comments on this provision, and therefore, we are finalizing as proposed.

D. Wage Index Adjustment

Section 1888(e)(4)(G)(ii) of the Act requires that we adjust the Federal payment rates to account for differences in area wage levels, using a wage index that the Secretary determines appropriate. Since the inception of the SNF PPS, we have used hospital inpatient wage data in developing a wage index to be applied to SNFs. We will continue this practice for FY 2027, as we continue to believe that in the absence of SNF-specific wage data, using the hospital inpatient wage index data is appropriate and reasonable for the SNF PPS. As explained in the update notice for FY 2005 (69 FR 45786), the SNF PPS does not use the hospital area wage index's occupational mix adjustment, as this adjustment serves specifically to define the occupational categories more clearly in a hospital setting; moreover, the

collection of the occupational wage data under the acute care hospital inpatient prospective payment system (IPPS) also excludes any wage data related to SNFs. Therefore, we believe that using the updated wage data exclusive of the occupational mix adjustment continues to be appropriate for SNF payments. As in previous years, we proposed to continue to use the pre-reclassified IPPS hospital wage data, without applying the occupational mix, rural floor, or outmigration adjustment, as the basis for the SNF PPS wage index. For FY 2027, the updated wage data are for hospital cost reporting periods beginning on or after October 1, 2022, and before October 1, 2023 (FY 2023 cost report data).

Section 315 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106–554, enacted December 21, 2000) gave the Secretary the discretion to establish a geographic reclassification procedure specific to SNFs, but only after collecting the data

necessary to establish a SNF PPS wage index that is based on wage data from nursing homes. To date, this has proven to be unfeasible, due to the volatility of existing SNF wage data and the significant resources that would be required to improve the quality of the data. More specifically, auditing all SNF cost reports, similar to the process used to audit inpatient hospital cost reports for purposes of the IPPS wage index, would place a burden on providers in terms of recordkeeping and completion of the cost report worksheet. Adopting such an approach would require a significant commitment of resources by CMS and the Medicare Administrative Contractors (MACs), potentially far more than those required under the IPPS, given that there are nearly five times as many SNFs as there are inpatient hospitals. While we do not believe this undertaking is feasible at this time, we will continue to explore implementation of a spot audit process to improve SNF cost reports to ensure they are adequately accurate for cost

development purposes, in such a manner as to permit us to establish a SNF-specific wage index in the future. We will continue to monitor the appropriateness of using the hospital data as a proxy and adjust in future rulemaking if we identify a better approach to the wage index.

In addition, we continue to use the same methodology discussed in the SNF PPS final rule for FY 2008 (72 FR 43423) to address those geographic areas in which there are no hospitals, and thus, no hospital wage index data on which to base the calculation of the FY 2027 SNF PPS wage index. For rural geographic areas that do not have hospitals and therefore lack hospital wage data on which to base an area wage adjustment, we will continue using the average wage index from all contiguous CBSAs as a reasonable proxy. For FY 2027, the only rural area without wage index data available is North Dakota. For urban areas without specific hospital wage index data, we will continue using the average wage indexes of all urban areas within the state to serve as a reasonable proxy for the wage index of that urban CBSA. For FY 2027, the only urban area without wage index data available is CBSA 25980, Hinesville-Fort Stewart, GA.

In the SNF PPS final rule for FY 2006 (70 FR 45026, August 4, 2005), we adopted the changes discussed in OMB Bulletin No. 03–04 (June 6, 2003), which announced revised definitions for MSAs and the creation of micropolitan statistical areas and combined statistical areas. In adopting the CBSA geographic designations, we provided for a 1-year transition in FY 2006 with a blended wage index for all providers. For FY 2006, the wage index for each provider consisted of a blend of 50 percent of the FY 2006 MSA-based wage index and 50 percent of the FY 2006 CBSA-based wage index (both using FY 2002 hospital data). We referred to the blended wage index as the FY 2006 SNF PPS transition wage index. As discussed in the SNF PPS final rule for FY 2006 (70 FR 45041), after the expiration of this 1-year transition on September 30, 2006, we used the full CBSA-based wage index values.

In the FY 2015 SNF PPS final rule (79 FR 45644 through 45646), we finalized changes to the SNF PPS wage index based on the newest OMB delineations, as described in OMB Bulletin No. 13–01, beginning in FY 2015, including a 1-year transition with a blended wage index for FY 2015. OMB Bulletin No. 13–01 established revised delineations for Metropolitan Statistical Areas, Micropolitan Statistical Areas, and

Combined Statistical Areas in the United States and Puerto Rico based on the 2010 Census and provided guidance on the use of the delineations of these statistical areas using standards published in the June 28, 2010, **Federal Register** (75 FR 37246 through 37252). Subsequently, on July 15, 2015, OMB issued OMB Bulletin No. 15–01, which provided minor updates to and superseded OMB Bulletin No. 13–01 that was issued on February 28, 2013. The attachment to OMB Bulletin No. 15–01 provided detailed information on the update to statistical areas since February 28, 2013. The updates provided in OMB Bulletin No. 15–01 were based on the application of the 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas to Census Bureau population estimates for July 1, 2012, and July 1, 2013, and were adopted under the SNF PPS in the FY 2017 SNF PPS final rule (81 FR 51983, August 5, 2016). In addition, on August 15, 2017, OMB issued Bulletin No. 17–01 which announced a new urban CBSA, Twin Falls, Idaho (CBSA 46300), which was adopted in the SNF PPS final rule for FY 2019 (83 FR 39173, August 8, 2018).

As stated in the FY 2021 SNF PPS final rule (85 FR 47594), we adopted the revised OMB delineations identified in OMB Bulletin No. 18–04 (available at <https://www.whitehouse.gov/wp-content/uploads/2018/09/Bulletin-18-04.pdf>) beginning October 1, 2020, including a 1-year transition for FY 2021 under which we applied a 5 percent cap on any decrease in a hospital's wage index compared to its wage index for the prior FY 2020. We believe that the use of the updated OMB delineations will allow us to more accurately reflect the contemporary urban and rural nature of areas across the country, and the use of such delineations allows us to determine more accurately the appropriate wage index and rate tables to apply under the SNF PPS.

In the FY 2023 SNF PPS final rule (87 FR 47521 through 47525), we finalized a policy to apply a permanent 5 percent cap on any decreases to a provider's wage index from its wage index in the prior year, regardless of the circumstances causing the decline. We amended the SNF PPS regulations at 42 CFR 413.337(b)(4)(ii) to reflect this permanent cap on wage index reductions. Additionally, we finalized a policy that a new SNF would be paid the wage index for the area in which it is geographically located for its first full or partial FY with no cap applied because a new SNF would not have a wage index in the prior FY. A full

discussion of the adoption of this policy is found in the FY 2023 SNF PPS final rule.

As stated in the FY 2008 SNF PPS proposed and final rules (72 FR 25538 through 25539, and 72 FR 43423, respectively), this and all subsequent SNF PPS rules and notices are considered to incorporate any updates and revisions set forth in the most recent OMB bulletin that applies to the hospital wage data used to determine the current SNF PPS wage index. OMB issued further revised CBSA delineations in OMB Bulletin No. 20–01, on March 6, 2020 (available on the web at <https://www.whitehouse.gov/wp-content/uploads/2020/03/Bulletin-20-01.pdf>). However, we determined that the changes in OMB Bulletin No. 20–01 do not impact the CBSA-based labor market area delineations adopted in FY 2021. Therefore, we did not propose adopting the revised OMB delineations identified in OMB Bulletin No. 20–01 for FY 2022 through FY 2024.

On July 21, 2023, OMB issued OMB Bulletin No. 23–01, which updates and supersedes OMB Bulletin No. 20–01 based on the decennial census. OMB Bulletin No. 23–01 revised delineations for CBSAs which are made up of counties and equivalent entities (for example, boroughs; a city and borough, and a municipality in Alaska; planning regions in Connecticut; parishes in Louisiana; municipios in Puerto Rico; and independent cities in Maryland, Missouri, Nevada, and Virginia). As stated in the FY 2025 SNF PPS final rule (89 FR 64059), we adopted the revised OMB delineations identified in OMB Bulletin No. 23–01 (available at <https://www.whitehouse.gov/wp-content/uploads/2023/07/OMB-Bulletin-23-01.pdf>). OMB has not published further delineation revisions since OMB Bulletin No. 23–01. Therefore, for FY 2027, we proposed to maintain the current CBSA delineations. The wage index applicable to FY 2027 is set forth in Table A and B, available on the CMS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/skilled-nursing-facility-snf/wage-index>.

Once calculated, we will apply the wage index adjustment to the labor-related share of the Federal rate. Each year, we calculate a labor-related share, based on the relative importance of labor-related cost categories (that is, those cost categories that are labor-intensive and vary with the local labor market) in the input price index. In the FY 2025 SNF final rule (89 FR 64060), we finalized a proposal to revise the labor-related share to reflect the relative importance of the 2022-based SNF

market basket cost weights for the following cost categories: Wages and Salaries; Employee Benefits; Professional Fees: Labor-Related; Administrative and Facilities Support Services; Installation, Maintenance, and Repair Services; All Other: Labor-Related Services; and a proportion of Capital-Related expenses. The methodology for calculating the labor-related share beginning in FY 2025 is discussed in detail in the FY 2025 SNF PPS final rule (89 FR 64080 through 64081).

We calculate the labor-related relative importance from the SNF market basket, and it approximates the labor-related share of the total costs after accounting

for historical and projected price changes between the base year and FY 2027. The price proxies that move the different cost categories in the market basket do not necessarily change at the same rate, and the relative importance captures these changes. Accordingly, the relative importance figure more closely reflects the cost share weights for FY 2027 than the base year weights from the SNF market basket. We calculate the labor-related relative importance for FY 2027 in four steps. First, we compute the FY 2027 price index level for the total market basket and each cost category of the market basket. Second, we calculate a ratio for each cost category by dividing the FY

2027 price index level for that cost category by the total market basket price index level. Third, we determine the FY 2027 relative importance for each cost category by multiplying this ratio by the base year (2022) weight. Finally, we add the FY 2027 relative importance for each of the labor-related cost categories (Wages and Salaries; Employee Benefits; Professional Fees: Labor-Related; Administrative and Facilities Support Services; Installation, Maintenance, and Repair Services; All Other: Labor-Related Services; and a portion of Capital-Related expenses) to produce the proposed FY 2027 labor-related share.

TABLE 7: LABOR-RELATED SHARE, FY 2026 AND FY 2027

	Relative Importance, Labor-related Share, FY 2026 25:2 Forecast¹	Relative Importance, Labor-related Share, FY 2027 26:2 Forecast²
Wages and Salaries	53.4	53.5
Employee Benefits	8.9	8.9
Professional Fees: Labor-Related	3.6	3.6
Administrative & Facilities Support Services	0.4	0.4
Installation, Maintenance & Repair Services	0.5	0.5
All Other: Labor-Related Services	2.0	2.0
Capital-Related (0.391* Capital RI)	3.1	3.1
Total	71.9	72.0

¹. Published in the **Federal Register**; Based on the second quarter 2025 IHS Global Inc. forecast of the 2022-based SNF market basket.

². Based on the second quarter 2026 IHS Global Inc. forecast of the 2022-based SNF market basket. The relative importance of capital for FY 2027 is forecasted to be 8.0 percent.

To calculate the labor portion of the case-mix adjusted per diem rate, we will multiply the total case-mix adjusted per diem rate, which is the sum of all five case-mix adjusted components into which a patient classifies, and the non-case-mix component rate, by the FY 2027 labor-related share percentage provided in Table 7. The remaining portion of the rate will be the non-labor portion. Under the previous RUG–IV model, we included tables which provided the case-mix adjusted RUG–IV rates, by RUG–IV group, broken out by total rate, labor portion and non-labor portion, such as Table 8 of the FY 2019 SNF PPS final rule (83 FR 39175). However, as we discussed in the FY 2020 SNF PPS final rule (84 FR 38738), under PDPM, as the total rate is calculated as a combination of six different component rates, five of which are case-mix adjusted, and given the sheer volume of possible combinations of these five case-mix adjusted components, it is not feasible to provide

tables similar to those that existed in the prior rulemaking.

Therefore, to aid interested parties in understanding the effect of the wage index on the calculation of the SNF per diem rate, we have included a hypothetical rate calculation in Table 9.

Section 1888(e)(4)(G)(ii) of the Act also requires that we apply this wage index in a manner that does not result in aggregate payments under the SNF PPS that are greater or less than would otherwise be made if the wage adjustment had not been made. For FY 2027 (Federal rates effective October 1, 2026), we apply an adjustment to fulfill the budget neutrality requirement. We meet this requirement by multiplying each of the components of the unadjusted Federal rates by a budget neutrality factor, equal to the ratio of the weighted average wage adjustment factor for FY 2026 to the weighted average wage adjustment factor for FY 2027. For this calculation, we will use the same FY 2025 claims utilization

data for both the numerator and denominator of this ratio. We define the wage adjustment factor used in this calculation as the labor portion of the rate component multiplied by the wage index plus the non-labor portion of the rate component. The budget neutrality factor for FY 2027 is 0.9989.

We also proposed that if more recent data became available (for example, revised wage data and/or updated claims data), we would use such data, if appropriate, to determine the wage index budget neutrality factor in the SNF PPS final rule.

We received public comments on the wage index and labor-related share for FY 2027. The following is a summary of the comments we received and our responses.

Comment: Commenters supported the permanent 5-percent cap on wage index decreases. A few commenters encouraged CMS to implement these caps in a non-budget neutral manner to stabilize provider reimbursement and

avoid further unexpected reductions for other providers.

Response: We appreciate the commenters' support of the permanent cap on wage index decreases. As for budget neutrality, we do not believe that the permanent 5-percent cap policy for the SNF wage index should be applied in a non-budget-neutral manner. The statute at section 1888(e)(4)(G)(ii) of the Act requires that adjustments for geographic variations in labor costs for a FY are made in a budget-neutral manner. We refer readers to the FY 2023 SNF PPS final rule (87 FR 47521 through 47523) for a detailed discussion and for responses to these and other comments relating to the wage index cap policy.

Comment: A few commenters raised concerns regarding the overall distributional impact of the wage index revisions, observing that nearly half of all skilled nursing facility geographic wage indexes are projected to experience a decrease under the current methodology. They stated that for facilities in these regions, the effective payment update will fall substantially below the national average and could result in a net decrease in reimbursement. These commenters requested that the agency provide transparent, facility-level impact files to assist providers in forecasting their operational budgets and navigating these geographic disparities.

Response: We appreciate the commenters' concerns regarding the overall distributional impact of the wage index revision. We note that the purpose of the wage index is designed to reflect relative geographic differences in labor costs, annual updates to wage index values may increase for some facilities and decrease for others. Such distributional effects are an expected result of a budget-neutral wage index adjustment that reallocates payments based on updated labor market data.

We recognize commenters' interest in understanding the facility-specific implications of wage index changes for budgeting and operational planning purposes. To promote transparency, we include impact analyses in the annual rulemaking process that estimate the effects of proposed and final policy changes on providers by facility type and geographic classification. In addition, the wage index values and related files used to establish payment rates are publicly available alongside the rule. We will continue to consider opportunities to enhance the accessibility and usability of payment impact information for stakeholders.

Comment: Commenters referenced the labor-related share detailed in Table 7 of

the proposed rule (91 FR 17685) and questioned its magnitude given a study of 2019 Medicare cost report data that estimated spending for direct care to be 66 percent of net revenues.²

Multiple commenters recommended that CMS implement a direct-care spending standard for Medicare SNF payments of at least 85 percent, and to limit all non-labor related costs to 15 percent of payments, in order to allocate Medicare funds to beneficiary treatment and services rather than administrative costs and profit margins.

Response: As described above, we define the labor-related share as those expenses that are labor-intensive and vary with, or are influenced by, the local labor market. Each year, we calculate a revised labor-related share based on the relative importance of labor-related cost categories in the input price index. For the 2022-based SNF market basket, those cost categories are: (1) Wages and Salaries (including allocated contract labor costs); (2) Employee Benefits (including allocated contract labor costs); (3) Professional Fees: Labor-Related; (4) Administrative and Facilities Support Services; (5) Installation, Maintenance, and Repair Services; (6) All Other: Labor-Related Services; and (7) a proportion of capital-related expenses. The full methodology for determining the labor-related share of the 2022-based SNF market basket is detailed in the FY 2025 SNF PPS final rule (89 FR 64080). We thank the commenter for their feedback and will take the findings of the study under advisement.

The proposed FY 2027 labor-related share of 72.0 was based on the relative importance of the labor-related cost categories of the 2022-based SNF market basket using IHS Global Inc.'s fourth quarter 2025 forecast. The price proxies that move the different cost categories in the market basket do not necessarily change at the same rate, and the relative importance captures these changes. As was stated in the FY 2027 SNF PPS proposed rule, if more recent data subsequently became available, we would use such data, if appropriate, to determine the FY 2027 SNF labor-related share relative importance. Accordingly, based on IGI's second-quarter 2026 forecast with historical data through the first quarter of 2026, the labor-related share for FY 2027 is 72.0 percent.

² Harrington C, Mollot R, Braun RT, Williams D. United States' Nursing Home Finances: Spending, Profitability, and Capital Structure. *International Journal of Social Determinants of Health and Health Services*. 2024;54(2):131–142. doi:10.1177/27551938231221509.

We appreciate commenters' suggestion to implement an 85 percent direct care spending for Medicare SNF payments. We will take this under consideration during future rulemaking cycles.

After consideration of public comments, we are finalizing our proposal regarding the wage index adjustment for FY 2027.

E. SNF Value-Based Purchasing Program

Beginning with payment for services furnished on October 1, 2018, section 1888(h) of the Act requires the Secretary to reduce the adjusted Federal per diem rate determined under section 1888(e)(4)(G) of the Act otherwise applicable to a SNF for services furnished during a FY by 2 percent, and to adjust the resulting rate for a SNF by the value-based incentive payment amount earned by the SNF based on the SNF's performance score for that FY under the SNF VBP Program. To implement these requirements, we finalized- in the FY 2019 SNF PPS final rule the addition of 42 CFR 413.337(f) to our regulations (83 FR 39178).

We refer readers to section VII. of this final rule for further discussion of the updates we are finalizing for the SNF VBP Program.

F. Adjusted Rate Computation Example

Tables 8 through 10 provide examples generally illustrating payment calculations during FY 2027 under PDPM for a hypothetical 30-day SNF stay, involving the hypothetical SNF XYZ, located in Frederick, MD (Urban CBSA 23224), for a hypothetical patient who is classified into such groups that the patient's HIPPS code is NHNC1. Table 8 shows the adjustments made to the Federal per diem rates (prior to application of any adjustments under the SNF VBP Program as discussed) to compute the provider's case-mix adjusted per diem rate for FY 2027, based on the patient's PDPM classification, as well as how the variable per diem (VPD) adjustment factor affects calculation of the per diem rate for a given day of the stay. Table 9 shows the adjustments made to the case-mix adjusted per diem rate from Table 8 to account for the provider's wage index. The wage index used in this example is based on the FY 2027 SNF PPS wage index that appears in Table 8 available on the CMS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/skilled-nursing-facility-snf/wage-index>. Finally, Table 10 provides the case-mix and wage index adjusted per-diem rate for this patient for each day of the 30-day

stay, as well as the total payment for this stay. Table 10 also includes the VPD adjustment factors for each day of the patient's stay, to clarify why the

patient's per diem rate changes for certain days of the stay. As illustrated in Table 10, SNF XYZ's total PPS payment

for this patient's stay would equal \$23,413.26.

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TABLE 8: PDPM CASE-MIX ADJUSTED RATE COMPUTATION EXAMPLE

Per Diem Rate Calculation				
Component	Component Group	Component Rate	VPD Adjustment Factor	VPD Adjusted Rate
PT	N	\$108.44	1.00	\$108.44
OT	N	\$102.38	1.00	\$102.38
SLP	H	\$78.11	1.00	\$78.11
Nursing	N	\$198.48	1.00	\$198.48
NTA	C	\$177.25	3.00	\$531.75
Non-Case-Mix	-	\$120.91	-	\$120.91
Total PDPM Case-Mix Adjusted Per Diem				\$1,140.07

TABLE 9: WAGE INDEX ADJUSTED RATE COMPUTATION EXAMPLE

PDPM Wage Index Adjustment Calculation						
HIPPS Code	PDPM Case-Mix Adjusted Per Diem	Labor Portion	Wage Index	Wage Index Adjusted Rate	Non-Labor Portion	Total Case-Mix and Wage Index Adjusted Rate
NHNC1	\$1,140.07	\$820.85	0.9343	\$766.92	\$319.22	\$1,086.14

TABLE 10: ADJUSTED RATE COMPUTATION EXAMPLE

Day of Stay	NTA VPD Adjustment Factor	PT/OT VPD Adjustment Factor	Case-Mix and Wage Index Adjusted Per Diem Rate
1	3.00	1.00	\$1,086.14
2	3.00	1.00	\$1,086.14
3	3.00	1.00	\$1,086.14
4	1.00	1.00	\$748.41
5	1.00	1.00	\$748.41
6	1.00	1.00	\$748.41
7	1.00	1.00	\$748.41
8	1.00	1.00	\$748.41
9	1.00	1.00	\$748.41
10	1.00	1.00	\$748.41
11	1.00	1.00	\$748.41
12	1.00	1.00	\$748.41
13	1.00	1.00	\$748.41
14	1.00	1.00	\$748.41
15	1.00	1.00	\$748.41
16	1.00	1.00	\$748.41
17	1.00	1.00	\$748.41
18	1.00	1.00	\$748.41
19	1.00	1.00	\$748.41
20	1.00	1.00	\$748.41
21	1.00	0.98	\$744.39
22	1.00	0.98	\$744.39
23	1.00	0.98	\$744.39
24	1.00	0.98	\$744.39
25	1.00	0.98	\$744.39
26	1.00	0.98	\$744.39
27	1.00	0.98	\$744.39
28	1.00	0.96	\$740.38
29	1.00	0.96	\$740.38
30	1.00	0.96	\$740.38
Total Payment			\$23,413.26

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IV. Additional Aspects of the SNF PPS*A. SNF Level of Care—Administrative Presumption*

The establishment of the SNF PPS did not change Medicare's fundamental requirements for SNF coverage. However, because the case-mix classification is based, in part, on the beneficiary's need for skilled nursing care and therapy, we have attempted, where possible, to coordinate claims review procedures with the existing resident assessment process and case-mix classification system outlined in section IV.C. of this final rule. This approach includes an administrative presumption that utilizes a beneficiary's correct assignment, at the outset of the SNF stay, of one of the case-mix classifiers designated for this purpose to

assist in making certain SNF level of care determinations.

In accordance with 42 CFR 413.345, we include in each update of the Federal payment rates in the **Federal Register** a discussion of the resident classification system that provides the basis for case-mix adjustment. We also designate those specific classifiers under the case-mix classification system that represent the required SNF level of care, as provided in 42 CFR 409.30. This designation reflects an administrative presumption that those beneficiaries who are correctly assigned one of the designated case-mix classifiers on the initial Medicare assessment are automatically classified as meeting the SNF level of care definition up to and including the assessment reference date (ARD) for that assessment.

A beneficiary who does not qualify for the presumption is not automatically

classified as either meeting or not meeting the level of care definition but instead receives an individual determination on this point using the existing administrative criteria. This presumption recognizes the strong likelihood that those beneficiaries who are correctly assigned one of the designated case-mix classifiers during the immediate post-hospital period would require a covered level of care, which would be less likely for other beneficiaries.

In the July 30, 1999 final rule (64 FR 41670), we indicated that we would announce any changes to the guidelines for Medicare level of care determinations related to modifications in the case-mix classification structure. The FY 2018 final rule (82 FR 36544) further specified that we would henceforth disseminate the standard description of the administrative

presumption's designated groups via the SNF PPS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/skilled-nursing-facility-snf> (where such designations appear in the paragraph entitled "Case-Mix Adjustment") and would publish such designations in rulemaking only to the extent that we actually intend to propose changes in them. Under that approach, the set of case-mix classifiers designated for this purpose under PDPM was finalized in the FY 2019 SNF PPS final rule (83 FR 39253) and is posted on the SNF PPS website at <https://www.cms.gov/medicare/payment/prospective-payment-systems/skilled-nursing-facility-snf> in the paragraph entitled "Case-Mix Adjustment."

However, we note that this administrative presumption policy does not supersede the SNF's responsibility to ensure that its decisions relating to level of care are appropriate and timely, including a review to confirm that any services prompting the assignment of one of the designated case-mix classifiers (which, in turn, serves to trigger the administrative presumption) are themselves medically necessary. As previously stated in the FY 2000 SNF PPS final rule (64 FR 41667), the administrative presumption is itself rebuttable in those individual cases in which the services actually received by the resident do not meet the basic statutory criterion of being reasonable and necessary to diagnose or treat a beneficiary's condition (according to section 1862(a)(1) of the Act). Accordingly, the presumption would not apply, for example, in those situations where the sole classifier that triggers the presumption is itself assigned through the receipt of services that are subsequently determined to be not reasonable and necessary. Moreover, we want to stress the importance of careful monitoring for changes in each patient's condition to determine the continuing need for Medicare Part A SNF benefits after the ARD of the initial Medicare assessment.

We did not receive public comments on this proposal. We are finalizing as proposed.

B. Consolidated Billing

Sections 1842(b)(6)(E) and 1862(a)(18) of the Act (as added by section 4432(b) of the BBA 1997) require a SNF to submit consolidated Medicare bills to its Medicare Administrative Contractor (MAC) for almost all the services that its residents receive during a covered Part A stay. In addition, section 1862(a)(18) of the Act places the responsibility with the SNF for billing Medicare for PT, OT,

and SLP services that the resident receives during a noncovered stay. Section 1888(e)(2)(A) of the Act excludes a small list of services from the consolidated billing provision (primarily those services furnished by physicians and certain other types of practitioners), which remain separately billable under Medicare Part B when furnished to a SNF's Part A resident. These excluded service categories are discussed in greater detail in section V.B.2. of the May 12, 1998, interim final rule (63 FR 26295 through 26297). Effective with services furnished on or after January 1, 2024, section 4121(a)(4) of the Consolidated Appropriations Act, 2023 (CAA, 2023) (Pub. L. 117–328, enacted December 29, 2022) added marriage and family therapists and mental health counselors to the list of practitioners at section 1888(e)(2)(A)(ii) of the Act whose services are excluded from the consolidated billing provision.

Section 103 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA 1999) (Pub. L. 106–113, enacted November 29, 1999) amended section 1888(e)(2)(A)(iii) of the Act by further excluding a number of individual high-cost, low-probability services, identified by HCPCS codes, within several broader categories (chemotherapy items, chemotherapy administration services, radioisotope services, and customized prosthetic devices) that otherwise remained subject to the provision. We discuss this BBRA 1999 amendment in greater detail in the FY 2001 SNF PPS proposed and final rules (65 FR 19231 through 19232, April 10, 2000, and 65 FR 46790 through 46795, July 31, 2000), as well as in Program Memorandum AB–00–18 (Change Request #1070), issued March 2000, which is available online at <https://www.cms.gov/regulations-and-guidance/guidance/transmittals/downloads/dwnlds/ab001860pdf>.

As explained in the FY 2001 proposed rule (65 FR 19232), the amendments enacted in section 103 of the BBRA 1999 not only identified for exclusion from this provision a number of particular service codes within four specified categories (that is, chemotherapy items, chemotherapy administration services, radioisotope services, and customized prosthetic devices), but also gave the Secretary the authority to designate certain additional, individual services for exclusion within each of these four specified service categories. In the FY 2001 SNF PPS proposed rule, we stated that the BBRA 1999 Conference report (H.R. Conf. Rep. No. 106–479 at 854 (1999)) characterizes the individual

services that this legislation targets for exclusion as high-cost, low-probability events that could have devastating financial impacts because their costs far exceed the payment SNFs receive under the PPS. According to the conferees, section 103(a) of the BBRA 1999 is an attempt to exclude from the PPS certain services and costly items that are provided infrequently in SNFs. By contrast, the amendments enacted in section 103 of the BBRA 1999 do not designate for exclusion any of the remaining services within those four categories (thus, leaving all those services subject to SNF consolidated billing), because they are relatively inexpensive and are furnished routinely in SNFs.

Effective with items and services furnished on or after October 1, 2021, section 134 in Division CC of the CAA, 2021 (Pub. L. 116–260) established an additional fifth category of excluded codes in section 1888(e)(2)(A)(iii)(VI) of the Act, for certain blood clotting factors for the treatment of patients with hemophilia and other bleeding disorders along with items and services related to the furnishing of such factors under section 1842(o)(5)(C) of the Act. Like the provisions enacted in the BBRA 1999, section 1888(e)(2)(A)(iii)(VI) of the Act gives the Secretary the authority to designate additional items and services for exclusion within the category of items and services related to blood clotting factors, as described in that section.

A detailed discussion of the legislative history of the consolidated billing provision is available on the SNF PPS website at https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPayment/Downloads/Legislative_History_2018-10-01.pdf.

As stated in the FY 2001 SNF PPS final rule (65 FR 46790), and as is consistent with our longstanding policy, any additional service codes that we might designate for exclusion under our discretionary authority must meet the same statutory criteria used in identifying the original codes excluded from consolidated billing under section 103(a) of the BBRA 1999: they must fall within one of the five service categories specified in the BBRA 1999 and CAA, 2021; and they also must meet the same standards of high-cost and low-probability in the SNF setting, as discussed in the BBRA 1999 Conference report. Accordingly, we characterized this statutory authority to identify additional service codes for exclusion within the defined categories as essentially affording the flexibility to revise the list of excluded codes in response to changes of major

significance that may occur over time (for example, the development of new medical technologies or other advances in the state of medical practice) (65 FR 46791).

In the FY 2001 SNF PPS proposed rule, we specifically solicited public comments identifying HCPCS codes in any of these five service categories (chemotherapy items, chemotherapy administration services, radioisotope services, customized prosthetic devices, and blood clotting factors) representing recent medical advances that might meet our criteria for exclusion from SNF consolidated billing. We stated in the FY 2001 SNF PPS proposed rule that we may consider excluding a particular service if it meets our criteria for exclusion. We requested that commenters identify in their comments the specific HCPCS code that is associated with the service in question, as well as their rationale for requesting that the identified HCPCS code(s) be excluded.

We also stated in the FY 2001 SNF PPS proposed rule that the original BBRA amendment and the CAA, 2021 identified a set of excluded items and services by means of specifying individual HCPCS codes within the designated categories that were in effect as of a particular date (in the case of the BBRA 1999, July 1, 1999, and in the case of the CAA, 2021, July 1, 2020), as subsequently modified by the Secretary. In addition, as stated in the FY 2001 SNF PPS proposed rule, the statute (sections 1888(e)(2)(A)(iii)(II) through (VI) of the Act) gives the Secretary authority to identify additional items and services for exclusion within the five specified categories of items and services described in the statute, which are also designated by HCPCS code. Designating the excluded services in this manner makes it possible for us to utilize program issuances as the vehicle for accomplishing routine updates to the excluded codes to reflect any minor revisions that might subsequently occur in the coding system itself, such as the assignment of a different code number to a service already designated as excluded, or the creation of a new code for a type of service that falls within one of the established exclusion categories and meets our criteria for exclusion.

Accordingly, if we identify through the current rulemaking cycle any new services that meet the criteria for exclusion from SNF consolidated billing, we will identify these additional excluded services by means of the HCPCS codes that are in effect as of a specific date (in this case, October 1, 2024). By making any new exclusions in this manner, we can similarly

accomplish routine future updates of these additional codes through the issuance of program instructions. The latest list of excluded codes can be found on the SNF Consolidated Billing website at <https://www.cms.gov/medicare/coding-billing/skilled-nursing-facility-snf-consolidated-billing>.

We received public comments on consolidated billing. The following is a summary of the comments we received and our responses.

Comment: Commenters requested that CMS add TECVAYLI®/teclistamab-cqyv, J9380 and TALVEY®/talquetamab-tgvs, J3055 to the SNF consolidated billing exclusion list under the chemotherapy items category. Commenters stated that the drugs are used for multiple myeloma, are rarely administered in SNFs, and have high weekly acquisition costs that could create access barriers if included in the SNF bundle. Commenters requested that CMS exempt all chemotherapy drugs above a certain low dollar threshold, rather than identify each excluded drug by HCPCS code.

Response: We appreciate the commenters' request and the information provided regarding the clinical use, frequency of administration in the SNF setting, and cost of these therapies. As discussed in the proposed rule, section 1888(e)(2)(A)(iii) of the Act excludes certain high-cost, low-probability services from SNF consolidated billing, including specified chemotherapy items identified by HCPCS code. CMS reviews requests for additions to the consolidated billing exclusion lists to determine whether the item or service falls within a statutory exclusion category and satisfies the applicable criteria for exclusion.

We also appreciate the commenters' recommendation that all chemotherapy drugs above a specified cost threshold be excluded from SNF consolidated billing. However, the statute authorizes CMS to identify excluded chemotherapy items through HCPCS code-level designations rather than through a broad cost-based exemption. Accordingly, CMS evaluates individual drugs and biologicals on a case-by-case basis consistent with the statutory framework and established criteria.

Accordingly, we will review and analyze the HCPCS codes J9380 and J3055 for consideration to be added or omitted from the SNF consolidated billing exclusion list.

Comment: Commenters discussed CMS's consolidated billing HCPCS update and stated that identifying chemotherapy drugs excluded from consolidated billing can help beneficiaries obtain SNF placement

when facilities initially deny admission due to concerns about expensive cancer medications.

Response: We appreciate the commenters' support and agree that accurate and timely updates to the consolidated billing exclusion lists can help promote beneficiary access to medically necessary SNF care. The consolidated billing exclusions are intended, in part, to address certain high-cost, low-probability items and services that would otherwise be difficult to accommodate within the SNF PPS per diem. We will continue to review HCPCS code requests within the statutory categories and update the exclusion files as appropriate to reflect new technologies, new codes, and changes in clinical practice.

Comment: Other commenters requested that CMS add HCPCS codes L1940, L1960, L1970, L3905, and L3906 to the SNF consolidated billing exclusion list. The commenters stated that these specialized orthotic devices support residents with neurological, orthopedic, spinal, and rehabilitative needs, and are important for mobility restoration, fall prevention, contracture prevention, rehabilitation progress, and safe discharge planning. Commenters stated that inclusion of these items in consolidated billing may create financial and operational barriers to timely access.

Response: We appreciate the commenters' request and the information provided regarding the role of these devices in rehabilitation and discharge planning. However, the statutory authority to exclude devices from SNF consolidated billing is limited to customized prosthetic devices, as specified in section 1888(e)(2)(A)(iii) of the Act. The HCPCS codes identified by the commenters describe orthotic devices rather than customized prosthetic devices. As such, these codes do not fall within the statutory category of items that CMS may designate for exclusion from SNF consolidated billing through this process.

Accordingly, we are not adding HCPCS codes L1940, L1960, L1970, L3905, or L3906 to the SNF consolidated billing exclusion list for FY 2027. We will continue to review requests for consolidated billing exclusions in accordance with the statutory categories and applicable criteria.

Comment: Commenters requested that CMS remove CPT code 97610 from the "sometimes therapy" designation and remove the code from SNF Consolidated Billing File 4, while maintaining it on File 1 as an excluded physician service. Commenters stated that CPT code 97610

describes low-frequency, non-contact, non-thermal ultrasound wound therapy and involves wound assessment, treatment planning, dressing decisions, and clinical judgment typically furnished by physicians, nurse practitioners, or physician assistants. Commenters stated that physical therapists bill only a small share of services reported under this code and that the “sometimes therapy” designation has caused claims processing confusion and inappropriate denials.

Response: We appreciate the commenters’ detailed information regarding CPT code 97610, including the clinical description of the service, the commenters’ concerns regarding claims processing, and the commenters’ request that CMS revise the code’s consolidated billing file placement and therapy designation. Physician professional services are excluded from SNF consolidated billing under section 1888(e)(2)(A)(ii) of the Act. To the extent CPT code 97610 is furnished and billed as a physician professional service, it is not subject to SNF consolidated billing.

We also recognize commenters’ concerns regarding the “sometimes therapy” designation and the interaction between consolidated billing edits, therapy modifiers, place-of-service reporting, and claims processing. However, the designation of a code as “sometimes therapy” is not itself a determination under the high-cost, low-probability consolidated billing exclusion categories discussed in this rulemaking. We will consider the commenters’ concerns as part of our ongoing review of the SNF consolidated billing files and related claims processing instructions, which CMS maintains through the Annual SNF Consolidated Billing HCPCS Update and the Medicare Claims Processing Manual. New exclusion candidates are evaluated at the individual HCPCS code level.

Comment: Commenters submitted several comments that are beyond the agency’s statutory authority and/or have already been addressed in previous rulemaking cycles. Commenters reiterated a previous recommendation that CMS develop a policy to exclude high-cost items/services from consolidated billing. Other commenters requested that CMS work with Congress, or otherwise, explore administrative options to expand the exclusion list beyond those categories described in statute.

Response: As previously specified in this section of the preamble, the authority afforded to us under the law to modify the list of services excluded

from SNF consolidated billing is limited to adding or removing HCPCS codes representing high-cost low-probability services from the five specific service categories identified in the statute including: (1) chemotherapy items; (2) chemotherapy administration services; (3) radioisotope services; (4) customized prosthetic devices; and (5) blood clotting factors. Any of the modifications to consolidated billing or the SNF program suggested by the previously mentioned comments would require an act of Congress to modify the law. CMS will continue to evaluate HCPCS codes that meet the criteria for exclusion from consolidated billing within the five specific service categories identified in the statute, including those items and services recommended by stakeholders as part of our annual notice and comment rulemaking and regular review processes.

C. Payment for SNF-Level Swing-Bed Services

Section 1883 of the Act permits certain small, rural hospitals to enter into a Medicare swing-bed agreement, under which the hospital can use its beds to provide either acute or SNF-level care, as needed. For critical access hospitals (CAHs), Medicare Part A pays on a reasonable cost basis for SNF-level services furnished under a swing-bed agreement. However, in accordance with section 1888(e)(7) of the Act, SNF-level services furnished by non-CAH rural hospitals are paid under the SNF PPS, effective with cost reporting periods beginning on or after July 1, 2002. As stated in the FY SNF 2002 PPS final rule (66 FR 39562), this effective date is consistent with the statutory provision to integrate swing-bed rural hospitals into the SNF PPS by the end of the transition period, June 30, 2002.

Accordingly, all non-CAH swing-bed rural hospitals have now come under the SNF PPS. Therefore, all rates and wage indexes outlined in earlier sections of this final rule for the SNF PPS also apply to all non-CAH swing-bed rural hospitals. As finalized in the FY 2010 SNF PPS final rule (74 FR 40356 through 40357), effective October 1, 2010, non-CAH swing-bed rural hospitals are required to complete an MDS 3.0 swing-bed assessment, which is limited to the required demographic, payment, and quality items. As stated in the FY 2019 SNF PPS final rule (83 FR 39235), revisions were made to the swing bed assessment to support implementation of PDPM, effective October 1, 2019. A discussion of the assessment schedule and the MDS effective beginning FY 2020 appears in

the FY 2019 SNF PPS final rule (83 FR 39229 through 39237). The latest changes in the MDS for swing-bed rural hospitals appear on <https://www.cms.gov/medicare/payment/prospective-payment-systems/skilled-nursing-facility-snf>.

We did not receive public comments on the payment for SNF-level swing-bed services provision, and therefore, we are finalizing as proposed.

V. Other SNF PPS Issues

A. Technical Updates to the PDPM ICD-10 Mappings

1. Background

In the FY 2019 SNF PPS final rule (83 FR 39162), we finalized the implementation of the Patient-Driven Payment Model (PDPM), effective October 1, 2019. The PDPM uses ICD-10 diagnosis codes in several ways, including assigning beneficiaries to clinical categories under the PT, OT, SLP, and NTA components based on the beneficiary’s primary diagnosis. Although additional ICD-10 codes may be reported as secondary diagnoses and recognized as comorbidities, the PDPM does not use secondary diagnoses to assign beneficiaries to clinical categories. The ICD-10 code to clinical category mappings and the ICD-10 code to SLP comorbidity mappings and ICD-10 code to NTA comorbidity mappings (collectively referred to as the PDPM ICD-10 code mappings) are available on the CMS website: <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPSP/PPDM>.

In the FY 2020 SNF PPS final rule (84 FR 38750), we described the process for maintaining and updating the PDPM ICD-10 code mappings, as well as the SNF Grouper software and other related patient classification and billing products, to ensure they reflect the most current ICD-10 codes. Beginning with FY 2020 updates, we have implemented non-substantive changes to the PDPM ICD-10 code mappings through a sub-regulatory process by posting the updated mappings on the CMS website: <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPSP/PPDM>. Such non-substantive changes are limited to changes necessary to maintain consistency with the most current PDPM ICD-10 code mappings.

Substantive changes that extend beyond maintaining consistency with the most current PDPM ICD-10 code mappings—such as changes to the assignment of a diagnosis code to a clinical category or comorbidity list—are implemented through notice-and-comment rulemaking, as these changes

affect payment policy. We stated in the proposed rule that the classification of diagnoses to the “Return to Provider” clinical category, whether currently mapped or proposed to be mapped, is not intended to reflect any judgment regarding the clinical significance of these conditions or the importance of their recognition and treatment. Rather, we believe there are more specific or appropriate diagnoses that better reflect the primary reason for a Medicare Part A-covered SNF stay. For example, this differs from the “Medical Management” clinical category, which is used for medical conditions that do not map to any of the other nine more specific categories but are appropriate and specific reasons to serve as primary diagnoses for part A SNF care. The ICD–10–CM codes included in the “Medical Management” clinical category encompass a clinically heterogeneous mix including device and implant complications, some metabolic and endocrine disorders, non-cancer neoplasms, non-surgical wound care. By contrast, “Return to Provider” is a category representing ICD–10–CM codes that are too nonspecific or otherwise inappropriate to serve as part A SNF primary diagnoses.

2. Clinical Category Changes for New ICD–10 Codes for FY 2027

For FY 2027, we did not identify any substantive changes to the PDPM ICD–10 code mappings. We identified only non-substantive updates, which do not alter policy or payment methodology. Consistent with prior practice, we implemented these non-substantive updates through a subregulatory process by posting the revised PDPM ICD–10 code mappings on the CMS website.

A discussion of the public comments received on the PDPM ICD–10 mappings, along with our responses, can be found below.

Comment: Commenters requested that ICD–10 codes Z51.A (*Encounter for Sepsis Aftercare*) and F01.50 (*Vascular Dementia*) be reclassified from the “Return to Provider” clinical category to “Medical Management”.

Response: We appreciate the recommendation to reclassify the clinical category for the Z51.A (*Encounter for Sepsis Aftercare*) and F01.50 (*Vascular Dementia*) codes. We will take this under consideration during future rulemaking cycles.

Comment: Commenters requested that ICD–10 codes R62.7 (*Adult Failure to Thrive*) and M62.81 (*Muscle Weakness [Generalized]*) should be reclassified from the “Return to Provider” clinical category to “Medical Management” to overcome an operational gap.

Response: We thank commenters for their suggestions. We find that the ICD–10 codes R62.7 (*Adult Failure to Thrive*) and M62.81 (*Muscle Weakness [Generalized]*) are too broad due to lacking specificity, and should remain as “Return to Provider”.

Comment: Commenters stated that the SLP comorbidity ICD–10 code list should be expanded to include additional dysphagia codes to be used in combination with clinically related diagnoses. These include the following dysphagia codes: R13.11 (*Dysphagia, oral phase*), R13.12 (*Dysphagia, oropharyngeal phase*), R13.13 (*Dysphagia, pharyngeal phase*), R13.14 (*Dysphagia, pharyngoesophageal phase*), and R13.19 (*Other dysphagia*). They added that inclusion of these codes would more accurately recognize residents with clinically significant swallowing impairment and further align SLP comorbidity classification with skilled service needs.

Response: We appreciate the suggestion to expand the SLP comorbidity ICD–10 code list and will take into consideration during future rulemaking cycles.

Comment: Commenters shared their continued support for Malnutrition remaining a valid primary diagnosis for SNF admission.

Response: We appreciate the continued support for Malnutrition remaining a valid primary diagnosis for SNF admission.

Comment: A commenter shared concerns regarding the classification of eating disorder diagnoses—such as anorexia nervosa (restricting and binge/purge types), bulimia nervosa, pica, and rumination disorder—from “Medical Management” to “Return to Provider,” which was included in the FY 2026 SNF Final Rule.

Response: We appreciate the thoughtful comments regarding our proposal to remap the codes for Anorexia Nervosa, Restricting Type, Anorexia Nervosa, Binge Eating/Purging Type, Bulimia Nervosa, Pica, and Rumination Disorder, from “Medical Management” to “Return to Provider”. We understand the commenter’s concerns about potential care gaps and alignment with health initiatives, and we value their acknowledgment that eating disorders may co-occur with other conditions requiring skilled care, however they would not formulate the basis for needing SNF admission. The primary interventions for eating disorders as primary diagnoses, including behavioral therapy, nutritional counseling, environmental modifications, and pharmacological interventions, are most effectively

delivered in specialized outpatient settings or dedicated eating disorder treatment facilities. These interventions do not typically require the skilled nursing services that characterize appropriate Medicare Part A SNF admissions. By remapping these codes to Return to Provider, patients can receive care in the most clinically appropriate and therapeutically effective environment. Requiring claims reporting of primary diagnoses that are the reason for SNF admission enables their mapping to clinical categories that reflect the most accurate resource use and does not preclude their inclusion in beneficiaries’ plan of care. These eating disorder codes may continue to be used as secondary diagnoses when clinically relevant and medically necessary. Additional details for this remapping can be found in the FY 2026 SNF PPS final rule. Therefore, consistent with the rationale discussed in the FY 2026 SNF PPS rule, we believe these diagnoses are not appropriate as primary diagnoses for a Medicare Part A SNF stay and should be mapped to “Return to Provider”.

3. Request for Information: Methodology for Quantifying and Addressing Case-Mix Creep Under the Patient Driven Payment Model

a. Background

On October 1, 2019, we implemented the PDPM under the SNF PPS, a new case-mix classification model that replaced the prior case-mix classification model, the Resource Utilization Groups, Version IV (RUG–IV). The previous RUG–IV model classified most patients into a therapy payment group and primarily used the volume of therapy services provided to the patient as the basis for payment classification, thus creating an incentive for SNFs to furnish therapy regardless of the individual patient’s unique characteristics, goals, or needs. The PDPM uses clinical data from the MDS, a core set of screening, clinical, and functional status data elements, including common definitions and coding categories, which form the foundation of a comprehensive assessment for all residents of nursing homes certified to participate in Medicare or Medicaid, consistent with the provisions of section 1888(e)(4)(G)(i) of the Act.

As discussed in the FY 2019 SNF PPS final rule (83 FR 39256), as with prior system transitions, we proposed and finalized implementing PDPM in a budget neutral manner. This means that the transition to PDPM, along with the related policies finalized in the FY 2019 SNF PPS final rule, were not intended

to result in an increase or decrease in the aggregate amount of Medicare Part A payment to SNFs. We believe ensuring parity is integral to the process of providing “for an appropriate adjustment to account for case-mix”, such mix shall be based on appropriate data in accordance with section 1888(e)(4)(G)(i) of the Act. Section V.I. of the FY 2019 SNF PPS final rule (83 FR 39255 through 39256) discusses the methodology that we used to implement PDPM in a budget neutral manner.

Since PDPM implementation, we have closely monitored SNF utilization data to determine if the parity adjustment finalized in the FY 2020 SNF PPS final rule (84 FR 38734 through 38735) provided for a budget neutral transition between RUG–IV and PDPM. In the FY 2023 SNF PPS final rule (87 FR 22737 through 22743), we finalized the FY 2023 SNF PPS Parity Adjustment Methodology so that the PDPM was implemented in a budget-neutral manner using a parity adjustment based on expected payments under RUG–IV. More specifically, projected aggregate payments using RUG–IV data were applied to the case-mix indexes (CMIs) to avoid a change in aggregate payment under PDPM. Subsequent monitoring indicated that actual payments under PDPM exceeded expected levels, leading CMS to implement a 4.6 percent parity adjustment recalibration phased in over two years.

As PDPM has matured, CMS has continued to monitor case-mix trends to ensure that payment remains aligned with actual patient acuity rather than changes in coding practices. CMS has collected data that reflects coding behavior after the initial transition years under the PDPM. With the COVID–19 Public Health Emergency (PHE) ending in May 2023, CMS has collected more recent data that better reflect trends in typical care delivery and utilization patterns following the establishment of PDPM as the SNF payment system.

As in the case Proposed Parity Adjustment Methodology finalized in the FY 2023 SNF PPS final rule (87 FR 47525 through 47534), Section 1888(e)(4)(F) of the Social Security Act authorizes CMS to address “changes in the coding or classification of residents that do not reflect the real changes in case-mix” by adjusting SNF per-diem rates to “eliminate the effect of such coding or classification changes.” Consistent with that authority, CMS is developing a regression framework to quantify the extent to which recent case-mix trends may reflect nominal coding changes, commonly referred to as “case-mix creep.”

b. Observed Case-Mix Trends

These data suggest significant increases in certain CMIs that are unlikely to reflect underlying health status trends in the patient population. For example, reporting of the malnutrition item (I5600) increased from a rate of 5 percent of stays prior to PDPM implementation to 47 percent in FY 2024. Although only a small number of items demonstrate changes of this magnitude, many others show smaller but meaningful shifts. For example, swallowing disorder (K0100) increased from 4 percent to 21 percent and depression (D0160 or D0600) increased from 4 percent to 19 percent. Some items also show declines, such as fever (J1550A) which decreased from 2 percent to 1 percent.

More broadly, as described at <https://www.cms.gov/medicare/payment/prospective-payment-systems/skilled-nursing-facility-snf/list-federal-regulations/cms-1843-p>, CMS has observed that average CMIs have increased at a rate that exceeds what would be expected based solely on changes in patient health status, while median per-diem costs, which reflect patient resource utilization, have declined. For example, the median per-diem PT costs decreased from \$67 to \$51, median per-diem OT costs decreased from \$58 to \$45, median per-diem SLP costs decreased from \$34 to \$28, and median per-diem NTA costs decreased from \$43 to \$39. This divergence suggests a potential disconnect between reported acuity and observed resource utilization. Collectively, these patterns underscore the need for a systematic approach to evaluating how much observed case-mix growth reflects real changes versus changes in coding or documentation.

c. Policy Rationale

As CMS continues monitoring case-mix trends to ensure that payment remains aligned with actual patient acuity rather than changes in coding practices, recent data suggests significant increases in certain CMIs that are unlikely to reflect underlying health status trends of the patients. These patterns underscore the need to address how much observed case-mix growth reflects real changes versus changes in coding or documentation and to make the appropriate adjustments.

CMS is exploring a potential approach that addresses the issue and considers the changing patient caseload as well as underlying real-time trends. This Request for Information is intended to receive feedback from stakeholders on

CMS observations of case-mix creep issue in the PDPM and of the approach to address it. The following section includes details of the methodology that CMS is considering for addressing the case-mix creep that could be included in future rulemaking.

d. Methodology Overview

(1) Definitions and Conceptual Foundations

PDPM is designed to classify beneficiaries based on clinical characteristics and service needs associated with resource use to determine appropriate Medicare payment. Patient acuity reflects a combination of diagnostic factors, comorbidities, functional status, and treatment needs. The payment items, relying on both claims and assessment data, are designed to capture differences in resource needs across patient acuity groups, or PDPM CMGs, measured by a concise set of items that represent those clinical complexity factors.

CMGs are determined by the composition of payment items across the five case-mix adjusted components: PT, OT, SLP, NTA, and Nursing. Each component has its own set of clinical complexity factors or payment items, and by extension, its own set of CMGs.

Changes in case-mix over time can be assessed by examining changes in the distribution of CMGs. The CMI, a numerical representation of CMGs, provides a summary measure of case-mix for each component. Increases in average CMIs indicate higher reported patient acuity and higher expected resource needs. This is a key feature that makes CMIs crucial for measuring case-mix changes and that other payment elements, such as base rates which only reflect average resource use, do not possess.

For analytic purposes, “Total Case-Mix Change” is defined as the overall observed change in CMGs and CMIs. This total change can be separated into three components:

- *Real Population Health and Utilization Changes (RPHU)*: Changes in beneficiary demographics, clinical conditions, service needs, and system-level utilization patterns.
- *Real Time Trends*: Systematic changes over time that occur independently of PDPM.
- *Nominal Change*: Changes in coding or classification that do not reflect real change in patient acuity and may indicate case-mix upcoding.

The analysis described in the request for information (RFI) focuses on quantifying the “Nominal Change” component. A detailed description of

the analytic framework, including the study period, data sources, and regression setup, is available at <https://www.cms.gov/medicare/payment/prospective-payment-systems/skilled-nursing-facility-snf/list-federal-regulations/cms-1843-p>.

Real Population Health and Utilization Changes refer to shifts in the characteristics and care needs of SNF beneficiaries, as well as broader trends in how and where patients receive post-acute care. These include demographic factors such as age, sex, and race; clinical diagnoses and service needs; growth in Medicare Advantage (MA) enrollment; and changes in site-of-care patterns across post-acute care settings.

To assess the degree to which observed case-mix changes reflect real shifts in patient needs, CMS evaluates measures derived from pre-SNF inpatient claims and selected non-payment items of MDS admission assessments that are less sensitive to PDPM coding incentives.

Real Time Trends represent systematic, non-random changes over time that are not attributable to PDPM itself. To estimate these trends, CMS uses a study period that spans FY 2017 through FY 2024, allowing pre-PDPM years to establish baseline SNF patterns

unrelated to the PDPM payment structure. These estimated trends are projected into the PDPM period to help isolate changes that would have been expected based on historical patterns alone.

Nominal Changes refer to the portion of observed case-mix growth that may result from changes in coding or classification practices rather than from actual changes in patient acuity. These changes are the primary focus of this analysis, as they may affect reported case-mix levels without reflecting differences in clinical need.

Because PDPM payment is determined by a combination of several interacting payment items, it is difficult to attribute nominal changes to specific diagnoses or codes. To assess these effects, CMS evaluates case-mix creep at the PDPM component level by examining the full distribution of CMGs. The component-specific CMI provides a single summary measure of these distributions and serves as a practical metric for quantifying nominal changes in case-mix over time.

(2) Adjustment Factor Determination

Table 11 includes the PDPM component-level adjustment factors calculated using the methodology for

quantifying case-mix creep. The Average Actual CMI represents the actual case-mix index that occurred between FY 2020 and FY 2024 after adjusting for parity, reflecting real population health changes, utilization patterns, real-time trends, and nominal changes. The Average Target CMI represents the estimated case-mix index over the same period that accounts for real population and utilization changes and real-time trends but removes nominal shifts in coding or classification. The ratio of Target to Actual is the Case-Mix Creep Adjustment Factor.

Based on the data of this analysis, the factors would be implemented through the CMI or the base rate for each component: +3.3 percent for PT, +4.1 percent for OT, -15.9 percent for SLP, -1.9 percent for NTA, and -10.6 percent for Nursing.

Alternatively, if a system-wide PDPM case-mix creep adjustment factor is implemented, the resulting adjustment factor would be 0.957, which can also be interpreted as a blanket 4.3 percent reduction in CMIs or base rates, or a 3.6 percent reduction in total payment across the payment system, which also includes the non-case-mix portion of payment.

TABLE 11: PDPM COMPONENT-LEVEL CASE-MIX CREEP ADJUSTMENT FACTORS

Component	Average Actual CMI	Average Target CMI	Case-Mix Creep Adjustment Factor
PT	1.440	1.487	1.033 (3.3% increase)
OT	1.439	1.498	1.041 (4.1% increase)
SLP	1.714	1.441	0.841 (15.9% decrease)
NTA	1.227	1.204	0.981 (1.9% decrease)
Nursing	1.661	1.485	0.894 (10.6% decrease)
Case-Mix Total	-	-	0.957 (4.3% decrease)

e. Request for Information

In the proposed rule, we requested information on the aforementioned approach to identify and address case-mix creep, specifically:

- The overall methodology for quantifying case-mix creep, including the conceptual framework that separates total case-mix change into real population health and utilization changes, real-time trends, and nominal changes.
- The data sources and measures used to assess real population health and utilization changes, including the use of pre-SNF inpatient claims and selected non-payment MDS items.

- The approach to estimating real-time trends using a study period spanning FY 2017 through FY 2024.
- Alternative approaches to implementing case-mix creep adjustments, including component-specific adjustments versus a system-wide adjustment factor.
- Any other considerations CMS should consider when finalizing a methodology to address case-mix creep in future rulemaking.

We received public comments on the Methodology for Quantifying and Addressing Case-Mix Creep Under the Patient Driven Payment Model RFI. The following is a summary of the comments we received.

Many commenters, including MedPAC, expressed support for the agency’s efforts to address case-mix creep, noting that current trends suggest coding practices are being utilized to maximize reimbursement rather than meet genuine patient needs. These commenters pointed to the divergence between rising reported acuity and declining per diem costs, emphasizing that current case-mix weights artificially inflate program payments and reduce the value of Medicare spending.

Many commenters opposed the implementation of any future payment reductions related to case-mix creep adjustment. These stakeholders asserted that the rise in the reporting of specific

conditions reflects the intended design of the PDPM, which was established to better capture patient characteristics and their nursing and non-therapy ancillary resource needs, rather than to incentivize therapy volume. They stated that PDPM implementation has resulted in improved clinical documentation practices, enhanced interdisciplinary collaboration, and more comprehensive identification of conditions that were previously underreported.

Commenters noted that the observed increases in conditions mentioned in the RFI, such as malnutrition, depression, and swallowing disorders reflect improvements in clinical identification and documentation accuracy. Several providers highlighted real shifts in SNF patient acuity, noting that acute-care hospitals are discharging increasingly complex and medically fragile patients to post-acute settings. These commenters cautioned that treating such changes as nominal changes could risk penalizing facilities for appropriately managing medically complex beneficiary populations. Commenters requested a longitudinal analysis of coding trends beyond the three conditions mentioned in the RFI.

Many commenters raised concerns regarding the study periods evaluated, particularly the inclusion of data from the COVID-19 public health emergency (PHE) and periods prior to the parity adjustment. A number of industry stakeholders stated that PHE-related regulatory waivers, atypical hospital referral patterns, and operational disruptions may limit the representativeness of the data from the PHE period. Commenters stated that the parity adjustment already accounted for the initial behavioral shifts associated with the payment model's implementation and recommended that any future case-mix creep analysis be limited to post-FY 2024 data to avoid potential duplication in payment reductions. A few commenters requested detailed methodology and data files to better understand and evaluate the RFI. One commenter suggested exploring alternative data sources such as cost reports to address case-mix creep.

Several commenters stated that evaluations focusing on median therapy costs may not fully capture total resource utilization under PDPM, which distributes payment across nursing and non-therapy ancillary components in addition to therapy services. Commenters recommended updating non-therapy component rates using more recent cost data. A few commenters expressed concern over the magnitude of the calculated adjustment

factors, particularly the large negative adjustments proposed for the nursing and NTA components. Comments from provider organizations cautioned that these specific reductions are misaligned with the intensive nursing hours, dietary interventions, and costly pharmaceutical therapies required by the SNF population. MedPAC recommended implementing a component-specific approach to case-mix creep adjustment, stating that such a methodology may better target localized coding practices compared to a uniform reduction. However, other commenters urged the agency to proceed cautiously and transparently, and recommended deferring any policy changes until additional, independently validated data are available. Commenters also suggested that CMS should improve assessment instructions directly, such as separating the "malnutrition" item from the "risk of malnutrition" item, and target individual providers with problematic coding behaviors through auditing and education, rather than reducing payment rates across the board. A few commenters voiced concerns about downstream effects on other payers that rely on PDPM. Several commenters also requested that if any adjustment is ultimately finalized, it should be phased in over multiple fiscal years with ample advance notice and accompanied by transparent facility-level impact analyses to mitigate potential disruptions in beneficiary access to care.

Response: We thank commenters for their responses to the Methodology for Quantifying and Addressing Case-Mix Creep Under the Patient Driven Payment Model RFI and we will take these comments under advisement as we consider proposed adjustments in future rulemaking.

4. IPPS Wage Index

For FY 2027, we proposed to continue to use the concurrent pre-floor, pre-reclassified IPPS hospital wage index as the basis for the SNF wage index.

We continue to consider this an appropriate data source of wage index to estimate costs per day, in accordance with our longstanding wage index policy at 42 CFR 413.337(b)(4). At the same time, we routinely assess whether more recent or alternative data sources may further enhance the accuracy and representativeness of our estimates. We note that other payment systems have explored and are exploring alternative wage index methodologies under their specific programmatic and statutory circumstances. For example, CMS finalized changes to the End-Stage Renal Disease (ESRD) Prospective Payment

System (PPS) wage index using Bureau of Labor Statistics (BLS) occupation-level wage data in the CY 2025 ESRD PPS final rule (89 FR 89116). While this approach was developed under the specific programmatic and statutory circumstances of the ESRD PPS and may not be directly transferable to the SNF PPS, CMS is interested in exploring whether similar methodologies using publicly available wage data could be adapted to better reflect the geographic variation in labor costs for skilled nursing facilities.

In its 2023 Report to Congress,³ MedPAC discussed various conceptual approaches to Medicare wage indexes, including the use of county-level wage data from BLS with an occupational mix to construct wage indexes that are more specific to the payment setting. MedPAC has previously written about using all-employer, occupation-level wage data to establish different weights for setting-specific occupational labor mixes as one approach to geographic adjustments.

We solicited comments on whether we should consider using alternative data sources to construct a SNF-specific wage index for potential use in future years. CMS sought feedback to better understand the potential advantages and limitations of using alternative data sources, such as BLS data and SNF cost reports, as well as other methodologies that interested parties believe could appropriately reflect the geographic variation in labor costs for skilled nursing facilities. In addition, as discussed elsewhere in the **Federal Register**, we note that we are also considering the potential use of alternative data sources in other payment systems including the Inpatient Rehabilitation Facilities PPS, Inpatient Psychiatric Facilities PPS, and Hospice PPS. We sought feedback on the unique considerations applicable to SNFs that should inform how CMS could consider the potential use of alternative data sources.

We received public comments on the Alternative to the IPPS Wage Index RFI. The following is a summary of the comments we received and our responses.

Many commenters expressed broad support for development of a SNF-specific wage index, an alternative to the current IPPS wage index. Commenters noted that the current reliance on the IPPS wage index fails to accurately reflect the unique labor costs, occupational mix, and workforce structures of SNFs. Commenters stated

³ <https://www.medpac.gov/wp-content/uploads/2022/07/Wage-index-March-2023-SEC.pdf>.

that hospitals and nursing facilities operate with distinct staffing patterns—with nursing facilities relying more heavily on certified nursing assistants and specialized rehabilitation therapists—and that applying hospital wage data often leads to regional reimbursement fluctuations that are not reflective of actual post-acute care wage expenditures. Despite this general support for a SNF-specific wage index, several commenters highlighted the need for the agency to proceed with caution, recommending any future methodology to accurately account for local competition for clinical staff and avoid unintentionally disadvantaging providers in rural areas.

Comments were split on the underlying data sources that could be used to develop the SNF-specific wage index. A few commenters, including MedPAC, supported the potential use of Bureau of Labor Statistics Occupational Employment and Wage Statistics (BLS-OEWS) data, highlighting substantial benefits such as the data being publicly available, highly current, and the potential to substantially reduce the administrative burden on both the agency and providers compared to auditing cost reports. On the other hand, many commenters opposed the use of BLS data, noting that it aggregates nursing facility staff with non-healthcare employers in the region—which could bias wage estimates, fail to capture total compensation—such as crucial health benefits and highly expensive contract or agency labor fees—and lack the rigorous, transparent review and correction processes. Commenters additionally raised concern that BLS data exclude hospital-based nursing homes—which represent a meaningful share of SNFs in certain regions. Some of these commenters recommended the agency to prioritize facility-specific Medicare cost report data, adding that despite the administrative burden to audit the data, it provides a much more precise reflection of the actual economic pressures facing Medicare-participating providers. However, some commenters cautioned that reliance on SNF-reported cost data to set the SNF wage index could introduce circularity, as facilities would effectively be able to influence their own reimbursement values. Some commenters recommended using the Payroll-Based Journal (PBJ) for data on staff hours, as PBJ can be verified from facilities payment records and is already used in the Nursing Home Five-Star Program.

Several commenters expressed concern for potential financial impacts on providers from a transition to a SNF-

specific wage index. These commenters highlighted the prior implementation of the End-Stage Renal Disease-specific wage index, noting that transitioning to a new geographic system under budget neutrality requirements could inadvertently result in base rate cuts for a majority of facilities. Commenters emphasized that the agency must publish comprehensive, simulated wage index values and provider-level impact files for public review prior to implementation to mitigate these risks. Furthermore, comments from providers requested that if a transition occurs, the agency must phase-in the implementation of such a change and maintain protective measures, such as the current 5-percent cap on year-over-year wage index reductions, to prevent unintended redistribution of reimbursement.

Some commenters recommend adding adjustment mechanism to SNF wage index to allow SNFs to seek redesignation to a different rural or urban labor market area.

Finally, focusing on the relationship between the wage index and direct clinical compensation, several professional nursing and labor advocacy organizations approached the request for information through the lens of wage parity. Several commenters from the professional nursing and labor advocacy organizations mentioned that because the agency currently utilizes hospital wage data to calculate skilled nursing facility payment rates, which has higher pay rates for nurses, it inherently assumes that facilities are compensating their nursing staff at competitive hospital levels. However, these commenters stated that these Medicare funds do not consistently reach the nursing workforce, worsening severe staffing shortages and workforce instability. The commenters added that the agency should implement enforceable wage pass-through requirements. To support this accountability, they recommended that the agency mandate the submission of fully audited cost reports, prepared by independent certified public accountants, ensuring transparent tracking of how federal wage adjustments are directed toward direct patient care.

Response: We thank commenters for their responses to the IPPS Wage Index RFI and we will take these comments under advisement as we consider development of a SNF-specific wage index in future rulemaking.

VI. Skilled Nursing Facility Quality Reporting Program (SNF QRP)

A. Background and Statutory Authority

The SNF QRP is authorized by section 1888(e)(6) of the Act. The SNF QRP applies to freestanding SNFs, SNFs affiliated with acute care facilities, and all non-critical access hospital (CAH) swing-bed rural hospitals. Section 1888(e)(6)(A)(i) of the Act requires the Secretary to reduce by 2 percentage points the annual market basket percentage increase described in section 1888(e)(5)(B)(i) of the Act applicable to a SNF for a FY, after application of section 1888(e)(5)(B)(ii) of the Act (the productivity adjustment) and section 1888(e)(5)(B)(iii) of the Act, in the case of a SNF that does not submit data in accordance with sections 1888(e)(6)(B)(i)(II) and (III) of the Act for that FY. Section 1890A of the Act requires that the Secretary establish and follow a pre-rulemaking process, in coordination with the consensus-based entity (CBE) with a contract under section 1890(a) of the Act, to solicit input from certain groups regarding the selection of quality and efficiency measures for the SNF QRP. We have codified our program requirements at § 413.360.

In sections VI.C. and VI.D. of this final rule, we finalize our proposal to remove two measures, specifically the COVID-19 Vaccination Coverage Among Healthcare Personnel (HCP) measure and the COVID-19 Vaccine: Percent of Patients/Residents Who Are Up to Date measure, beginning with the FY 2028 SNF QRP. In section VI.F.2. of this final rule, we finalize our proposal to revise the SNF QRP data submission deadlines beginning with the FY 2029 SNF QRP. We also finalize our proposal to require the submission of MDS data on each resident receiving covered skilled care in a SNF, regardless of payer, beginning with the FY 2031 SNF QRP as described in section VI.F.3. of this final rule. Finally, we provide a summary of public comments received on a Request for Information (RFI) on future measure concepts for the SNF QRP in section VI.E. of this final rule.

B. General Considerations Used for the Selection of Measures for the SNF QRP

For a detailed discussion of the considerations that we historically used for the selection of quality, resource use, or other measures for the SNF QRP, we refer readers to the FY 2016 SNF PPS final rule (80 FR 46429 through 46431).

The SNF QRP currently has 15 adopted measures, which are set forth in Table 12. We did not propose to adopt

any new measures for the SNF QRP in this final rule.

For a discussion of the factors we use to evaluate whether a measure must be

removed from the SNF QRP, we refer readers to our regulations at 42 CFR 413.360(b)(2) and to the FY 2019 SNF

PPS final rule (83 FR 39267 through 39269).

TABLE 12: QUALITY MEASURES CURRENTLY ADOPTED FOR THE SNF QRP

Short Name	Measure Name and Data Source
Assessment-Based	
Pressure Ulcer/Injury	Changes in Skin Integrity Post-Acute Care: Pressure Ulcer/Injury
Application of Falls	Application of Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay)
Discharge Mobility Score	Application of IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients
Discharge Self-Care Score	Application of IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients
DRR	Drug Regimen Review Conducted With Follow-Up for Identified Issues—Post Acute Care (PAC) Skilled Nursing Facility (SNF) Quality Reporting Program (QRP)
TOH-Provider	Transfer of Health (TOH) Information to the Provider Post Acute Care (PAC)
TOH-Patient	Transfer of Health (TOH) Information to the Patient Post Acute Care (PAC)
DC Function	Discharge Function Score
Patient/Resident COVID-19 Vaccine	COVID-19 Vaccine: Percent of Patients/Residents Who Are Up to Date
Claims-Based	
MSPB SNF	Medicare Spending Per Beneficiary (MSPB)—Post Acute Care (PAC) Skilled Nursing Facility (SNF) Quality Reporting Program (QRP)
DTC	Discharge to Community (DTC)—Post Acute Care (PAC) Skilled Nursing Facility (SNF) Quality Reporting Program (QRP)
PPR	Potentially Preventable 30-Day Post-Discharge Readmission Measure for Skilled Nursing Facility (SNF) Quality Reporting Program (QRP)
SNF HAI	SNF Healthcare-Associated Infections (HAI) Requiring Hospitalization
National Healthcare Safety Network	
HCP COVID-19 Vaccine	COVID-19 Vaccination Coverage among Healthcare Personnel (HCP)
HCP Influenza Vaccine	Influenza Vaccination Coverage among Healthcare Personnel (HCP)

C. Removal of the COVID-19 Vaccination Coverage Among Healthcare Personnel (HCP) Measure Beginning With the FY 2028 SNF QRP

We refer readers to the FY 2022 SNF PPS final rule where we adopted the COVID-19 Vaccination Coverage among HCP measure (HCP COVID-19 Vaccine measure) into the SNF QRP (86 FR 42480 through 42489) and the FY 2024 SNF PPS final rule where we modified the HCP COVID-19 Vaccine measure to account for updated COVID-19 vaccine guidance (88 FR 53223 through 53233). The HCP COVID-19 Vaccine measure requires SNFs to report the COVID-19 vaccination status of HCP through the National Healthcare Safety Network (NHSN). SNFs must collect current vaccination status for all employees, licensed independent practitioners, adult trainees, students, and volunteers, as well as certain contract personnel one

week out of each month and report these data on a quarterly basis (88 FR 53227).

In the proposed rule, we proposed removing the HCP COVID-19 Vaccine measure beginning with the FY 2028 SNF QRP under measure removal Factor 3: a measure does not align with current clinical guidelines or practice (42 CFR 413.360(b)(2)(iii)).

When we originally adopted this measure, the United States was in the midst of a Public Health Emergency (PHE) with millions of COVID-19 cases and over 550,000 COVID-19 deaths (86 FR 42480). In March 2021, when this measure was being proposed, the United States was averaging over 5,000 deaths per week. In April 2023, the last full month of the PHE, the weekly number of deaths due to COVID-19 averaged

1,260.⁴ While preventing the spread of COVID-19 remains a public health goal, the PHE ended on May 11, 2023,⁵ and the COVID-19 death rate has continued to decrease. At the time of the proposed rule, weekly deaths attributed to COVID-19 ranged from 188 to 488 during the 6-month period from the week ending August 2, 2025 through the week ending January 31, 2026.⁶ Since the proposed rule's publication, more recent data indicate a decline in COVID-19 mortality. During the period from the week ending April 4, 2026, through the week ending June 20, 2026,

⁴ Provisional COVID-19 Mortality Surveillance. Accessed on July 21, 2026, via <https://www.cdc.gov/nchs/nvss/vsrr/covid19/index.htm>.

⁵ End of the Federal COVID-19 Public Health Emergency (PHE) Declaration via https://archive.cdc.gov/www_cdc.gov/coronavirus/2019-ncov/your-health/end-of-phe.html.

⁶ Provisional COVID-19 Mortality Surveillance via <https://www.cdc.gov/nchs/nvss/vsrr/covid19/>.

weekly deaths attributed to COVID–19 ranged from 16 to 172.⁷

With the end of the PHE and the decrease in COVID–19 deaths, we believed the continued costs and burden to providers of reporting on this measure outweighed the benefit of continued information collection on the HCP COVID–19 Vaccine measure in several settings. We have already removed this measure from the Hospital Inpatient Quality Reporting Program (90 FR 37010 through 37012), the Inpatient Psychiatric Facility Quality Reporting Program (90 FR 37657 through 37658), the Ambulatory Surgical Center Quality Reporting (90 FR 53917 through 53919), the Hospital Outpatient Quality Reporting Programs (90 FR 53917 through 53919), and the Inpatient Rehabilitation Facility Quality Reporting Program (90 FR 37700 through 37702).

Since the end of the PHE, the CDC's clinical recommendations for COVID–19 vaccination have changed. In December 2020, the CDC's Advisory Committee on Immunization Practices (ACIP) recommended that HCP should receive a complete vaccination course.⁸ In the FY 2024 SNF PPS final rule, we modified the measure to utilize the term “up to date” in the HCP vaccination definition to stay aligned with evolving CDC guidance, and we indicated the definition of “up to date” may change based on CDC's latest guidelines (88 FR 53228). At the time the HCP COVID–19 Vaccine measure was adopted in August 2021, vaccination was a critical part of the nation's strategy to effectively counter the spread of COVID–19 in an effort to restore societal functioning.⁹ There were well-defined parameters for receiving the COVID–19 vaccination intended to capture routine, catch-up, and risk-based immunization recommendations.

However, these parameters no longer apply, due to evolving circumstances. At the time the proposed rule was published, the latest CDC COVID–19 vaccination recommendations for the 2025–2026 season were based on shared clinical decision-making (also known as individual-based decision-making).¹⁰

For shared clinical decision-making, there is not a default decision to vaccinate for a defined population.¹¹ Given that there is no single default recommendation to vaccinate a defined population, both receipt and nonreceipt of vaccination may be consistent with the application of shared clinical decision-making. This differs from the guidance in place when this measure was finalized.

On this basis, we proposed to remove the measure from the SNF QRP under removal Factor 3, since the measure does not align with current clinical guidelines or practice.

We proposed that SNFs would no longer be required to report calendar year (CY) 2026 HCP COVID–19 Vaccine measure data for purposes of the FY 2028 payment determination (that is, SNFs that do not report CY 2026 HCP COVID–19 Vaccine measure data will not be penalized for the FY 2028 annual payment update under the SNF QRP). Any CY 2026 HCP COVID–19 Vaccine measure data received by CMS would not be used for SNF QRP compliance or public reporting.

The following is a summary of the public comments received on our proposal to remove the COVID–19 Vaccination Coverage among Healthcare Personnel measure from the SNF QRP beginning with the FY 2028 SNF QRP, along with our responses.

Comment: Several commenters supported the proposed removal because they believed the COVID–19 Vaccination Coverage among Healthcare Personnel measure no longer aligns with current clinical guidance and practice. Some of these commenters noted that current COVID–19 vaccination recommendations rely on shared clinical decision-making rather than a uniform recommendation for a defined population. Other commenters stated that COVID–19 vaccine guidance continues to evolve, creating uncertainty regarding how to interpret and apply the guidance for purposes of quality reporting. Several of these commenters noted that clinical standards for administering COVID–19 vaccination are not clearly defined. One of these commenters specifically stated the changing definition of what is considered fully vaccinated made it difficult to capture data for the quality measure. A number of these commenters also noted that the measure no longer aligns with current clinical practice and evolving public health

guidance, reducing the measure's usefulness as a standardized quality measure.

Several commenters supported the proposal because they believed the measure is no longer a meaningful indicator of facility quality or quality performance. Some of these commenters stated that vaccination decisions are increasingly reflective of individualized clinical decision-making and personal choice rather than the quality of care a facility provided. Other commenters stated that the measure no longer meaningfully differentiates provider performance.

Several commenters supported the proposal because CMS has already removed similar COVID–19 vaccination measures from other quality reporting programs. These commenters stated that removing the measure from the SNF QRP would promote consistency across Medicare quality reporting programs and better align SNF quality reporting with broader CMS quality.

Response: We thank the commenters for their support. As discussed in the proposed rule, we believe the COVID–19 Vaccination Coverage among Healthcare Personnel measure no longer aligns with current clinical guidelines and practice. We also acknowledge that publicly available guidance materials¹² about what is considered “up to date” with regard to COVID–19 vaccination continue to recommend individual-based or shared clinical decision-making, which may create uncertainty for providers when reporting the data.

Comment: Several commenters supported the proposal because they believed the burden associated with collecting and reporting measure data outweighs its current value. Some of these commenters stated that continued reporting requires significant staff time and resources given changes to CDC guidance, while providing limited benefit in the current public health environment.

Response: We acknowledge that some commenters are supportive of the proposal because of the burden associated with collecting and reporting data. We agree that the burden of continued reporting is an important consideration. Therefore, we also believe removal of this measure is further supported by Measure Removal Factor 8, the cost associated with a measure outweighs the benefit of its continued use in the program.

⁷ *Ibid.*

⁸ A complete vaccination course may require one or more doses depending on the specific vaccine used. 2025–2026 COVID–19 Vaccination Guidance | Covid | CDC <https://www.cdc.gov/covid/hcp/vaccine-considerations/routine-guidance.html>.

⁹ Centers for Disease Control and Prevention. (2020). COVID–19 Vaccination Program Interim Playbook for Jurisdiction Operations. Accessed March 6, 2026 at https://www.cdc.gov/vaccines/imz-managers/downloads/Covid-19-Vaccination-Program-Interim_Playbook.pdf.

¹⁰ ACIP Shared Clinical Decision-Making Recommendations ACIP Shared Clinical Decision-

Making Recommendations | ACIP | CDC. <https://www.cdc.gov/acip/vaccine-recommendations/shared-clinical-decision-making.html>.

¹¹ *Ibid.*

¹² As of July 2026, the CDC's website reflected that “CDC recommends a 2025–2026 COVID–19 vaccine for people ages 6 months and older based on individual-based decision-making.” <https://www.cdc.gov/covid/vaccines/stay-up-to-date.html>.

Comment: One commenter who supported the proposal recommended removing the measure one year earlier than proposed because the reporting burden remains significant while the measure no longer meaningfully differentiates quality of care among providers.

Response: We wish to clarify that we proposed removing this measure effective with the FY 2028 SNF QRP, which means that if finalized, SNFs would no longer be required to report CY 2026 HCP COVID-19 Vaccine measure data for purposes of the FY 2028 payment determination. Specifically, SNFs that do not report CY 2026 HCP COVID-19 Vaccine measure data would not be penalized for the FY 2028 annual payment update under the SNF QRP.

Comment: Several commenters opposed the proposal to remove the COVID-19 Vaccination Coverage among Healthcare Personnel measure because they believe COVID-19 vaccination remains an important infection prevention strategy for protecting SNF residents and healthcare personnel. In addition, several commenters stated that SNF residents remain particularly vulnerable to severe illness due to age, disability, comorbidities, and congregate living arrangements.

Some commenters cited evidence linking healthcare personnel vaccination to improved resident outcomes and urged that continued reporting encourages vaccination uptake and supports facility infection prevention efforts.

Response: We recognize the important role that vaccinations may play in protecting healthcare personnel and SNF residents from infectious disease and our proposal is not intended to minimize the fact that vaccinations are effective and important. Rather, we proposed removal of the measure under Measure Removal Factor 3 because the measure no longer aligns with current clinical guidelines and practice. As discussed in the proposed rule, current CDC recommendations for the 2025–2026 season were based on shared clinical decision-making, meaning there is no longer a single default recommendation to vaccinate a defined population. Under this framework, both receipt and nonreceipt of vaccination may be consistent with current clinical guidance.

However, on March 16, 2026, the U.S. District Court for the District of Massachusetts issued a stay delaying the effective date of the ACIP committee votes made after June 11, 2025, which included the 2025–2026 COVID-19 vaccine recommendations for older

adults. Given the current uncertainty about which set of recommendations will be maintained and which set providers are utilizing, we believe this measure no longer yields meaningful quality measure results. We acknowledge the evolving nature of COVID-19 from pandemic to endemicity and continued burden of the disease, and CMS may consider a revised version of the measure in the future.

Comment: Several commenters requested clarification regarding the impact of measure removal on NHSN reporting requirements and whether CMS intends to continue collecting vaccination surveillance information through NHSN. Other commenters expressed concerns regarding the loss of vaccination surveillance data and the impact on infection prevention activities. Commenters also requested clarification regarding the relationship between SNF QRP reporting requirements and other Federal reporting requirements.

Response: As previously stated, SNFs would no longer be required to report CY 2026 HCP COVID-19 Vaccine measure data for purposes of the SNF QRP FY 2028 payment determination. However, removal of the measure from the SNF QRP has no bearing on the SNF's ability to continue tracking vaccination surveillance data to understand the impact on infection prevention activities in their facility and does not alter any separate documentation or reporting requirements such as those that may be required under 42 CFR 483.80.

After consideration of public comments, we are finalizing the removal of the COVID-19 Vaccination Coverage among Healthcare Personnel measure from the SNF QRP beginning with the FY 2028 SNF QRP. We are finalizing the removal of this measure under Measure Removal Factor 3, as proposed, as well as Measure Removal Factor 8.

D. Removal of the COVID-19 Vaccine: Percent of Patients/Residents Who Are Up to Date Measure Beginning With the FY 2028 SNF QRP

We refer readers to the FY 2024 SNF PPS final rule (88 FR 53256 through 53265), where we finalized the COVID-19 Vaccine: Percent of Patients/Residents Who Are Up to Date (Patient/Resident COVID-19 Vaccine) measure for the FY 2026 SNF QRP. The measure is an assessment-based process measure that reports the percent of stays in which residents in a SNF are up to date on their COVID-19 vaccinations per the CDC's latest guidance.

In the proposed rule, we proposed to remove the Patient/Resident COVID-19 Vaccine measure beginning with the FY 2028 SNF QRP under removal Factor 3: a measure does not align with current clinical guidelines or practice (42 CFR 413.360(b)(2)(iii)).

When we originally adopted the Patient/Resident COVID-19 Vaccine measure, COVID-19 continued to be a major challenge for SNFs, with older adults at a significantly higher risk of mortality, severe disease, and death following infection (88 FR 53256 and 53257). In August 2023, when this measure was adopted, CDC COVID-19 vaccination guidance emphasized population-level vaccination expectations for older adults and other high-risk groups, and the evidence base focused on demonstrating broad protective benefit at the population level. CDC data at that time showed that, among adults aged 50 years and older, individuals who had received a primary vaccination series and booster dose experienced significantly lower risks of COVID-19-related hospitalization and death compared to those who were unvaccinated, and that additional booster doses, including bivalent booster formulations, further reduced the risk of severe outcomes, including hospitalization and death, in the context of emerging variants (88 FR 53257). These data supported an infection prevention framework under which being “up to date” with COVID-19 vaccination was treated as a broadly applicable expectation for high-risk populations and therefore appropriate for monitoring through a facility-level quality measure.

At the time the Patient/Resident COVID-19 Vaccine measure was adopted, it was intended to capture routine, catch-up, and risk-based immunization recommendations. In the FY 2024 SNF PPS final rule (88 FR 53264), we recognized that the definition of “up to date” may change based on the CDC's latest guidelines. At the time the FY 2027 SNF PPS proposed rule was published, the CDC COVID-19 vaccination recommendations for the 2025–2026 season were based on shared clinical decision-making (also known as individual-based decision-making).¹³ For shared clinical decision-making, there is not a default decision to vaccinate for a defined population.¹⁴ Given that there is no single default recommendation to vaccinate a defined

¹³ ACIP Shared Clinical Decision-Making Recommendations ACIP Shared Clinical Decision-Making Recommendations | ACIP | CDC. <https://www.cdc.gov/acip/vaccine-recommendations/shared-clinical-decision-making.html>.

¹⁴ *Ibid.*

population, both vaccination and non-vaccination may be consistent with the application of shared clinical decision-making. This differs from the guidance in place when this measure was finalized.

When there were more narrow parameters for receiving the COVID-19 vaccination, the Patient/Resident COVID-19 Vaccine measure promoted consumer transparency and choice by giving consumers clear information on the number of patients in a SNF who were vaccinated. However, at the time of the proposed rule, these parameters no longer applied due to the revised CDC clinical guidance, that recommended shared clinical decision-making for COVID-19 vaccination decisions. As a result, both vaccination and non-vaccination may reflect an “up to date” status using the guidance of shared clinical decision-making, and the Patient/Resident COVID-19 Vaccine measure may no longer provide information on the prevalence of COVID-19 vaccination in the SNF setting. On this basis, we proposed to remove the measure from the SNF QRP under removal Factor 3: a measure does not align with current clinical guidelines or practice.

Removing this measure will bring the SNF QRP into alignment with other post-acute care settings since we have already removed this measure from the Home Health Quality Reporting Program (HH QRP) (90 FR 55416 through 55418) and the Inpatient Rehabilitation Facility Quality Reporting Program (IRF QRP) (90 FR 37702 through 37704).

We proposed that beginning with residents discharged on or after October 1, 2026, SNFs would no longer be required to collect and submit the Patient/Resident COVID-19 Vaccine measure data to CMS. We also proposed to remove the Resident’s COVID-19 vaccination is up to date data element (O0350) from the MDS effective October 1, 2027, since it is not technically feasible to remove this data element earlier. However, this data element would become voluntary and SNFs would not be required to collect and submit Patient/Resident COVID-19 Vaccine measure data beginning with residents discharged on or after October 1, 2026.

The following is a summary of the public comments we received on our proposal to remove the COVID-19 Vaccine: Percent of Patients/Residents Who Are Up to Date measure from the SNF QRP beginning with the FY 2028 SNF QRP, along with our responses.

Comment: Several commenters supported the proposal because they believe the Patient/Resident COVID-19

Vaccine measure no longer aligns with current clinical guidance and practice. Some of these commenters noted that current COVID-19 vaccination recommendations rely on shared clinical decision-making rather than a uniform recommendation for a defined population. Other commenters stated that evolving vaccination guidance, changing definitions related to “up to date” vaccination status, and changing clinical circumstances have reduced the measure’s usefulness and relevance as a quality measure in the SNF setting.

Several commenters supported the proposal because they believed the measure is no longer a meaningful performance indicator of clinical quality or quality of care. Some of these commenters stated that the measure no longer meaningfully differentiates provider performance or resident outcomes. Commenters stated that vaccination decisions increasingly reflect personal choice and individualized clinical decision-making rather than the quality of care provided by a facility.

Other commenters supported the proposal because CMS has already removed similar resident COVID-19 vaccination measures from other quality reporting programs. These commenters stated that removing the measure from the SNF QRP would promote consistency across CMS quality reporting programs and align SNF quality reporting with broader Medicare quality initiatives.

Response: As discussed in the proposed rule, we believe the Patient/Resident COVID-19 Vaccine measure no longer aligns with current clinical guidelines and practice. We agree that changes in COVID-19 vaccination guidance and clinical practice, including the increased role of individualized clinical decision-making, have reduced the measure’s usefulness as a standardized quality measure in the SNF QRP. We also recognize commenters’ concerns that changing vaccination guidance and definitions of vaccination status may create uncertainty for providers when reporting the data. Publicly available materials providers use to determine whether a patient is up to date on COVID-19 vaccination also continue to reference shared or individual decision-making highlighting the difficulty of applying evolving vaccination recommendations in a standardized quality reporting context. Therefore, we believe removal of the measure under Measure Removal Factor 3 is appropriate.

Comment: Several commenters supported the proposal because they

believed the burden associated with collecting and reporting measure data outweighs its current value. Some of these commenters stated that continued reporting requires staff time and resources while providing limited benefit in the current clinical environment. Commenters also noted that evolving COVID-19 vaccination guidance and changing definitions related to vaccination status have created challenges for reporting the measure.

Response: We acknowledge commenters’ support for the proposal and their concerns regarding the burden associated with continued collection and reporting of this data. We agree that the burden of continued reporting is an important consideration. Therefore, we also believe removal of this measure is further supported by Measure Removal Factor 8, the cost associated with a measure outweighs the benefit of its continued use in the program.

Comment: Several commenters opposed the proposal because they believe COVID-19 vaccination remains an important strategy for protecting SNF residents from severe illness, hospitalization, and death. Commenters stated that SNF residents remain particularly vulnerable to COVID-19 due to age, disability, comorbidities, immunocompromised status, and congregate living arrangements. Some commenters cited evidence supporting the effectiveness of COVID-19 vaccination and argued that continued reporting encourages vaccine uptake and supports infection prevention efforts.

Response: We recognize the important role that vaccinations may play in protecting SNF residents from infectious disease and our proposal is not intended to minimize the importance of vaccination for individuals, including those at increased risk for severe illness. However, we continue to believe that the measure is no longer useful in the SNF QRP given changes in the COVID-19 public health landscape, vaccination guidance, and clinical practice.

As discussed in the proposed rule, current CDC recommendations for the 2025–2026 season were based on shared clinical decision-making, meaning there is no longer a single default recommendation to vaccinate a defined population.¹⁵

However, on March 16, 2026, the U.S. District Court for the District of Massachusetts issued a stay delaying the

¹⁵ As of July 2026, the CDC’s website reflected that “CDC recommends a 2025–2026 COVID-19 vaccine for people ages 6 months and older based on individual-based decision-making.” <https://www.cdc.gov/covid/vaccines/stay-up-to-date.html>.

effective date of the ACIP committee votes made after June 11, 2025, which included the 2025–2026 COVID–19 vaccine recommendations for older adults. Given the current uncertainty about which set of recommendations will be maintained and which set providers are utilizing, we believe this measure no longer yields meaningful quality measure results. We acknowledge the evolving nature of COVID–19 from pandemic to endemicity and continued burden of the disease, and CMS may consider a revised version of the measure in the future.

Comment: Several commenters opposed the proposal because they believed continued reporting of resident COVID–19 vaccination rates promotes transparency and accountability and provides important information to residents, families, caregivers, discharge planners, regulators, and other interested parties. Commenters stated that publicly reported vaccination information helps consumers assess infection prevention practices, evaluate facility performance, and make informed decisions regarding facility selection. Some commenters expressed concern that removing the measure would reduce transparency and weaken accountability for infection prevention efforts.

Response: We acknowledge commenters' interest in maintaining transparency, accountability, and meaningful information for residents, families, caregivers, discharge planners, and other interested parties. However, given the changes in clinical practice since the measure was adopted, and the uncertainty about which set of recommendations will be maintained and which set providers are utilizing, we believe the measure has reduced utility as an indicator of SNF quality or infection prevention performance.

We also remind commenters that SNFs must establish an infection prevention and control program (IPCP) per § 483.80(a) and must designate one or more individuals as the infection preventionist (IP) who are responsible for the IPCP per § 483.80(b). Finally, the SNF QRP does include the SNF Healthcare-Associated Infections (HAI) Requiring Hospitalizations (SNF HAI) measure.

Comment: Several commenters recommended alternatives to removing the measure. One commenter suggested modifying the measure to capture whether residents were offered and counseled regarding COVID–19 vaccination or whether residents declined vaccination with documented rationale rather than removing the

measure entirely. Other commenters recommended maintaining infrastructure to support future vaccination reporting or tracking COVID–19 through other assessment or reporting mechanisms. One commenter recommended continued consideration of pharmacist authority and future vaccination frameworks if shared clinical decision-making continues to be used.

Response: We appreciate commenters' suggestions regarding alternative approaches to measuring COVID–19 vaccination, maintaining reporting infrastructure, and future vaccination-related quality measurement activities. While these comments are outside the scope of our proposal, we may consider this feedback as part of future measure development and quality reporting activities.

After consideration of public comments, we are finalizing the removal of the COVID–19 Vaccine: Percent of Patients/Residents Who Are Up to Date measure from the SNF QRP beginning with the FY 2028 SNF QRP. We are finalizing the removal of this measure under Measure Removal Factor 3, as proposed, as well as Measure Removal Factor 8.

E. SNF QRP Quality Measure Concepts Under Consideration for Future Years—Request for Information

In the FY 2024 SNF PPS proposed rule (88 FR 21353 through 21355), we included an RFI on a set of principles for selecting and prioritizing SNF QRP measures, identifying measurement gaps, and suitable measures for filling these gaps. We refer readers to the FY 2024 SNF PPS final rule (88 FR 53265 through 53267) for a summary of the public comments received in response to the RFI.

In the proposed rule, we sought input on the importance, relevance, appropriateness, and applicability of the quality measure concepts related to advance care planning. Advance care planning is a continuous process that supports people in understanding and communicating their goals, values, and preferences regarding future medical decisions.^{16 17} The Patient Self Determination Act of 1990¹⁸ supports this process by requiring healthcare facilities to inform residents of their

rights regarding medical decisions, including advance directives and end of life care.¹⁹ In post-acute care (PAC) settings, where residents recover from acute illness, injury, or major procedures, their needs and goals may evolve as their condition changes. Factors such as clinical stability, functional status, therapy tolerance, cognitive function, prognosis, and personal preferences can all shift during recovery. Regular reassessment and transparent communication are essential to maintaining person-centered care, while advance care planning facilitates shared decision-making by documenting resident preferences and ensuring goal-concordant care throughout care transitions.²⁰

As we review new measure concepts, we will prioritize evidence-based outcome measures that promote person-centered care practices. We sought input on the relevant aspects of advance care planning and measures appropriate for the SNF setting. We received public comments on this request for information, and the following is a summary of the comments we received.

Comment: Many commenters expressed support for an advance care planning measure, stating that it supports patient-centered care and facilitates continuity of care across different care settings. A few of these commenters cited recent studies indicating that advance care planning and documented advance directives can lead to better patient outcomes, including a decrease in hospitalization near the end of life and increased hospice use. Another of these commenters stated that this measure could improve care consistency, reduce avoidable conflict during transitions, and help ensure that rehabilitation plans reflect what matters most to patients. Another commenter stated that this measure concept was especially relevant for the nursing home population due to the varying degrees of disease severity, adding that it is the responsibility of the nursing home to ensure that residents who are no longer able to live independently will have their wishes for care honored. Another commenter stated that this measure would be especially beneficial to residents facing financial hardship.

¹⁶ <https://www.cms.gov/files/document/mln-advanced-care-planning.pdf>.

¹⁷ McMahan, R. D., Tellez, I., & Sudore, R. L. (2021). Deconstructing the Complexities of Advance Care Planning Outcomes: What Do We Know and Where Do We Go? A Scoping Review. *Journal of the American Geriatrics Society*, 69(1), 234–244. <https://doi.org/10.1111/jgs.16801>.

¹⁸ Public Law 101–508, sections 4206, 4751.

¹⁹ <https://www.congress.gov/bill/101st-congress/house-bill/5835>.

²⁰ McMahan RD, Tellez I, Sudore RL. Deconstructing the Complexities of Advance Care Planning Outcomes: What Do We Know and Where Do We Go? A Scoping Review. *J Am Geriatr Soc*. 2021 Jan;69(1): 234–244. doi: 10.1111/jgs.16801. Epub 2020 Sep 7. PMID: 32894787; PMCID: PMC7856112.

Several commenters supported the measure concept but urged CMS to avoid process measures that may prioritize “checking a box” for documentation. A few of these commenters encouraged CMS to focus on goal-concordant processes rather than documentation completion alone.

Several commenters recommended a potential advance care planning measure specification and development. A commenter recommended prioritizing continuous reassessment instead of point-in-time documentation, to reflect iterative conversations about a resident’s goals and preferences. Several recommended activities prior to implementing a measure, including pilot testing, convening a technical expert panel, and CBE endorsement prior to adoption. Another commenter recommended including nurses in measure development to facilitate adopting measures that reflect real-world clinical workflows, interdisciplinary care, and the critical role nurses play in advance care planning. A few commenters suggested explicitly including caregiver involvement in the measure framework. A commenter recommended aligning measure specifications with advance care planning measures in hospitals and other post-acute settings, and to recognize documentation completed in the immediately preceding acute care stay to avoid duplication. Another commenter suggested that the measure should be voluntary for a period to provide SNFs adequate time to adopt into clinical practice. A commenter recommended giving priority to measures informed by resident and family feedback, Quality Improvement Organization (QIO) outreach, ombudsman investigations, and surveyor reports. Another commenter recommended adopting the CoreQ measure as a practical proxy for evaluating aspects of proximal-centered care experience while developing an advance care planning measure.

A few commenters provided recommendations related to technical aspects of an advance care planning measure. A few commenters recommended aligning the measure with United States Core Data for Interoperability (USCDI) and PACIO Advance Healthcare Directive Interoperability (ADI) standards to enable interoperability. Another commenter noted that while other CMS programs proposed adoption of an electronic clinical quality measure (eCQM), SNFs face technological challenges preventing eCQM use. This commenter urged CMS to maintain flexibility for different reporting

approaches, including an MDS-based measure. Another commenter encouraged CMS to develop an eCQM or digital quality measure, utilizing existing claims data.

A few commenters provided specific recommendations for measure specification. A couple of these commenters recommended exclusion criteria, including residents with cognitive impairment or decision-making incapacity; another commenter recommended a minimum length of stay threshold for the measure. One commenter suggested that the measure should include review of Physician Orders for Life-Sustaining Treatment when appropriate.

A commenter expressed concerns about barriers to advance care planning in the SNF setting, including cognitive impairment, mistrust of the healthcare system, lack of preparedness on the part of residents, and how the measure would be operationalized. This commenter did not believe that this measure would reflect quality of care in the SNF setting. Another commenter expressed concerns about operational SNF conditions that may make advance care planning difficult, including high staff turnover, limited social work capacity, and inadequate time for resident and family counseling.

In addition to comments received on the measure concepts of advance care planning, we also received comments on other future measure concepts. A commenter recommended considering a nutrition-related measure. Another commenter suggested including a claims-based measure of Antipsychotic Drug Use, as well as staffing measures for nurses, therapists, and other staff in the SNF. A commenter suggested using claims-based, audited, and structural data when possible for future measures.

Response: We thank all the commenters for responding to this RFI. While we are not responding to specific comments in response to the RFI in this final rule, we will take this feedback into consideration for our future measure development efforts for the SNF QRP.

F. Form, Manner, and Timing of Data Submission Under the SNF QRP

1. Background

We refer readers to the current regulatory text at 42 CFR 413.360(b) for information regarding the policies for reporting specified data for the SNF QRP.

2. Proposal To Revise SNF QRP Data Submission Deadlines Beginning With the FY 2029 SNF QRP

a. Background

Sections 1899B(f) and (g) of the Act require CMS to provide feedback to SNFs and to publicly report their performance on SNF quality measures specified under section 1899B(c)(1) of the Act and resource use and other measures specified under 1899B(d)(1) of the Act. More specifically, section 1899B(f)(1) of the Act requires the Secretary to provide confidential feedback reports to SNFs on their performance on the quality, resource use, and other measures specified under section 1899B(c)(1) and (d)(1) of the Act. Section 1899B(f)(2) of the Act provides that, to the extent feasible, the Secretary must make these confidential feedback reports available not less frequently than on a quarterly basis except in the case of measures reported on an annual basis, in which case confidential feedback reports may be made available annually. Additionally, section 1899B(g)(1) of the Act requires the Secretary to provide for the public reporting of each SNF’s performance on the quality measures, resource use, and other measures specified.

Section 1888(e)(6)(B)(i) of the Act provides the Secretary with discretion to prescribe the manner and the timeframes for SNFs to submit data as specified for reporting for the SNF QRP. For MDS assessment-based measures, in the FY 2017 SNF PPS final rule (81 FR 52041 through 52043), we finalized that SNFs will have approximately 4.5 months after each quarterly data collection period to complete their data submissions and make corrections to such data where necessary. At that time, we received several comments supporting the alignment of the data submission and correction timeframes with other quality reporting programs, but we did not receive any comments on the 4.5-month data submission timeframe. We refer readers to the FY 2017 SNF PPS final rule (81 FR 52041 through 52043) for a discussion of our proposal and summary of comments received and responses thereto.

We also finalized data submission deadlines for SNF QRP measures that are submitted via the Centers for Disease Control and Prevention’s (CDC) National Healthcare Safety Network (NHSN). In the FY 2022 SNF PPS final rule (86 FR 42494), we finalized that the COVID–19 Vaccination Coverage among HCP measure is reported to the CDC through the NHSN at least 1 week per month, with the CDC reporting data to CMS quarterly and allowing for corrections in

the NHSN application in alignment with the CMS data submission deadlines. In the FY 2023 SNF PPS final rule (87 FR 47555), we finalized that the data collection period for the Influenza Vaccination Coverage among Healthcare Personnel (HCP) measure would be October 1 through March 31, with a data submission deadline of May 15th for each influenza season.

Public reporting of data collected under quality programs, such as the SNF QRP, is designed to provide consumers and their families with the most current information to empower them to make quality-informed decisions about where to receive their care. We have identified that the time between when data on measures is submitted to us and when those data are publicly reported (approximately nine months) may be too long to provide the most accurate and up to date information for the public. For example, through technical expert panels, we have received feedback from resident caregiver advocates that the aged data used in publicly reported quality

measures diminishes their value to consumers. Furthermore, we have heard from SNFs that the SNF QRP measure results they receive prior to public reporting are not useful for their quality improvement efforts due to the aged data and the delay in when they receive these reports.

Currently, the largest contributing factor to the 9-month lag between the end of the data collection period and when measures are publicly reported is the 4.5-month timeframe for data submission. Reducing the data submission timeframe from 4.5 months to require data submission the 15th day of the second month after the end of the calendar quarter could reduce this lag by up to 3 months, resulting in more timely public reporting of data for consumers and increasing the value of publicly reported data. Additionally, this timeframe provides SNFs with more recent data in support of their quality improvement activities.

In the FY 2026 SNF PPS proposed rule, we included a request for information (RFI) on reducing the MDS

assessment data submission deadline from 4.5 months to 45 days (90 FR 18608). We refer readers to the FY 2026 SNF PPS final rule (90 FR 37343) for a full summary of the public comments received.

b. Revisions to the SNF QRP Assessment Data Submission Deadline

In the proposed rule, we proposed that, beginning with the FY 2029 SNF QRP, SNFs must complete their data submissions and make corrections to their MDS assessment data where necessary no later than the 15th day of the second month after the end of the calendar quarter. However, if the 15th day of the second month falls on a Friday, weekend, or Federal holiday, the date is delayed until 11:59 p.m. EST on the next business day. We proposed that SNFs would follow the deadlines presented in Table 13 for the FY 2029 SNF QRP. We also proposed that similar calendar year data submission deadlines would apply to future years' payment determinations.

TABLE 13: DATA COLLECTION TIMEFRAME AND DATA SUBMISSION DEADLINES FOR MDS ASSESSMENT DATA AFFECTING THE FY 2029 PAYMENT DETERMINATION

Calendar Year (CY) Quarter	Data Collection Timeframe	Final Data Submission Deadlines for FY 2029 Payment Determination*
CY 2027 Quarter 1	January 1–March 31, 2027	May 17, 2027
CY 2027 Quarter 2	April 1–June 30, 2027	August 16, 2027
CY 2027 Quarter 3	July 1–September 30, 2027	November 15, 2027
CY 2027 Quarter 4	October 1–December 31, 2027	February 15, 2028

* Data submission deadlines will follow a similar quarterly schedule for subsequent CYs.

We believe that requiring SNFs to submit MDS assessment data by the 15th day of the second month after the end of the calendar quarter is reasonable. We conducted an analysis on the potential impact of reducing the timeframe by determining how many assessments are currently being submitted by this deadline, which is approximately within 45 days of the end of the quarter. Using 2024 data, we identified that 97.18 percent of all MDS assessments were submitted to CMS within a 45-day timeframe. Of the remaining 2.82 percent submitted beyond 45 days, 0.13 percent were

submitted after the current 4.5-month data submission deadline and would not be further impacted by a change in the data submission deadline. Therefore, only 2.69 percent of MDS assessments would be impacted by changing the data submission deadline from 4.5 months to require data submission by the 15th day of the second month after the end of the calendar quarter.

c. Revisions to the CDC NHSN Data Submission Deadlines

We proposed that, beginning with the FY 2029 SNF QRP, SNFs must complete

their data submissions and make corrections to their CDC NHSN data where necessary no later than the 15th day of the second month after the end of the calendar quarter. However, if the 15th day of the second month falls on a Friday, weekend, or Federal holiday, the date is delayed until 11:59 p.m. EST on the next business day. We proposed that SNFs would follow the deadlines presented in Table 14 for the FY 2029 SNF QRP. We also proposed that similar calendar year data submission deadlines would apply to future years' payment determinations.

TABLE 14: DATA COLLECTION TIMEFRAME AND DATA SUBMISSION DEADLINES FOR CDC NHSN SNF QRP MEASURES AFFECTING THE FY 2029 PAYMENT DETERMINATION

Measure	Data Collection Timeframe	Final Data Submission Deadlines for FY 2029 Payment Determination*
COVID-19 Vaccination Coverage among HCP**	January 1–March 31, 2027	May 17, 2027
	April 1–June 30, 2027	August 16, 2027
	July 1–September 30, 2027	November 15, 2027
	October 1–December 31, 2027	February 15, 2028
Influenza Vaccination Coverage among HCP	October 1, 2027–March 31, 2028	May 15, 2028

* Data submission deadlines will follow a similar quarterly schedule for subsequent CYs.

** In section VI.C. of this final rule, we proposed to remove this measure effective with the FY 2028 SNF QRP.

We believe that requiring SNFs to submit CDC NHSN data by the 15th day of the second month after the end of the calendar quarter is a reasonable timeframe to submit one week of data per month to the CDC NHSN to meet the data submission requirements of the HCP COVID–19 Vaccine measure. We note that there would be no change in the data submission deadline for the Influenza Vaccination Coverage among HCP measure, as the previously finalized data submission date is May 15th for each influenza season.

We conducted an analysis on the potential impact of reducing the timeframe by determining how many SNFs are currently reporting data by this deadline, which is approximately within 45 days of the end of the quarter. Using FY 2025 data, we identified that 95 percent of all SNFs submitted CDC NHSN data within a 45-day timeframe. On these bases, we believe revising the SNF QRP data submission deadline for CDC NHSN data to require SNFs to submit CDC NHSN data by the 15th day of the second month after the end of the calendar quarter would improve the timeliness of public reporting by 3 months, which is beneficial to both consumers and SNFs, with no change in burden to SNFs.

We received public comments on this proposal to require that SNFs complete their data submissions and make corrections to their MDS assessment data and CDC NHSN data where necessary no later than the 15th day of the second month after the end of the calendar quarter beginning with the FY 2029 SNF QRP. The following is a summary of the comments we received and our responses.

Comment: Several commenters supported CMS' proposal to revise the data submission deadline, stating that more timely public reporting of SNF QRP data could help Medicare beneficiaries and their caregivers make better-informed decisions when selecting SNFs. A commenter also stated

that this proposal would improve transparency and would be especially valuable for families coping with financial hardship and limited time for decision-making. Another commenter stated that the proposal would not present additional administrative burden and would benefit providers seeking to use this data in quality improvement activities. A few other commenters supported the proposal, citing that most MDS data is being submitted before day 45. Another commenter stated that more timely data submission would help alleviate administrative burden of SNFs trying to locate data for surveyors.

Response: We thank commenters for their support and agree that this proposal would give residents and consumers more timely access to quality data and give SNFs better data for quality improvement.

Comment: Several commenters supported the proposal and the goal of improving the timeliness of publicly reported data, but had concerns about operational and staffing challenges, administrative burden, and data validation. A few commenters expressed concerns that providers continue to experience staffing shortages and turnover of MDS coordinators and clinical reimbursement staff. A few other commenters had concerns about small or rural SNFs that may struggle with staffing challenges and operational issues. One commenter expressed concerns about operational challenges for SNFs given the current clinical and administrative burden. Several commenters encouraged CMS to establish a phased implementation or grace period to meet submission requirements, to provide flexibility for the first several data submission cycles.

Response: We appreciate the commenters' concerns about operational and staffing challenges, especially for small or rural SNFs. However, we are not adding any new reporting requirements to the SNF QRP for the FY

2029 SNF QRP and do not believe that the proposal adds burden for MDS coordinators or reimbursement staff by changing the data submission deadline; rather, it shifts the existing workflow from 4.5 months after each quarterly data collection period to the 15th day of the second month after the end of the calendar quarter. We considered making the effective date of this proposal October 1, 2026, but believe that moving the effective date to January 1, 2027, provides SNFs sufficient time to address operational or staffing changes that may be required. Therefore, a phased implementation approach is not necessary. As we stated in the FY 2027 SNF PPS proposed rule, our internal analysis (91 FR 17696) showed that 97 percent of all MDS assessments and 95 percent of all CDC NHSN data is already being submitted within a 45-day timeframe, which suggests that data submission within this timeframe is not only feasible but current practice for most SNFs. Further, we believe a phased implementation approach would add operational complexity, as providers would have to update workflows and modify staffing multiple times. We will continue to monitor data submission compliance rates as part of program monitoring.

Comment: A few commenters were concerned that this proposal, in addition to other new policies for the SNF QRP such as data validation and the requirement to collect the MDS on all residents admitted or readmitted for skilled care, regardless of payer, would overburden facilities.

Response: We appreciate commenters' concerns about burden related to other policies for the SNF QRP. Regarding the SNF validation process, we note that this is not required for all SNFs; CMS randomly selects up to 1,500 SNFs out of all active SNFs for validation each year. Regarding the proposal to require the submission of MDS data on each resident receiving covered skilled care in a SNF, regardless of payer, as

discussed in section VI.F.3. of this final rule, if finalized as proposed, this policy would not take effect until October 1, 2029. We believe that we are giving SNFs adequate time to prepare operationally for the new data submission deadlines, effective with CY 2027 data collection, after which SNFs would have more than 2 years to prepare for the additional MDS data submission requirements.

Comment: A few commenters were concerned that the proposed timeline may not provide adequate time for facilities to validate data to identify and correct errors, particularly for new admissions near the end of a reporting quarter. One of these commenters stated that many providers rely on external vendors to validate MDS and NHSN submissions prior to final transmission. These review processes are critical to ensuring high-quality data but may no longer be feasible within a 45-day submission window.

Response: We believe that we are giving SNFs enough time to adjust staffing and workflow operations that will allow them to validate data and make any corrections needed by the new deadline. We also note that CMS does not require providers to utilize external vendors to validate data. In general, we expect data validation and quality checks to be complete with the initial data submission, with better proximity to the patient. We would also like to note that this proposal will benefit SNFs by allowing them to have access to more timely data for quality improvement efforts.

Comment: Many commenters supported CMS's goal to shorten the data submission deadline, but with a different timeframe to better allow for complete and accurate data. Several commenters recommended a data submission deadline of 90 days after the end of the quarter, to align with the current 90-day Minimum Data Set (MDS) modification period utilized for Nursing Home Five-Star Quality Rating System quality measures. One commenter recommended requiring submission by the "last business day of the month" for consistency.

Response: We appreciate the recommendations for alternative data submission deadlines. We continue to believe that our proposed data submission deadline allows sufficient time for SNFs to submit data and corrections where needed, because our internal analysis (91 FR 17696) showed that most SNFs are already submitting data within a 45-day timeframe. We disagree with the recommendation to adopt a 90-day deadline because that would not allow us to close the 9-month

lag between the end of the data collection period and when measures are publicly reported. A longer timeframe for data submission would not allow us to reach our goal of providing more timely data to consumers and SNFs.

Comment: A few commenters supported the proposal but recommended allowing SNFs to request an extension if there are circumstances impacting the ability to submit data in a timely manner.

Response: We already provide SNFs with the opportunity to request an exception or extension from the program's reporting requirements in the event they were unable to submit quality data due to extraordinary circumstances beyond their control. SNFs affected by a natural or man-made disaster or other extraordinary circumstances may request an exception or extension using instructions provided on the SNF QRP website: <https://www.cms.gov/medicare/quality/snf-quality-reporting-program/reconsideration-and-exception-extension>.

Comment: Several commenters recommended the implementation of this policy. A few commenters recommended that CMS provide enhanced technical assistance and support as part of the transition. Several commenters suggested updated guidance manuals and training resources. A few commenters recommended targeted outreach. Another commenter recommended that CMS monitor operational impacts of the updated deadlines.

Response: We appreciate commenters' input and recommendations for implementation of this proposal. We would like to note that we currently conduct general outreach (such as email communications) and targeted outreach to individual SNFs about upcoming data submission deadlines. We also provide guidance and technical manuals, data submission deadline documents, and training resources. If this proposal is finalized, we intend to make updates to our outreach processes, manuals, data submission deadline documents and training resources. Regarding technical assistance and support, we list resources and several help desks on our website: <https://www.cms.gov/medicare/quality/snf-quality-reporting-program/help>. We plan to continue our routine program monitoring activities to evaluate the impacts of this policy on data submission and compliance with the SNF QRP requirements.

Comment: A few commenters opposed to the proposal. A commenter opposed the proposal given operational

challenges related to expanding the MDS reporting to all residents admitted for skilled care. The commenter recommended that CMS give special consideration for short-and-timely and unplanned discharges, where SNFs often struggle to complete resident interviews or assessments quickly enough to capture accurate data, or consider a 90-day data submission window. Another commenter opposed the proposal, stating that MDS nurses will be under pressure to submit earlier, especially in smaller SNFs with limited staff.

Response: We considered the commenters' concerns about operational and staffing challenges, in conjunction with the proposed requirement to submit MDS data on each resident receiving covered skilled care in a SNF, regardless of payer. However, we wish to reiterate that, if the proposed requirement to submit MDS data on each resident receiving covered skilled care in a SNF, regardless of payer is finalized, this policy would not take effect until October 1, 2029, giving SNFs more than 2 years after the new data submission deadlines are effective to prepare for collecting all payer data.

We do not agree that "short-and-timely," and unplanned discharges would require a longer data submission deadline and would not mitigate the challenge of completing patient interviews or assessments when residents leave early or unexpectedly. Additionally, it is not operationally feasible to have multiple data submission deadlines within the same quarter, based on discharge type. We believe giving different deadlines or instructions for these cases would cause confusion among providers.

We disagree with the recommendation to adopt a 90-day deadline, because that would not allow us to close the 9-month lag between the end of the data collection period and when measures are publicly reported. A longer time frame for data submission would not allow us to reach our goal of providing more timely data to consumers and SNFs.

We considered the concerns about pressure on nurses in SNFs with limited staff, and do not believe that the proposal adds burden for MDS coordinators by changing the deadline; rather, it shifts the existing workflow to a different time point. We also believe that since this proposal would be effective with CY 2027 data collection, we are giving SNFs adequate time to prepare for the new deadlines and modify any operational or staffing arrangements surrounding the end of the reporting period.

After consideration of public comments, we are finalizing our proposal to require that SNFs submit their data and make corrections to their MDS assessment data and CDC NHSN data where necessary no later than the 15th day of the second month after the end of the calendar quarter beginning with the FY 2029 SNF QRP.

3. Require MDS Data Submission on all SNF Residents Beginning With the FY 2031 SNF QRP

a. Background

For over a decade, spanning the implementation of the Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act) (Pub. L. 113–185) and the subsequent development of quality, resource use, and other measures and standardized patient assessments in accordance with the applicable statutory authority, interested parties have provided their input on and support for the need to standardize data collection across all payers in PAC settings.²¹ This includes input that the quality measures used in the SNF QRP should be calculated using data collected from all SNF residents, regardless of a resident's payer, and that such data collection and submission is feasible in the SNF setting.^{22 23} Additionally, we received feedback on this topic in response to a Request for Information (RFI) in the FY 2018 SNF PPS final rule (82 FR 36603 and 36604) and a proposal in the FY 2020 SNF PPS final rule (84 FR 38817 through 38819).

In the FY 2018 SNF PPS proposed rule (82 FR 21077), we issued an RFI on expanding the collection and submission of SNF MDS data to include all SNF residents, regardless of payer, and we received overwhelming support. Responding to our RFI in the FY 2018 SNF PPS proposed rule, MedPAC and other commenters highlighted that such data would serve to better inform

beneficiaries on the broader quality of care within a SNF, especially regarding those who are or will become long-term residents of the same facility. Other commenters suggested it could support SNFs' comprehensive quality improvement efforts across payers. Furthermore, MedPAC added that while all data collection activity incurs some cost, their work has found that some SNFs already routinely assess all SNF residents regardless of payer because they feel that sorting which residents require assessments is almost as much work as completing the assessment. Additional commenters echoed MedPAC and added that collecting and submitting MDS data on all payers would be easier than having to determine which residents were Medicare fee-for-service (FFS). For a more detailed discussion of these comments, we refer readers to the FY 2018 SNF PPS final rule (82 FR 36603 and 36604).

In the FY 2020 SNF PPS proposed rule (84 FR 17678 and 17679), we proposed to expand the collection and submission of MDS data to all SNF residents regardless of payer for purposes of the SNF QRP. Although we decided not to finalize the proposal in the FY 2020 SNF PPS final rule (84 FR 38817 through 38819), we did receive comments from several commenters who supported aligning data collection and submission under the SNF QRP with the practices of other quality programs. These commenters noted that our proposal would give consumers a more complete picture of quality within a SNF and that ensuring quality of care is essential to the overall well-being of all SNF residents and should not be conditional on the payer source. However, other commenters did not support the proposal and expressed concern about the lack of details found in the proposal, including which residents would be captured under an expanded SNF MDS data collection and submission policy, the intended use of the data, and how this proposal would affect penalties for non-compliance in the SNF QRP. Commenters were also concerned about the reporting burden associated with expanding MDS data collection and submission and whether the data would be publicly reported. As noted previously, we did not finalize the proposal at the time but stated that we would use the input we received to revise our policy and propose it in future rulemaking. For a more detailed discussion of these comments and our decision not to finalize this proposal, we refer readers to the FY 2020 SNF

PPS final rule (84 FR 38817 through 38819).

Since 2019, we have worked to address this feedback in anticipation of a future proposal. Our work included gathering additional feedback from interested parties on specific questions related to implementing a policy to expand data submission for the SNF QRP during two national SNF Listening Sessions hosted by our contractor in 2023²⁴ and 2024.²⁵ During both listening sessions, we heard from SNFs that submitting data on all SNF residents is feasible, and that some SNFs currently collect MDS data on all residents, regardless of payer.

b. Support for Expanding MDS Data Submission on All SNF Residents Regardless of Payer

The concept of requiring data submission on all patients/residents regardless of payer is not new. We currently require data submission on all patients regardless of payer as part of the Inpatient Rehabilitation Facility (IRF) QRP, the Long-Term Care Hospital (LTCH) QRP, the Home Health (HH) QRP, and the Hospice QRP (HQRP). Eligible clinicians participating in the Merit-based Incentive Payment System (MIPS) who submit quality measure data on Qualified Clinical Data Registry (QCDR) measures, MIPS clinical quality measures (CQMs), or electronic clinical quality measures (eCQMs) must submit such data on a specified percentage of patients regardless of payer. Submitting such data on all SNF residents, regardless of payer, in the SNF setting would align the SNF QRP with the data submission practices of other CMS programs.

Until SNFs adopt a policy to submit MDS data on all SNF residents regardless of payer, the SNF QRP risks losing relevance to the SNF community and SNF consumers. According to the Congressional Budget Office (CBO), total Medicare Advantage enrollment in 2025 was estimated to be 54 percent of all beneficiaries and by 2034, the number is expected to rise to 64 percent of all beneficiaries.²⁶ As a result, if any of

²¹ MAP Coordination Strategy for Post-Acute Care and Long-Term Care Performance Measurement. Feb 2012. Available at <https://digitalassets.jointcommission.org/api/public/content/0309517406bf4b87972b9a433a689c87?v=0fa83028>.

²² Public Comment Summary Report Posting for Transfer of Health Information and Care Preferences. Available at <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/Downloads/Development-of-Cross-Setting-Transfer-of-Health-Information-Quality-Meas.pdf>.

²³ Technical Expert Panel Summary Report: Development and Maintenance of Quality Measures for Skilled Nursing Facility Quality Reporting Program. April 2018. Available at https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/Downloads/TEP-Summary-Report_April-2018_Development-and-Maintenance-of-Quality-Measures-for-SNF-QRP.pdf.

²⁴ Skilled Nursing Facility (SNF) QRP Listening Session Summary: Possible Expansion of MDS Data Submission to All SNF Residents Regardless of Payer. Summary Report. August 29, 2023. Available at <https://www.cms.gov/files/document/snf-listening-session-2023-summary-report.pdf>.

²⁵ Skilled Nursing Facility (SNF) QRP Listening Session Summary: Possible Expansion of MDS Data Submission to All SNF Residents Regardless of Payer. Summary Report. October 1, 2024. Available at <https://www.cms.gov/files/document/snfallpayerlisteningsession2024summaryreportv3508.pdf>.

²⁶ Ochieng, N., Freed, M., Biniek, J.F., Damico, A. Neuman, T. Medicare Advantage in 2025:

those beneficiaries require SNF services, they would not be included in the SNF QRP since the program currently requires MDS data submission only for Medicare FFS residents. Therefore, submitting MDS data on all SNF residents, regardless of payer, would provide the most robust and accurate representation of SNF quality.

In addition to aligning the SNF QRP with the data submission practices of other CMS programs and providing the most robust and accurate representation of SNF quality, we believe that submitting data using the MDS should include all SNF residents regardless of payer for other reasons. For instance, requiring submission of MDS data on all SNF residents, regardless of payer, could promote higher quality more efficient healthcare for all residents through standardization of data submission and support for the exchange of longitudinal information between SNFs and other providers. This information exchange could facilitate coordinated care, continuity in care planning, and the discharge planning process. Furthermore, expanding data collection to all SNF residents regardless of payer could support SNFs in their quality improvement activities.²⁷ Finally, adopting this policy could contribute to better healthcare outcomes for our beneficiaries, enabling them to make more informed decisions about where to receive SNF care.^{28 29} As stated previously, unless we adopt a policy to expand data submission to all SNF residents regardless of payer, SNFs will continue to lag behind other PAC settings who already submit this assessment information on all patients. However, we note that we would not use these data from non-Medicare FFS residents to update the payment rates used under the SNF PPS.

c. Considerations for Expansion of MDS Data Submission to All SNF Residents

As previously noted in section VI.F.3.a. of this final rule, we received several constructive comments when we

proposed to expand the submission of MDS data in the FY 2020 SNF PPS proposed rule. We have used these comments to inform our proposals for the form, time, and manner of MDS data submission on all SNF residents regardless of payer in the FY 2027 SNF PPS proposed rule.

Implementation of a policy requiring MDS data submission on all SNF residents regardless of payer presents unique considerations for CMS that have not been encountered in other settings because the MDS data are required for reasons other than quality reporting and Medicare payment. One consideration is the Omnibus Budget Reconciliation Act of 1987 (OBRA) (PL 100–203) that requires nursing homes that are Medicare certified, Medicaid certified or both, conduct initial and periodic MDS assessments for both long-term residents and short-term residents in a rehabilitative program anticipating return to their previous environment or another environment of their choice. Another consideration is that data submitted in MDS assessments are used by many state Medicaid payment and quality programs. These considerations informed our proposals for the policies discussed next.

(1) Defining Skilled Services

In response to our FY 2020 SNF PPS proposal to expand SNF MDS data submission to all SNF residents regardless of payer, we heard from commenters that they needed to know how to identify the resident population for whom they would be required to submit MDS data under an expanded policy. Specifically, we received several questions about how “skilled services” would be defined for non-Medicare Part A FFS residents receiving skilled care (84 FR 17678 and 17679).

We define a skilled nursing facility level of care under the Medicare Part A benefit in the Medicare Benefit Policy Manual (MBPM) (100–2), Chapter 8, § 30.³⁰ Care in a SNF is covered by the Medicare Part A benefit when the following four factors listed are met:

- The patient requires skilled nursing services or skilled rehabilitation services, that is, services that must be performed by or under the supervision of professional or technical personnel (see MBPM §§ 30.2 through 30.4); are ordered by a physician and the services are rendered for a condition for which the beneficiary received inpatient hospital services or for a condition that

arose while receiving care in a SNF for a condition for which he received inpatient hospital services.

- The patient requires these skilled services on a daily basis (see MBPM § 30.6).

- As a practical matter, considering economy and efficiency, the daily skilled services can be provided only on an inpatient basis in a SNF. (See MBPM § 30.7)

- The services delivered are reasonable and necessary for the treatment of a patient’s illness or injury, that is, are consistent with the nature and severity of the individual’s illness or injury, the individual’s particular medical needs, and accepted standards of medical practice. The services must also be reasonable in terms of duration and quantity.

SNFs should be familiar with this definition since they use it daily to make decisions about whether a Medicare Part A resident qualifies for a covered SNF level of care.

We presented this definition to interested parties attending the August 2023 SNF Listening Session: Possible Expansion of MDS Data Submission to All SNF Residents Regardless of Payer.³¹ We sought feedback about using this definition to identify SNF residents, regardless of payer, requiring an MDS assessment for purposes of submitting data. Participants of the 2023 SNF Listening Session generally supported the idea of a standardized definition of skilled services across all payers and stated that it would be feasible to use a modified definition of skilled services as described in the Medicare Benefits Policy Manual (Chapter 8, § 30) to identify residents for the purposes of MDS data submission.

We did not propose to change the coverage criteria for a Medicare Part A FFS covered stay. However, given the SNFs’ familiarity with the definition of covered skilled services in the Medicare Benefits Policy Manual, we believe a modified version of Chapter 8, § 30 will work for determining whether an expanded resident population meets a skilled nursing facility level of care.

Therefore, we proposed that SNFs would submit MDS data on all SNF residents regardless of payer when all of the following four criteria are met:

- When the resident is admitted to the SNF for covered skilled nursing services or skilled rehabilitation services, that is, services that must be

Enrollment Update and Key Trends. Kaiser Family Foundation. Published July 28, 2025. Accessed November 14, 2025. Available at <https://www.kff.org/medicare/medicare-advantage-enrollment-update-and-key-trends/>.

²⁷ CMS National Quality Strategy. Accessed November 14, 2025. Available at <https://www.cms.gov/medicare/quality/meaningful-measures-initiative/cms-quality-strategy>.

²⁸ Ibid.

²⁹ Report to Congress: Improving Medicare Post-Acute Care Transformation (IMPACT) Act of 2014 Strategic Plan for Accessing Race and Ethnicity Data. January 5, 2017. Accessed November 26, 2024. Available at <https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/Research-Reports-2017-Report-to-Congress-IMPACT-ACT-of-2014.pdf>.

³⁰ Medicare Benefits Policy Manual (100–2), Chapter 8. Available at <https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/bp102c08pdf.pdf>.

³¹ Skilled Nursing Facility (SNF) QRP Listening Session Summary: Possible Expansion of MDS Data Submission to All SNF Residents Regardless of Payer. Summary Report. August 29, 2023. Available at <https://www.cms.gov/files/document/snf-listening-session-2023-summary-report.pdf>.

performed by or under the supervision of professional or technical personnel (see MBPM §§ 30.2 through 30.4) and those services are ordered by a physician.

- The resident requires these skilled services on a daily basis (see MBPM § 30.6).
- As a practical matter, considering economy and efficiency, the daily skilled services can be provided only on an inpatient basis in a SNF (see MBPM § 30.7).
- The services delivered are reasonable and necessary for the treatment of a resident's illness or injury, that is, are consistent with the nature and severity of the individual's illness or injury, the individual's particular medical needs, and accepted standards of medical practice, and are reasonable in terms of duration and quantity.

(2) Identifying the Resident Population for the Submission of MDS Data

SNFs are distinct from the IRF and LTCH settings, which only provide services to patients for limited periods of time and, in the case of IRFs, for certain medical conditions. In 2025, 95 percent of all SNFs were also certified under Medicaid as nursing facilities (NFs).³² These dually certified SNFs/NFs are long-term care facilities that furnish care continuously to both Medicare and Medicaid beneficiaries in the nursing home, which is their place of residence. The SNF QRP applies to freestanding SNFs, including dually certified SNFs/NFs, SNFs affiliated with acute care facilities, and all non-critical access hospital (CAH) swing bed rural hospitals. As such, our proposal would cover the resident populations of these facilities. For ease of reference, we will hereafter refer to these entities collectively as SNFs.

As noted previously, since residents can be admitted to a SNF for different reasons, such as short-term skilled care, or long-term services and supports for limitations in activities of daily living and instrumental activities of daily living, it is important that we further define the resident population for expanding the submission of MDS data.

Long-term residents in SNFs may experience changes in the level of care they require without leaving the facility. Specifically, a long-term resident's level of care may change from non-skilled to

skilled without a hospitalization. Over the last several years, SNF care has evolved in response to internal and external factors, including increased clinical specialization of SNFs, an increasing number of beneficiaries choosing MA benefits and the competition among SNFs to be an 'in-network provider,' an increased number of and attention to resource use measures in the SNF QRP and VBP, and the COVID-19 public health emergency (PHE). Increasingly, it is common practice for SNFs to "skill-in-place" their long-term residents who several years ago may have been immediately sent to the emergency department for evaluation. When a long-term resident is "skilled-in-place", the SNF provides skilled services to address a long-term resident's change in condition to prevent or in lieu of a hospital admission.

Furthermore, MA organizations may authorize coverage of SNF care in the absence of a prior qualifying hospital stay. This includes long-term residents who may be enrolled in a Special Needs Plan (SNP)³³ or may have other commercial insurances or long-term care policies that are covering their skilled care.

Therefore, expansion of a policy to include the submission of MDS data must address whether all residents receiving skilled services in a facility would be included in the policy. This could include being admitted after an inpatient stay for short term skilled services, or a long-term resident who develops a need for skilled services and receives them without being discharged to the hospital. We also heard from participants in both the 2023 and 2024 SNF Listening Sessions that identifying changes in level of care across different payers and resident types would be challenging and burdensome. Specifically, we heard in the 2024 SNF Listening Session that trying to manage a same day change in a long-term resident's need for skilled services would be difficult and add confusion to the process of determining which assessments would be required given the complexity of balancing SNF MDS assessments and MDS OBRA requirements.

In response to these concerns, we proposed to require submission of MDS data on residents admitted or readmitted for covered skilled services regardless of payer, rather than any long-term resident residing in the facility who becomes skilled in place,

that is requiring skilled services without leaving the facility. We also proposed that long-term residents who take a leave of absence³⁴ and return to the facility requiring skilled care would not require a skilled care admission assessment and submission of MDS data, while long-term residents that are discharged from the facility,³⁵ and are subsequently readmitted for covered skilled care would trigger the submission of MDS data. We note, however, that under this proposal, we would not require the submission of MDS data if the services were not covered. Additionally, a short-term resident who was admitted for covered skilled care, who left the facility for any reason and returned to the same SNF requiring skilled services before the end of the interruption window,³⁶ would not require a new MDS assessment as long as their services remained skilled and were covered. Instead, their subsequent stay is considered a continuation of the previous skilled care stay for purposes of the SNF QRP.

We believe that limiting the submission of MDS data to residents admitted or readmitted to the SNF for covered skilled services would align the SNF QRP population with other PAC QRPs, and meet the goal of obtaining full and complete data regarding the quality of care provided by the SNF to the residents receiving care in that facility.

Finally, while we appreciate that submitting MDS data on all SNF residents regardless of payer may create additional burden, we also note that this burden may be partially offset by the fact that SNFs would no longer have to determine which residents admitted or readmitted for covered skilled services require MDS data submission. We have also learned that many SNFs already collect MDS data on non-Medicare FFS

³⁴ A leave of absence occurs when a resident has a: temporary home visit of at least one night; or therapeutic leave of at least one night; or hospital observation stay less than 24 hours and the hospital does not admit the resident.

³⁵ A discharge occurs when: Resident is discharged from the facility to a private residence (as opposed to going on an LOA); Resident is admitted to a hospital or other care setting (regardless of whether the nursing home discharges or formally closes the record); Resident has a hospital observation stay greater than 24 hours, regardless of whether the hospital admits the resident. Resident is transferred from a Medicare- and/or Medicaid-certified bed to a non-certified bed. Resident's covered skilled stay ends, but the resident remains in the facility.

³⁶ An interruption window occurs when a resident leaves the facility for a 3-day period, starting with the calendar day of discharge and including the 2 immediately following calendar days.

³² Distribution of Certified Nursing Facilities by Certification Type | KFF State Health Facts. July 2025. Available at <https://www.kff.org/other-health/state-indicator/nursing-facilities-by-certification-type/?currentTimeframe=0&sortModel=%7B%22coll%22:%22Location%22,%22sort%22:%22asc%22%7D>.

³³ Special Needs Plans | CMS. September 10, 2024. Available at <https://www.cms.gov/medicare/enrollment-renewal/special-needs-plans>.

residents but do not submit it.^{37 38} We also acknowledge past concerns raised by some interested parties with respect to the administrative challenges of implementing all payer data submission and the need to account for the burden related to the proposal. In section VIII.B. of this final rule, we provide an estimate of additional burden related to the proposal.

d. Require MDS Data Submission on All SNF Residents Regardless of Payer for the SNF QRP

We proposed to require the submission of MDS data on each resident receiving covered skilled care in a SNF, regardless of payer, beginning with the FY 2031 SNF QRP. Specifically, SNFs would be required to submit these data for all SNF residents, regardless of payer, beginning with residents admitted on October 1, 2029, for purposes of the FY 2031 SNF QRP.³⁹ Starting in CY 2030, SNFs would be required to submit data for the entire calendar year beginning with the FY 2032 SNF QRP.

SNFs would submit these data on all non-Medicare FFS SNF residents at admission and discharge using the Nursing Home PPS (NP) and the Nursing Home Part A PPS Discharge (NPE) assessments and the corresponding Swing Bed assessments (SP and SD) in use at the time of data collection. Based on feedback shared by the SNFs during listening sessions, we believe many SNFs already collect MDS data on non-Medicare FFS residents but do not submit it.

In order to facilitate the collection of this new data, we would revise the current MDS for SNFs to submit data pursuant to the proposed policy. Specifically, we would modify one item and add three new items to the MDS. One item in the Type of Assessment section would be modified to indicate when an assessment is being completed at admission for a non-Medicare FFS resident receiving covered skilled services. The first new item would collect information on the resident's primary payer for the skilled stay at

admission, and at discharge from covered skilled services. A second new item would capture the start and end dates of a covered skilled stay for a non-Medicare-FFS resident. Finally, a third new item would be added to the Type of Assessment section to indicate whether the assessment is being completed for a non-Medicare FFS resident at the time of discharge from covered skilled services. A draft of the proposed modified and new items can be found in the Downloads section of the SNF QRP Measures and Technical Information web page at <https://www.cms.gov/medicare/quality/snf-quality-reporting-program/measures-and-technical-information>.

Furthermore, the Secretary must reduce the annual payment update applicable to a SNF for a fiscal year by 2 percentage points if the SNF does not submit data in accordance with the SNF QRP requirements established by the Secretary. As set forth in our regulations at 42 CFR 413.360(f)(1)(ii), 90 percent of the MDS assessments SNFs submitted through the CMS designated data system must contain 100 percent of the required data. Therefore, we proposed that the MDS data SNFs submit under this proposal for all SNF residents, regardless of payer, would be used to calculate SNF QRP compliance. The SNF QRP also requires the data be submitted to CMS according to the established data submission deadlines. The current SNF QRP data submission deadline for MDS data is approximately 4.5 months after each quarterly data collection period. In section VI.F.2. of this final rule, we proposed to revise the data submission deadline from 4.5 months to the 15th day of the second month after the end of the calendar quarter, which would have implications for this proposal if finalized.

Finally, we want to clarify that, while expanding the submission of MDS data to include all SNF residents admitted or readmitted for skilled covered care regardless of payer would permit the SNF QRP to make publicly available information regarding the quality of services furnished to the SNF population as a whole, we are not proposing any changes to our policies related to publicly reporting SNF QRP data collected on non-Medicare FFS residents at this time. We routinely monitor the SNF QRP data and any future changes related to the public reporting of the SNF QRP all payer data would be communicated through our normal communication channels.

We received public comments on this proposal to require the submission of MDS data on all SNF residents admitted for covered skilled care regardless of

payer beginning with the FY 2031 SNF QRP. The following is a summary of the comments we received and our responses.

Comment: Many commenters supported (some strongly) the proposal to collect data on all residents admitted or readmitted to the SNF for covered skilled services regardless of payer, including patient advocacy groups, SNF providers, hospitals, professional groups, vendors, and MedPAC. These commenters cited several reasons for their support including the number of Medicare beneficiaries enrolled in Medicare Advantage (MA), the importance of MDS data and reports accurately reflecting resident acuity, facility quality, and health outcomes, and for consistency and standardization with the current requirements of other post-acute care programs. Commenters elaborated that reporting on all residents is increasingly important as MA enrollment grows and other payers become an increasing proportion of the SNF population, stating that an accurate and representative picture of SNF care depends on having complete facility-wide data rather than only FFS data.

Response: We thank commenters for their support. We take the importance of data accuracy in SNFs and standardization across PAC seriously and agree that the growing number of MA enrollees receiving skilled care in SNFs has the potential to greatly impact the ability of the SNF QRP data to be representative and relevant.

Comment: Several supportive commenters requested that CMS not delay the date for SNFs to submit data on all SNF residents regardless of payer; a few of these commenters requested that the new reporting requirement be established for 2027. Another commenter specifically recommended that CMS implement the proposal no later than FY 2028. One of these commenters noted it has been several years that facilities have been aware of the potential data reporting change, referring to CMS's FY 2020 proposal as supporting evidence. Several commenters stated that most facilities are already completing MDS assessments on all residents because of existing resident assessment obligations. The commenters stated the need for comprehensive and accurate reporting on resident acuity, care planning, staffing needs, quality outcomes and facility performance, and emphasized that sorting Medicare FFS residents was almost as much work as completing the assessment. One commenter stated that there should be no additional facility burden for most facilities since the MDS assessments are required for all

³⁷ Skilled Nursing Facility (SNF) QRP Listening Session Summary: Possible Expansion of MDS Data Submission to All SNF Residents Regardless of Payer. Summary Report. August 29, 2023. Available at <https://www.cms.gov/files/document/snf-listening-session-2023-summary-report.pdf>.

³⁸ Skilled Nursing Facility (SNF) QRP Listening Session Summary: Possible Expansion of MDS Data Submission to All SNF Residents Regardless of Payer. Summary Report. October 1, 2024. Available at <https://www.cms.gov/files/document/snfallpayer-listening-session-2024-summary-report-v3508.pdf>.

³⁹ There is an exemption for residents where the third-party insurer does not cover the cost of skilled services.

residents. Another commenter, a provider, believed the proposed change in MDS data submission requirements would generate a minimal shift in their current EHR procedures.

Response: We thank commenters for their support and appreciate that many facilities are already completing the MDS assessment on all residents for various reasons and that these commenters believe some facilities will have no additional burden associated with this proposal. However, we acknowledge that this is not the case for all SNFs, and believe an implementation date of October 1, 2029, will provide adequate time for all SNFs to prepare for the collection of MDS data on all residents admitted or readmitted to the SNF for covered skilled services, regardless of payer.

Comment: Some commenters, including MedPAC, supported the proposal stating that data reported on all SNF residents regardless of payer would potentially improve transparency for residents and families because it would allow for the representation of the full scope of a facility's quality of care. MedPAC also stated that expanding the MDS data would be particularly important to future long-term care residents. These commenters requested that CMS ensure the data is easily accessible and understandable to the public to support meaningful, informed decision making.

Other commenters noted that this data would enable comparisons of SNF care quality between Medicare FFS and other payers to help CMS better understand patterns of care, quality and outcomes across different resident populations. A few of these commenters stated that data representative of the entire skilled population improves the ability of CMS, researchers, and other interested parties in identifying disparities and quality issues specific to subsets of patients with serious illness across payers. Another commenter echoed the former, stating all-payer MDS data creates a stronger foundation for identifying disparities, particularly if CMS were to examine outcomes by payer, dual eligibility, and other social risk factors.

Response: We thank commenters for supporting the proposal. We agree that this data could be beneficial for increased transparency and support residents and families as they make decisions about their care, particularly those becoming long-term care residents. However, we want to clarify that we did not propose any changes to our policies related to the public reporting of SNF QRP data at this time.

Although we received several comments supporting the proposal to

collect MDS data on residents admitted or readmitted to the SNF for covered skilled services, regardless of payer, stating they appreciated CMS's intent to obtain a more complete picture of quality across all residents in the SNF setting, we also received comments stating concerns with the administrative and operational burdens associated with expanding the MDS reporting requirements to all payers. Specifically, they noted concerns about the definition of "skilled care" as proposed for this policy, the challenge of applying the definition to both short-term and long-stay residents, the challenge presented by other payers who may require SNFs to use proprietary guidelines when completing the MDS, and the need for increased staff education, software modifications, workflow changes, compliance oversight, and assessment and submission workload.

Still others opposed the proposal because of the additional financial and operational strain on standalone facilities, particularly small and rural providers with limited resources. These commenters urged CMS to reconsider the timing, scope, and approach of the proposal.

We address these concerns and the reasons commenters opposed the proposal below.

Comment: A commenter expressed concern related to the statutory authority that CMS has to expand the SNF QRP to collect data on all residents regardless of payer. The commenter also stated that CMS' proposal would effectively require SNFs to apply a Medicare-based quality reporting framework to residents financed through other payers.

Response: We disagree with the commenter and believe the proposal is within our authority. We believe that we have authority to collect all-payer data for the SNF QRP under section 1899B of the Act. Section 1899B promotes data standardization and interoperability across PAC settings. We believe it is necessary to obtain admission and discharge assessment data on all residents admitted or readmitted to the SNF for covered skilled services, regardless of payer in order to obtain full and complete data regarding the quality of care provided by the SNF. Furthermore, we note that section 1899B of the Act does not limit the Secretary to collecting data only on individuals with Medicare, and therefore this proposal is not inconsistent with CMS' statutory obligations. We also disagree with the commenter's assertion that CMS proposed a universal Medicare-based quality reporting framework across all

payer systems. Our proposal is about collecting quality data in SNFs (and non-CAH swing beds) for the SNF QRP.

Comment: Multiple commenters also expressed concerns about CMS' proposal for how to define the resident population for SNF QRP reporting using the skilled care definition we proposed and specifically, how to apply the definition across payers. One of these commenters stated that under this policy, SNFs would be required to determine if daily skilled care is provided at the time of admission or readmission for all payers, and may be required to complete additional Skilled Care Admission (SCA) assessments, monitor the daily level of skilled care, and coordinate the end of the skilled care to assess for and complete an additional Skilled Care Discharge (SCD) Assessments. A few of these commenters also pointed out that skilled coverage determinations vary widely among MA plans and other payers, and there are many differences in authorization processes, denial and appeal practices, and length-of-stay management.

Response: As noted in the proposed rule (91 FR 17698 to 17699), we proposed that SNFs would submit MDS data on residents admitted or readmitted to the SNF for covered skilled services, regardless of payer, when all of the following four criteria are met:

- When the resident is admitted [or readmitted] to the SNF for covered skilled nursing services or skilled rehabilitation services, that is, services that must be performed by or under the supervision of professional or technical personnel (see MBPM §§ 30.2 through 30.4) and those services are ordered by a physician.
- The resident requires these skilled services on a daily basis (see MBPM § 30.6).
- As a practical matter, considering economy and efficiency, the daily skilled services can be provided only on an inpatient basis in a SNF (see MBPM § 30.7).
- The services delivered are reasonable and necessary for the treatment of a resident's illness or injury, that is, are consistent with the nature and severity of the individual's illness or injury, the individual's particular medical needs, and accepted standards of medical practice, and are reasonable in terms of duration and quantity.

We proposed this definition for identifying residents for whom an MDS would be required specifically because SNFs already use this definition to make decisions about whether a Medicare Part

A resident qualifies for a covered SNF level of care. Therefore, it does not impose a new or unfamiliar requirement on SNFs.

Comment: Several commenters stated that most facilities are already completing MDS assessments on all residents because of existing resident assessment obligations. A commenter also stated that SNFs are already required to complete additional assessments on MA residents and these residents are monitored daily for a skilled level of care.

Response: While we acknowledge that skilled coverage determinations vary widely among MA plans and other payers, and there are many differences in authorization processes, denial and appeal practices, and length-of-stay management, it does not impact the application of the proposed definition of covered skilled services for identifying the residents for whom an MDS would be required.

We also heard concerns from commenters about the need for clear and standardized guidance on when a resident qualifies for SNF QRP reporting. Commenters noted that, without such guidance, providers may have difficulty defining skilled stays and applying reporting requirements consistently, which could increase the risk of errors, duplicative effort, and compliance challenges. In the discussion that follows, we address these concerns and provide additional clarification.

Comment: Several commenters noted that the SNF setting differs significantly from other PAC settings because Medicare represents a much smaller share of overall SNF utilization, and SNFs serve both skilled short-stay PAC residents and custodial long-stay residents who may transition in and out of skilled levels of care after temporary hospitalizations.

The commenters stated their challenges would be particularly acute for dual-eligible residents and residents receiving “skill in-place” services, that is, residents transitioning between custodial and skilled status.

A commenter also stated that the proposed “skill-in-place” exclusions are insufficient to mitigate some of these concerns and would increase, rather than decrease, provider compliance burden, due to the extensive complexity of determining whether the listed exclusions would apply for payers that do not align easily with the proposed modification of the SNF FFS definition of “skilled care.”

Response: We agree with the commenters that the SNF setting differs significantly from other PAC settings

because they serve both skilled short-stay PAC residents and custodial long-stay residents. For that reason, we have carefully considered over a number of years how to develop a framework that would support the goal of collecting MDS data for all residents admitted or readmitted to the SNF for covered skilled services regardless of payer, while minimizing disruption to SNFs current MDS workflow.

The commenters stated that their challenges would be especially acute for dual-eligible residents and residents receiving “skill-in-place” services. We are interpreting the commenters to be referring to residents with Medicare and Medicaid who reside long-term in the SNF and may require intermittent skilled care without leaving (that is, discharging) the facility.

In the proposed rule, we stated we would not require submission of MDS data on long-term residents who become skilled in place, that is, requiring skilled services without leaving the facility. For example, if a long-term care resident is determined to require daily skilled nursing services to prevent hospitalization, and the SNF provides skilled services for 7 days, then the SNF would not be required to complete a skilled care admission (SCA) or a skilled care discharge (SCD) because the resident was not discharged and readmitted to the SNF. This would be true even if the daily skilled nursing services are covered by the resident’s payer, and therefore, an SCA assessment is not required.

Comment: Several commenters raised concerns about how payer changes would affect the requirement to submit an MDS including, for example, MA residents whose authorization periods change mid-stay; and residents whose payer source changes repeatedly. They believe that there will be substantial operational uncertainty regarding when a resident becomes “skilled,” and when a resident ceases to qualify as “skilled” requiring facilities to make complex and subjective determinations.

Response: We appreciate the commenters’ concerns and believe that our proposed definition can assist SNFs in answering these questions in a structured way. For example, the commenters had concerns about how authorization periods changing mid-stay would impact completion of the MDS. If an MA resident’s authorization ends, and the resident decides to return home, the SNF would complete the SCD combined with the Nursing Home Discharge (ND). If the resident remained in the SNF after authorization ends, the SNF would complete a stand-alone SCD.

Regarding the scenario provided by commenters when a resident’s payer source changes repeatedly, we believe this to be a rare occurrence. However, if a resident’s payer source changed and the resident continued to be eligible for covered skilled services, then the SNF would complete the appropriate discharge assessment (that is, the PPS Discharge or the SCD) and then complete the appropriate admission assessment (that is, the 5-day PPS or the SCA).

As always, we want to reassure SNFs that we plan to provide training resources in advance of the implementation date for collecting the MDS on other payers, and the training will address the types of questions SNFs have raised.

Comment: A few commenters raised questions about how to handle scenarios when a resident exhausts their benefits but continues to require skilled services. The example was given of a resident requiring ongoing management of a G-tube. Another commenter suggested that a resident may require a skilled level of care for several years related to the management of a G-tube and never trigger another SNF eligibility benefit period.

Response: We interpret the commenters to be referring to residents receiving skilled services under their 100-day SNF benefit. While we did not propose any changes to the MDS completion requirements for SNF Part A beneficiaries, we will respond to the concern about residents with MA plans that also have a 100-day SNF benefit.

In this example, if the resident remains in the SNF as a long-term resident after exhausting their 100-day benefit, a SCD assessment should be completed. If the resident is discharged to their home after exhausting their 100-day benefit, a SCD could be combined with a Nursing Home Discharge assessment.

Comment: A commenter also questioned how an interrupted stay would be handled if this proposal was finalized.

Response: We interpret the commenter to be referring to new residents (that is, non-Medicare FFS) for whom an MDS would be required. As we noted in the proposed rule, when a resident is admitted to the SNF for covered skilled services, but leaves the facility for any reason and subsequently returns to the same SNF requiring covered skilled services before the end of the interruption window (that is, in less than 3 calendar days), we would not require a new MDS assessment as long as their services remained skilled and were covered. Instead, their

subsequent stay is considered a continuation of the previous skilled care stay for purposes of SNF QRP.

Comment: A few commenters stated concerns that expanding the SNF QRP to include all residents receiving “covered skilled services,” regardless of payer, risks capturing long-stay residents in QMs intended for short-stay populations, which would reduce the comparability of SNF QRP measures across PAC settings and dilute the validity of outcomes currently designed to reflect PAC performance.

Response: We disagree with the commenters’ concerns about capturing long-stay residents in QMs intended for short-stay populations. The SNF QRP QM specifications currently allow for a long-stay resident receiving covered skilled services to be represented in the short-stay QM(s) when they do not meet any of the exclusion criteria on the measure(s). For example, if a long-stay resident with Medicare Part A is admitted to the hospital, returns to the SNF after 4 nights, and qualifies for another SNF skilled benefit, then the SNF is going to complete a PPS 5-day MDS and PPS discharge assessment. Therefore, these residents are already included in the short-stay quality measures. However, we wish to clarify we did not propose any changes to our policies related to quality measures and will take this into consideration as we evaluate the impact of this data on our quality measures.

A few commenters raised concerns related to MDS assessment management within an all-payer framework. We address these concerns next.

Comment: A commenter questioned how this policy would address situations where the MA plan denies coverage but skilled care continues in the SNF or where the MA plan denies prior authorization, yet the SNF believes skilled care is clinically necessary at the time of admission or readmission.

Response: We proposed that SNFs would submit MDS data on residents admitted or readmitted to the SNF for covered skilled services, regardless of payer, when all of the four criteria outlined in the proposed rule (91 FR 17698 and 17699) are met. Neither of these scenarios meets the four criteria. Regarding the first scenario, the stay is no longer covered by the MA plan, then the SNF should complete a SCD. Regarding the second scenario, if the MA plan denies prior authorization for skilled care at the time of admission or readmission, the stay is not covered, and the SNF would not be required to complete a SCA.

Comment: A commenter raised concerns about the influence of MA

plans on the accuracy of MDS assessments and provided several examples noting that they often do not follow the Resident Assessment Instrument (RAI) User’s Manual coding instructions. A few other commenters recommended CMS take steps to ensure that all-payer reporting requirements do not inadvertently create inconsistent documentation expectations across payers.

Response: We acknowledge the commenters’ concern. However, CMS requires that all MDS 3.0 items are coded according to the CMS item definitions, coding instructions, coding tips, and response options in the manual. State or other payer requirements do not replace, modify, or add to the item definitions, coding instructions, coding tips, or response options specified in the manual.

Comment: A commenter requested CMS take steps to work with other payers to lessen burden on providers by utilizing the existing MDS assessment data for billing purposes rather than requiring unique assessments or documentation.

Response: We acknowledge the commenter’s concern, but CMS cannot control what other payers require for billing, and we do not expect to align rules with private insurers, since the completion of the SCA and SCD is for the purpose of meeting the SNF QRP data collection requirements.

Comment: One commenter noted that MA plans often require the completion of the PPS 5-Day assessment to obtain a Health Insurance Prospective Payment System (HIPPS) code, which is then used to pay the SNF or to determine a payment level for the SNF. However, since CMS strictly forbids the submission of any PPS 5-Day assessment for non-Medicare FFS residents, the SNF does not currently submit them. They noted that if the SCA does not establish a PDPM HIPPS code, providers may still be required to complete a non-submitted 5-Day MDS to satisfy MA plan billing requirements.

Response: We agree with the commenter and support the idea that the SCA should establish a PDPM HIPPS code. We plan to work internally to ensure the SCA will be included in the set of assessment types, as designated in response to MDS item A0310, that generate a PDPM HIPPS code for SNFs to use to satisfy MA plan billing requirements as necessary.

Comment: A few commenters noted that SNFs do not complete a Nursing Home Part A PPS Discharge (NPE) item set on non-Medicare FFS residents. A commenter noted that this adds an additional burden and another inquired

whether there would be a way to utilize the OBRA Discharge assessment alone for non-Medicare FFS residents.

Response: We appreciate the commenter’s question and considered various options for collecting information at discharge when implementing this policy. We also accounted for this requirement in our burden estimate. The currently required OBRA assessment does not collect all the items that would be required at the time of the skilled care discharge. We proposed that SNFs would submit these data on all non-Medicare FFS SNF residents at discharge using a revised NPE assessment and corresponding revised Swing Bed assessment (SD) as proposed at 91 FR 17700.

Additionally, we also note that CMS permits SNFs to combine assessments as outlined in the Resident Assessment Instrument Version 3.0 Manual on pages 2–17 through 2–20, and these combinations would apply to combining a Skilled Care Admission or Discharge Assessment with any required OBRA Nursing Home assessments.

Comment: A commenter recommended that CMS have a separate item set for unplanned discharges, similar to the Long-Term Care Hospital (LTCH) Continuity Record and Evaluation (CARE) Data Set (LCDS) which does have a separate item set for unplanned discharges. They note several items they believe are inappropriate to assess when a patient has an unplanned discharge.

Response: We appreciate the commenter’s recommendation. Currently, in the event of an unplanned discharge, where A0310G = 2 [Type of Discharge, Unplanned], resident interview items are not active. As part of CMS’ ongoing commitment to burden reduction, we are also considering whether there are items other than the interview items that would be appropriate to exclude when the resident experiences an unplanned discharge.

Comment: Several commenters expressed concerns around the potential for an all-payer reporting requirement to produce unintended administrative friction or duplicative data submission. These commenters raised concerns about unintended consequences for the Medicaid programs. Specifically, they raised concerns about creating conflicts with existing state Medicaid processes as a result of expanding Federal requirements on MDS submission.

These commenters recommended CMS work proactively with other payers, including state Medicaid agencies, managed care organizations, and Medicare Advantage plans, to

consider ways to ensure alignment and minimize the burden.

One of these commenters raised questions about how the proposed SNF QRP assessment schedule would or would not be impacted by other payer's assessment requirements and specifically whether all managed care products would have to adhere exclusively to the required SNF QRP assessment schedule. This commenter gave the example of an insurance carrier who required additional MDS assessments beyond the standard SNF schedule.

Another commenter pointed out concerns about the schedule for when to complete and submit MDS assessments, stating it is dictated by the payer, and there would be added burden to complete an MDS if the payer does not require one.

Response: We acknowledge the commenters' concern, but CMS cannot control what other payers may or may not require for their assessment schedules or documentation. To the extent that other payer assessment schedules differ from CMS' schedule, we believe SNFs already have processes for managing these differences.

We also acknowledge that there may be additional burden to complete an MDS when the payer does not require it. However, we believe the benefit of having complete MDS data on all residents admitted or readmitted for a covered skilled stay regardless of payer is important since it would contribute to optimal health for all within our nation's health and long-term care systems as outlined in our *FY 2025 to FY 2028 Centers for Clinical Standards and Quality Strategic Roadmap: Optimal Health for All Within Our Nation's Health and Long-Term Care Systems*.⁴⁰ We also note that we accounted for this additional burden in our burden estimate in the proposed rule (91 FR 17706 to 17708). Finally, we intentionally proposed to leverage the same MDS assessments and SNF PPS assessment schedule to mitigate significant disruption to SNFs' current workflows.

Comment: A commenter further requested that CMS require MA organizations and other payers to provide encounter or claims data to monitor quality, utilization, and access for all SNF residents, including residents whose care is not reflected in fee-for-service Medicare claims.

Response: We want to clarify that MA organizations are currently required to submit encounter data to CMS. CMS uses these data not only to calculate risk scores and risk-adjusted payments to MA plans, but also to monitor quality and utilization. For example, CMS recently updated the Nursing Home Long stay Antipsychotic measure to include Medicare Advantage Encounter data. Regarding the request that CMS require other payers to provide encounter or claims data, CMS does not have the authority to require other payers to give us this information.

Comment: A key concern expressed by a few commenters centered around the appropriateness of applying an all-payer framework to the SNF setting. These commenters stated that payer systems operate differently, so CMS would be improperly extending Medicare assumptions and methodologies into populations and payers it was not designed for, considering that other payers have different coverage rules, authorization structures, utilization management practices, quality oversight systems, network participation standards, reimbursement methodologies, and discharge incentives. A commenter stated that this challenge is magnified in SNF settings because SNFs routinely care for residents whose payer source, authorization status and level of care change during the stay.

Response: We disagree with the commenters' concern regarding the appropriateness of applying the all-payer framework to the SNF setting. As we have stated in our previous responses, we do not believe that other payers' coverage rules, authorization structures, utilization management practices, quality oversight systems, network participation standards, reimbursement methodologies, and discharge incentives present an insurmountable barrier. Furthermore, given the many differences across payer type cited by the commenters which may have impacts on the quality of care received by SNF residents, we continue to believe it is crucial to require the collection of equivalent data regardless of payer, for residents admitted or readmitted to the SNF for covered skilled services, to support transparency and accountability and to enable eventual comparisons of quality outcomes, and care patterns by payer.

We received a number of comments and recommendations related to how CMS might use the data obtained by this proposal.

Comment: These commenters expressed concern that some payers apply utilization management

requirements including discharge timing, length of stay or authorization/treatment intensity parameters, effectively exercising control over what should be within a SNF's control, and which could impact quality outcome results. These commenters were concerned that if MA data were combined with Medicare FFS data in quality reporting or public display without appropriate distinction, it could distort SNFs' quality profiles and mislead consumers utilizing the CMS Care Compare Tool or the Five-Star program effectively penalizing a SNF for differences driven by payer rather than quality of care. A few commenters specifically recommended that CMS issue explicit guidance on future uses of the non-Medicare FFS data before implementation begins and to engage with interested parties before expanding use of the data for refinements to quality measures. Another commenter recommended that CMS analyze data collected under the expansion separately by payer type while a number of other commenters recommended that CMS commit to payer-stratified reporting that keeps MA and FFS data separate and distinct.

Response: We interpret the commenters to be referring to how the data collected would be used for public reporting and specifically those activities associated with public reporting. We clarify for commenters that CMS did not make any proposals for policies related to publicly reporting SNF QRP data collected on non-Medicare patients. We appreciate these comments and intend to take these suggestions, including stratified quality measure reporting by payer, into consideration as we consider how the data might be publicly reported to best inform the public while being fair to the facility.

Comment: A commenter stated that the SNF QRP measures were largely designed around Medicare short-stay post-acute rehabilitation episodes. They expressed concern that if the proposal is implemented as proposed, facilities could face conflicting incentives between state Medicaid quality programs, MA network performance requirements, commercial payer scorecards, hospital preferred-provider systems, and Federal Medicare-oriented SNF QRP methodologies. They suggest MA plans already maintain preferred SNF networks, internal readmission scorecards, episode spending analyses, utilization management evaluations, and proprietary quality methodologies. A SNF could perform well under one payer's evaluation system while performing poorly under another. The

⁴⁰ Optimal Health for All Within Nation's Health and Long-Term Care Systems: CCSQ FY2025–2028 Strategic Roadmap. Available at <https://www.cms.gov/newsroom/blog/optimal-health-all-within-nations-health-long-term-care-systems-ccsq-fy2025-2028-strategic-roadmap>.

commenter stated that consumers may access or be provided with CMS Care Compare ratings, MA preferred-network designations, hospital preferred-provider lists, Medicaid quality rankings, and commercial payer scorecards that produce inconsistent conclusions about the same facility. The commenter believes this fragmentation risks creating substantial consumer confusion and undermining confidence in CMS public reporting.

Response: We disagree with the commenter's rationale that the fragmentation and conflicting incentives across payers and networks is a valid reason to not finalize this proposal to collect SNF QRP data on all residents admitted or readmitted to the SNF for covered skilled services regardless of payer. The concerns with fragmentation pointed out by the commenter are not created by this proposal. In fact, we would assert that if CMS Care Compare ratings are already being provided to potential residents, they should reflect a more comprehensive picture of the quality of care provided in each facility.

We would also note that the other examples provided by the commenter are not rating systems about SNF-level quality of resident care. Instead, they could reflect a financial motivation unrelated to quality performance, a preferred partner based on contract arrangements, or a hospital's preference to refer to a provider within their system network.

We believe that the requirement to collect standard data via the MDS on all residents admitted or readmitted to the SNF for covered skilled services regardless of payer provides an opportunity to reduce the fragmentation described by the commenter, and in fact, could reduce consumer confusion by providing a more complete picture of the quality of care being provided by SNFs.

Comment: A commenter noted that due to a lack of infrastructure for many SNFs to efficiently submit patient data electronically, CMS should only implement the proposed policy when this barrier to compliance has been adequately addressed. Another commenter stated that the combined proposals conflict with CMS's broader "Patients Over Paperwork" initiative and rather than reducing provider burden, it would move the SNF sector further toward manual compliance-oriented data processing rather than modernized, interoperable, automated quality measurement systems. This commenter and another one recommended prioritizing interoperability and standardized electronic exchange of post-acute

assessment data to avoid duplicative manual data entry requirements across hospitals, SNFs, Medicare Advantage plans, Medicaid programs, and managed care entities. One of these commenters noted that hospitals already invest substantial resources in interoperability and quality data infrastructure, and CMS should leverage that infrastructure rather than create parallel reporting streams.

Response: We acknowledge the Patients over Paperwork initiative launched by CMS in 2017 in response to a Federal directive to reduce unnecessary regulations and administrative burdens in healthcare. We still believe this goal to be important and are actively assessing the utility of all the data currently required to be collected for admission and discharge assessments. We are also committed to reviewing and considering the feedback on streamlining regulations and reducing administrative burden received on the "Unleashing Prosperity Through Deregulation" Executive Order (E.O.14192) RFI (as it applies to the Medicare program) in the FY 2026 proposed rule (90 FR 18590). We also want to point out that the Department of Health and Human Services (HHS) has a number of initiatives designed to encourage and support the adoption of interoperable health information technology and to promote nationwide health information exchange to improve health care and patient access to their digital health information.

We would like to note that in order to further interoperability in post-acute care settings, CMS and the Office of the National Coordinator for Health Information Technology (ONC) participate in the Post-Acute Care Interoperability Workgroup (PACIO) to facilitate collaboration with interested parties to develop Health Level Seven International® (HL7) Fast Healthcare Interoperability Resource® (FHIR) standards. Post-acute care providers and vendors, including SNFs and SNF vendors, are welcome to join this workgroup and become engaged in the conversations. More information can be found at: <https://pacioproject.org/>.

We also want to note that in the most recent CMS HL7 Fast Healthcare Interoperability Resources (FHIR®) Connectathon hosted July 15–16, 2026, CMS demonstrated using FHIR for the first time with its patient assessment reporting programs. Using the recently Proposed Inpatient Psychiatric Facilities Patient Assessment Instrument (IPF–PAI) as a use case, the Patient Assessment Reporting Interoperability Tool (PARIT) was introduced. PARIT is a FHIR-based web application designed

to collect and submit patient assessment data. Using the proposed IPF–PAI, CMS contractors demonstrated FHIR-based functionality for patient assessment instruments through a CMS-developed web application using Application Programming Interfaces (APIs) CMS has built from FHIR. This initiative represented a potential first use of FHIR for data submission in a CMS quality reporting program. We believe this demonstrates CMS' ongoing commitment to advancing interoperability in its data submission requirements.

Comment: Several commenters specifically expressed concern over measure validity and reliability implications, stating that the program and its measures were originally designed, tested, validated, calibrated, and risk-adjusted using Medicare FFS populations and claims. One of these commenters specifically pointed to the functional outcome measures, and the impact of premature discharges on QM performance. Another one of these commenters provided a detailed implementation timeline for data analyses, measure redevelopment, endorsement review, rulemaking, and public reporting.

Response: We clarify for commenters that CMS did not make any proposals for policies related to how this data would be used in quality measures. However, we appreciate these concerns and will take them into consideration as we evaluate the impact of this data on our quality measures.

Comment: Several commenters urged CMS to consider the potential of an increased number of SNFs failing to achieve the 90 percent MDS completion threshold. Some of these commenters stated that the additional reporting requirements imposed by this proposal has a more significant impact on the nursing home setting than other PAC settings. One of these commenters stated that it could substantially and disproportionately increase the compliance burden risk for losing the SNF QRP 2-percent payment adjustment.

Other commenters recommended a 2-year grace period for QRP compliance calculations. A commenter also recommended that CMS confirm that existing review and correction and appeals processes remain unchanged.

Response: Regarding the comments that the additional reporting requirements imposed by this proposal will disproportionately increase the risk of SNFs losing their annual two-percent APU adjustment, we disagree. CMS has provided a number of educational resources and training materials for

SNFs to take advantage of, reducing the burden to SNFs in creating their own training resources. Additionally, CMS recognizes that the effort of having to separate out Medicare beneficiaries from other residents has clinical and workflow implications that introduce burden, and collecting data on all residents admitted or readmitted to the SNF for covered skilled services regardless of payer would remove the burden of having to verify the resident's payer's requirements before beginning MDS collection. Data collection could begin immediately upon admission without delay. The SNF QRP Helpdesk and State RAI coordinators are also available to providers.

Regarding the comments that the additional reporting requirements imposed by this proposal have a more significant impact on the nursing home setting than other PAC settings, we disagree. SNFs have been collecting these items on all Medicare FFS residents since at least FY 2018, and most of these items on all residents regardless of payer for residents triggering OBRA requirements.

Additionally, CMS has several reports available to providers to monitor their compliance with the QRP reporting requirements during the year which help to reduce a SNF's risk of losing their SNF QRP 2-percent payment adjustment. These reports are available within iQIES to providers, including the SNF-Final Validation Report (FVR) and the Provider Threshold Report (PTR). The SNF FVR is automatically generated in iQIES within 24 hours of the submission of a file and placed in the provider's My Reports folder. The FVR provides detailed information about the status of submission files, including warnings and fatal errors encountered. The PTR allows providers to monitor their compliance status regarding the required data submission for the SNF QRP measures for the current Annual Payment Update (APU). It is a user-requested and on-demand report, meaning that it can be pulled anytime by the SNF.

Regarding the comments that recommended a 2-year grace period for QRP compliance calculations, we do not believe this is necessary and point out that providing a 3-year implementation runway provides SNFs with more time to prepare for the data collection than any other PAC setting was provided.

Comment: Many commenters expressed concerns regarding the burden placed on SNFs with the completion of additional assessments, noting SNFs are already facing workforce and administrative challenges. A few of these commenters

specifically expressed concerns about how SNFs are facing increasing workforce requirements due in part to staffing constraints driven by forces beyond their control. A commenter stated that the added burden would occur without a clear demonstration that the benefits of expanded data collection outweigh the operational impact on already strained provider staff. Another commenter stated CMS did not justify the estimated \$88 million burden and pointed to the fact that Dr. Mehmet Oz stated there is a staffing shortage in long-term care in an official communication on the platform X (<https://t.co/69Sqa29JV>). They also noted the cost of extending the SNF QRP program to all payers (\$88 million annually) exceeds the one-time \$75 million investment CMS is dedicating to the Nursing Home Staffing Campaign. Others expressed concern that vulnerable facilities (for example, rural facilities, high-Medicaid providers, standalone nursing homes, and providers lacking sophisticated compliance infrastructure) would experience the highest cost burden.

Several commenters expressed concern over existing challenges many facilities face with staffing resources. These commenters expressed additional concern that this strain, compounded with an increase in documentation, could impact direct care for residents or compromise care planning activities. One of these commenters further stated that, while the goal of submitting MDS data on all SNF residents regardless of payer may provide a robust and accurate representation of SNF quality it could potentially negatively impact quality by taking time away from direct care. Another one of these commenters encouraged CMS to proceed cautiously and ensure the burden caused by all-payer MDS data collection does not detract from resident care.

Response: Although the expanded data submission outlined in this proposal will increase the burden associated with completing the MDS, we carefully considered this increased burden against the benefits, both short-term and long-term, of expanding the collection of data to all residents admitted or readmitted to the SNF for skilled care, regardless of payer. We continue to believe collecting such quality data on all residents in the SNF setting would provide the most robust and accurate representation of quality in the SNFs.

Additionally, we disagree that the expanded data collection has no clear benefit and believe that this benefit does outweigh the impact on the SNF staff. As we stated in the proposed rule, CMS

currently has limited insight into the quality of care received by SNF residents because MDS submission is restricted to Medicare FFS residents. Expanding the collection of MDS data would ensure that CMS has full and complete data to assess the relative quality of care provided by SNFs to all residents, and to better evaluate the quality of care received by Medicare residents. We believe that this proposal will make the MDS assessment data more robust and represent the entire SNF population, rather than limiting the SNF QRP to only those patients with Medicare FFS benefits. We believe the expanded MDS data submission may promote higher quality healthcare for all SNFs residents through standardization of data submission, support for the exchange of longitudinal information between the SNFs and other providers and may advance SNFs' quality improvement activities. We also believe that by proposing implementation for the FY 2031 QRP, we are giving SNFs adequate time to prepare operationally for the additional requirements of the MDS data submission for residents admitted or readmitted to the SNF for covered skilled services regardless of payer.

Finally, we disagree that this policy, if finalized, would take time away from resident care. The items collected on the Nursing Home PPS (NP) and the Nursing Home Part A PPS Discharge (NPE) assessments are all important pieces of information to developing and administering a comprehensive plan of care. Rather than taking time away from resident care, providers will be submitting information they are likely already collecting through the course of providing care to their residents because the majority of NP and NPE items are already submitted for residents regardless of payer under the current OBRA requirements. Therefore, the new burden associated with the proposed policy is primarily for assessments for non-Medicare FFS residents with a length of stay less than 14 days and those non-Medicare FFS residents who are discharged to a non-skilled bed in the facility.

Comment: A commenter stated this expanded reporting may further drive the divergence between SNF statutory productivity adjustments for reimbursement, and real productivity growth within SNFs. This commenter believes expansion of MDS reporting should only occur after CMS moves to reduce, eliminate, or automate overlapping administrative activities, and recommended combining MDS assessments or other screenings and assessments into a single standardized

submission for all payer. This commenter also noted the overlap with similar existing assessments such as the Preadmission Screening and Resident Review (PASRR) for Medicaid.

Response: We note that the application of a productivity adjustment is statutorily required by section 1888(e)(5)(B)(ii) of the Act and described in section III.B.4. of this final rule.

We acknowledge that administrative burden is a persistent challenge for SNFs. However, we also must balance advancing health system efficiency with improving the experience of delivering and receiving health care. This was recently outlined in the FY 2025 to FY 2028 Centers for Clinical Standards and Quality Strategic Roadmap: Optimal Health for All Within Our Nation's Health and Long-Term Care Systems.⁴¹

Specific to this proposal, CMS intentionally designed the proposal to reduce disruption to SNFs' workflows by mirroring the assessment schedule that SNFs are already familiar with. Furthermore, we would remind providers that SNFs are already required to complete and submit OBRA admissions and discharges on residents that are not Medicare FFS, and that CMS permits SNFs to combine assessments as outlined in the Resident Assessment Instrument Version 3.0 Manual on pages 2–17 through 2–20.

Additionally, CMS believes that the requirements of the policy do not overlap with the PASRR, which is required for all residents seeking admission to a Medicaid-certified nursing facility, regardless of the individual's payment source, to screen for possible mental illness, intellectual disability, or related conditions. Further, Federal regulations at 42 CFR 483.108(c) require PASRR to be coordinated with routine resident assessments. Given this existing and ongoing coordination requirement, CMS does not believe the changes in this rule will result in any duplication of effort between state Medicaid agencies and SNFs.

Comment: A commenter noted that CMS did not address how the anticipated burden would be funded to implement these changes. Another commenter stated that this burden is especially problematic because nursing homes generally cannot recover the administrative costs. They expressed concern that facilities already operate

under substantial Medicaid underfunding pressures, and Medicaid frequently pays below the actual cost of nursing facility care. Facilities generally cannot recover Federal reporting costs through Medicaid reimbursement; require MA plans to reimburse reporting infrastructure costs; or compel other Federal payers such as VA and TRICARE, or commercial payers to fund CMS compliance obligations.

Several other commenters recommended that CMS ensure SNF providers have adequate resources to support the requirement to submit MDS data on all SNF residents receiving covered skilled services regardless of payer, if finalized. Specifically, they pointed to the increase in administrative burden, lack of infrastructure for electronic data submission, financial strain, and the impact on nonprofit providers serving large Medicare populations, which could result in resources being diverted from direct care. One of these commenters recommended that there should be adequate funding to support the additional requirement if it is finalized. Other commenters urged CMS to explore targeted funding mechanisms, such as technical assistance grants, to help the smaller and rural SNFs build the capacity needed for this change.

Response: We have examined the impacts of this proposed rule as required by Executive Order 12866, "Regulatory Planning and Review"; Executive Order 13132, "Federalism"; Executive Order 13563, "Improving Regulation and Regulatory Review"; Executive Order 14192, "Unleashing Prosperity Through Deregulation"; the Regulatory Flexibility Act (RFA) (Pub. L. 96354); section 1102(b) of the Social Security Act; section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, ensure that public input is included in the process and, if regulation is necessary, to select regulatory approaches that maximize net benefits.

As required, we have considered the benefits and costs of the proposal to expand the MDS data submission to include all residents admitted or readmitted to the SNF for covered skilled services, regardless of payer. When considering the benefits and costs of the proposal we account for public input and reviewed several statements from the SNF community and other interested parties that completing MDS assessments on all residents would be less burdensome than the current process and is already being done by

many SNFs. However, we acknowledge that the new burden will vary by SNF. For this reason, we proposed to implement this policy beginning with the FY 2031 SNF QRP which provides over 3 years for SNFs to adjust existing workflows, EHRs, and other processes. Finally, we proposed to add the minimum number of new MDS items needed to an existing MDS admission and discharge assessment to facilitate the submission of these data.

Comment: Commenters raised concerns that the proposal conflicts with broader CMS goals and objectives. A commenter stated that the QRP all-payer proposal directly conflicts with CMS's FY 2025 to FY 2028 *Centers for Clinical Standards and Quality Strategic Roadmap: Optimal Health for All Within Our Nation's Health and Long-Term Care Systems*.⁴² The fifth goal, "Reduce Burden," focuses on simplifying the system so providers can spend more time with patients and less time on paperwork. CMS is identifying outdated requirements, streamlining oversight, and using automation to reduce unnecessary administrative work. Where possible, reporting systems are being aligned to cut down on redundant data submissions and make compliance more efficient.

Response: We acknowledge the proposal will add burden, but we believe that the all-payer proposal aligns with CMS's second listed goal: "Improve Quality and Protect Safety." Specifically, requiring MDS data submission for all SNF residents regardless of payer supports the desired outcome of Goal 2 by promoting transparency, and enhancing health outcomes. Additionally, the proposal will enable further alignment and streamlining of quality measures across care settings and payers, which are key actions to attain this goal.

Comment: Commenters encouraged CMS to carefully evaluate the burden associated with submitting MDS data on all residents regardless of payer. Several commenters requested that CMS expand on how the burden was calculated and speak specifically to the estimated number of new MDS assessments. A few commenters expressed that the total estimated change in burden presented in the proposed rule was low. Another commenter expressed concern that the additional burden of obtaining prior authorization for MA plans due to the variability and complexity of MA

⁴¹ Optimal Health for All Within Nation's Health and Long-Term Care Systems: CCSQ FY2025–2028 Strategic Roadmap. Available at <https://www.cms.gov/newsroom/blog/optimal-health-all-within-nations-health-long-term-care-systems-ccsq-fy2025-2028-strategic-roadmap>.

⁴² Optimal Health for All Within Nation's Health and Long-Term Care Systems: CCSQ FY2025–2028 Strategic Roadmap. Available at <https://www.cms.gov/newsroom/blog/optimal-health-all-within-nations-health-long-term-care-systems-ccsq-fy2025-2028-strategic-roadmap>.

documentation is significant. Additionally, some of these commenters were concerned that the burden estimate did not account for added operational complexities placed on facilities and vendors in order to maintain processes and compliance. A commenter also expressed that the added variation associated with MA plans will place an additional burden on health IT vendors, who must capture all the separate ways MA plans report patient assessment. A commenter requested additional burden analysis before implementation, specifically for small and rural facilities. A few other commenters expressed concern that the burden of compliance is likely more for facilities that will need to build new workflows from the ground up.

Response: We acknowledge the commenters' concerns about the burden and wish to clarify what the burden estimate does and does not include.

Under current OBRA requirements SNFs are required to complete a comprehensive admission assessment for all residents regardless of payer when length of stay is ≥ 14 days, and to complete a discharge assessment when a resident is physically discharged from the facility. Therefore, we believe most of this new burden would occur when a non-Medicare FFS resident's length of stay (LOS) is < 14 days and/or they are discharged to a non-certified bed in the nursing facility (NF), which would trigger a skilled care discharge. To estimate the number of new MDS assessments SNFs would submit under this proposed policy, we examined two characteristics of current Medicare FFS resident stays: (i) estimated LOS; and (ii) SNF practices for combining comprehensive (OBRA) and PPS item sets. First, we found that the average LOS for Medicare FFS beneficiaries was 27 days. However, while public information suggests that nationally, resident stays covered by MA plans, Medicaid, and other payers are shorter, they remain above the 14-day threshold. Therefore, SNFs would already be required to submit an MDS assessment for these resident stays due to the OBRA requirements.

Second, we examined SNF practices for combining assessments, and our finding was that SNFs combine 5-day PPS and OBRA Admission assessments 77.1 percent of the time and combine Part A PPS Discharge assessments and OBRA Discharge assessments 70 percent of the time. We assume provider behavior will not change under a MDS submission policy for all residents admitted or readmitted to the SNF for covered skilled services, regardless of payer. Specifically, we assume SNFs

will combine assessments for non-Medicare FFS residents at admission 77.1 percent of the time and combine assessments for non-Medicare FFS residents at discharge 70 percent of the time. As a result, the additional burden of completing new MDS assessments under this proposed policy would be limited to assessments that are not combined, that is, about 22.9 percent of admission assessments and 30 percent of discharge assessments.

Regarding the comments about accounting for additional operational complexities, such as obtaining prior authorization, additional documentation and vendor updates to maintain processes, we remind readers that the SNF QRP is a reporting program, and the burden is limited to submitting MDS assessment data to CMS. We do not include operational burden in the burden assessment because these processes will vary across providers. Furthermore, our burden estimates are consistent with the methodology that we have used in the past.

Finally, in response to the commenter's request for additional burden analysis for small and rural facilities, we understand the request to be for a separate burden estimate for those providers. We have not developed separate estimates for these costs in the past. The MDS data submission requirements for small and rural facilities are the same as those for larger urban facilities, and because this estimate is limited to MDS data submission, we believe these facilities already have workflows in place to meet those requirements. For that reason, we do not believe a separate estimate is necessary. We do acknowledge, however, that the actual burden will vary across providers, with some experiencing more burden than our estimate and others less.

Comment: Commenters also encouraged CMS to provide SNFs with clear guidance, education and technical assistance, sufficient implementation time, and ongoing communication and engagement during the process. One of these commenters also recommended CMS facilitate testing and revisit SNF readiness prior to final implementation for the FY 2031 SNF QRP.

Response: Consistent with how we have managed changes to the SNF QRP reporting requirements in the past, we plan to provide training resources in advance of the implementation date to ensure that SNFs have the tools necessary to successfully meet the new reporting requirements. These training resources may include online learning modules, tip sheets, questions and

answers documents and/or recorded webinars and videos.

Additionally, the MDS RAI Manual will be updated, and we intend to provide detailed guidance and examples for how to address specific issues such as payer changes. The SNF QRP Helpdesk and the State RAI coordinators will also be available to providers.

Regarding the comment recommending CMS facilitate testing and revisit SNF readiness prior to final implementation, we do not believe either is necessary. We interpret the commenter's suggestion that CMS facilitate testing to mean that MDS data submission should be tested. However, SNFs have been completing and submitting MDS data since 1999, and we are unaware of any specific issues that would necessitate retesting MDS data submission. Additionally, we believe since SNFs will have 3 years to adjust their existing workflows, EHRs, and other processes, there will be ample time for SNFs to prepare.

Comment: A few commenters appreciate the FY 2031 timeline for this expansion, with one commenter stating the timeline was appropriate and provided enough time for EHR developers and SNFs to prepare for the change. This commenter requested, however, that CMS publish the new MDS item specifications in the Resident Assessment Instrument (RAI) Manual at least 18 months prior to the October 1, 2030, effective date, referring to the development cycle needed for the new items and modified item required to facilitate all-payer data submission to CMS. This commenter further requested that CMS provide clear specifications on how the new payer-type MDS items will interact with existing payer items.

Response: We thank the commenters for their recognition that the three-year implementation timeline provides both EHR developers and SNFs adequate time to prepare for the change. We do wish to clarify that the proposal would become effective October 1, 2029, not October 1, 2030, for the FY 2031 SNF QRP.

Regarding the comment requesting CMS publish the item specifications at least 18 months prior to the effective date, we aim to give clear guidance to providers well in advance of the effective date, as we do with any release of the MDS. We intend to provide draft item sets and data specifications at least 1 year prior to implementation. These resources will provide clear guidance and specifications on how the new MDS items will interact with existing items.

Comment: A few commenters expressed concern around the combined

effect of the proposal to expand MDS data collection and the proposal to shorten the SNF QRP data submission deadline. They stated the larger number of MDS assessments within a short timeframe would demand increased effort for interdisciplinary clinical and administrative personnel. These commenters stated that implementing these two proposals together will substantially compress the period available for activities related to the SNF QRP data submission cycle such as coding review, validation and correction activities, and interdisciplinary reconciliation. One of these commenters stated that the combination of these two policies would create a significant escalation in operational complexity and staffing burden. A commenter shared additional details, stating that while currently many facilities complete the comprehensive MDS for certain MA residents, they have 14 days from their admission, and the impact of these combined proposals would mean a SNF would need to complete a new, separate admission assessment in fewer days.

Response: We acknowledge that the combination of these two proposals may give the impression that they are being implemented in a parallel manner. However, as discussed in section VI.F.2.b of this final rule, we believe requiring SNFs to submit MDS assessment data by the 15th day of the second month after the end of the calendar quarter is reasonable, considering only 2.69 percent of MDS assessments would be impacted by changing the data submission deadline. Furthermore, this change is effective January 1, 2027.

The data collection for the proposal to submit MDS data on all residents admitted or readmitted to the SNF for covered skilled services regardless of payer would become effective on October 1, 2029. Even if we allow for the possibility that SNFs will need the entire 12 months of CY 2027 to adjust to the revised data submission deadline, that means SNFs would still have an additional 22 months to prepare for modifying their activities related to the expansion of the MDS data submission.

Regarding the comment that discussed the impact of completing a new assessment in fewer days, we believe we have addressed how we accounted for this potential burden earlier in our comment responses.

Comment: Several commenters recommended that CMS phase-in the implementation of this policy to mitigate unintended consequences to care access. One of these commenters as well as others recommended that CMS limit its MDS assessment expansion to

only MA patients and exclude all other non-Medicare payers to minimize reporting burden. A commenter provided several examples of alternative implementation approaches used by other PAC settings, including IRFs limited expansion to Medicare Part A and Medicare Part C payers for initial implementation and full expansion to all-payers in October 2024. The commenter had a few suggestions. The first was to adopt a phase-in approach that would include only Medicare Part C residents for at least the first 2 program years of implementation before expanding to all payers. The second was to allow for volunteer submission for the first 3 quarters of implementation. Finally, the commenter suggested combining the first two approaches and, if adopted, subsequently implement a volunteer reporting period any time the policy was expanded to include more payer types.

Response: We do not believe that a phase-in approach or grace period is necessary since this proposal would not take effect until October 1, 2029. Further, we believe that phasing in the proposed data submission could add operational complexity, since both SNFs and vendors would have to update workflows multiple times. We also believe that a voluntary submission period would add unnecessary confusion for SNFs by complicating the data submission deadline. As we do with all new policies, we will continue to monitor data submission as part of our overall program monitoring.

Comment: Another commenter stated that though MA-only expansion would be narrower than the proposed all-payer requirement, it would still impose a major unfunded compliance obligation because MA SNF volume is large and growing. They stated that in markets where MA admissions already exceed FFS Part A admissions, the marginal burden of adding MA could be larger than the current FFS SNF QRP reporting burden itself. The commenter expressed that this alternative should not be implemented without a phased, fully funded, and methodologically sound transition. They also stated that they do not accept CMS' assessment that a substantial number of SNFs already collect this data. They expressed concern that even if some SNFs collect this data for some non-Medicare FFS admissions, that data collection alone does not account for the additional compliance burden required, specifically because CMS currently prohibits the submission of such non-FFS assessments (and even penalizes some providers for such submissions). The commenter believes that, as a

result, CMS should not treat MA-only expansion as a low-burden compromise.

Response: We appreciate the commenters' concerns that even a potentially narrow MA-only expansion imposes significant obligations on a SNF. However, as the commenter correctly noted, the large and increasing volume of MA admissions is a primary reason we believe it is necessary to obtain admission and discharge assessment information on all residents admitted or readmitted to the SNF for covered skilled services, regardless of payer.

We believe that our assessment that a substantial number of SNFs already collect this data is accurate. For example, in response to this proposal, we received several comments stating that most facilities are already completing MDS assessments on all residents because of existing resident assessment obligations. A few of these commenters noted that this additional reporting would add no substantial burden to their existing processes.

Regarding the comment that CMS penalizes SNFs who inadvertently submit non-FFS assessments to iQIES, we are uncertain what penalties this commenter is referencing. Currently, the only way CMS would obtain a non-FFS assessment would be if a SNF incorrectly coded the assessment. While we do expect SNFs to contact their State RAI coordinator and submit a Manual Individual Correction/Deletion request, this is not associated with any penalty under the SNF QRP.

Additionally, we have previously acknowledged the potential additional burden for SNF providers not already collecting this information and provided further clarification in this final rule as to how we estimated the burden. However, we believe the benefit of expanding MDS data submission supports our proposal. We believe that having this additional data will benefit the SNF as well. As we have noted throughout this final rule, we received many comments, recommendations, and suggestions related to how the additional data should be carefully analyzed in order to support transparency and provide additional insight into the care patterns in a SNF. For example, several commenters suggested that CMS provide SNFs with stratified quality measure reporting by payer. We recognize why commenters would find value in this kind of report. Therefore, we intend to take these suggestions, including stratified quality measure reporting by payer, into consideration as we consider how the data might be publicly reported to best

inform the public while being fair to the facility.

Comment: We received a few comments discussing how MA plans approve or deny SNF coverage of skilled care and the various payment structures used by MA plans.

Response: We deem these comments out of scope.

After consideration of public comments, we are finalizing our proposal to require the submission of MDS data on all residents admitted or readmitted to SNFs for covered skilled services regardless of payer beginning with the FY 2031 SNF QRP.

G. Policies Regarding Public Display of Measure Data for the SNF QRP

1. Background

We refer readers to the FY 2017 SNF PPS final rule (81 FR 52045 through 52048) for a discussion of our policies regarding public display of SNF QRP measure data and procedures for SNFs to review and correct data and information prior to their publication.

2. End the Public Display of the COVID-19 Vaccination Coverage Among Healthcare Personnel (HCP) Measure

In the FY 2022 SNF PPS final rule (86 FR 42496 through 42498), we finalized our proposal to publicly report the COVID-19 Vaccination Coverage among Healthcare Personnel (HCP) measure (HCP COVID-19 Vaccine) beginning with the October 2022 Care Compare refresh on *Medicare.gov*. In section VI.C. of this final rule, we proposed to remove the HCP COVID-19 Vaccine measure beginning with the FY 2028 SNF QRP. If finalized as proposed, a SNFs' HCP COVID-19 Vaccine measure data would be publicly reported for the last time with the October 2026 Care Compare refresh on *Medicare.gov*, based on data from Q4 of 2025. Thereafter, we would no longer display a SNF's HCP COVID-19 Vaccine measure data on the Care Compare tool at *Medicare.gov*.

We received public comments on our proposal to end public display of the HCP COVID-19 Vaccine measure data after the October 2026 Care Compare refresh on the Care Compare tool at *Medicare.gov*. The following is a summary of the comments we received and our responses.

Comment: Several commenters supported removal of the measure from public reporting because it no longer reflects current clinical guidance and practice and provides diminishing value as COVID-19 transitions to routine clinical management. Commenters stated that the measure is no longer appropriate for quality program

compliance or public reporting purposes.

A few commenters opposed removal from public reporting and stated that vaccination information provides important information to residents, families, caregivers, and discharge planners when evaluating skilled nursing facilities. Some commenters recommended maintaining public display of the measure or continuing to display voluntarily submitted data.

Response: We thank the commenters for their feedback. We appreciate commenters' support for the removal of this measure from public reporting and acknowledge other commenters' interest in maintaining transparency and providing meaningful information to residents, families, caregivers, and discharge planners.

However, we disagree that the publicly reported information provides meaningful information to residents, families, caregivers, and discharge planners. As discussed in the proposed rule, current CDC COVID-19 vaccination recommendations are based on shared clinical decision-making rather than a uniform recommendation for a defined population. Given these changes to CDC recommendations regarding COVID-19 vaccination, these data no longer provide information to consumers that allows them to ascertain how many healthcare personnel at a SNF have been vaccinated. Therefore, we believe the measure is no longer appropriate for quality program compliance or public reporting purposes.

With regard to comments about continuing to display voluntarily submitted data, if finalized, we would no longer require data collection on this measure for purposes of the SNF QRP and would not obtain data submitted voluntarily to the CDC NHSN. Because the measure is being removed from the SNF QRP, associated public reporting will also cease.

After consideration of public comments, we are finalizing our proposal to end public display of the HCP COVID-19 Vaccine measure data after the October 2026 Care Compare refresh on the Care Compare tool at *Medicare.gov*.

3. End the Public Display of the COVID-19 Vaccine: Percent of Patients/Residents Who Are Up to Date Measure

In the FY 2024 SNF PPS final rule (88 FR 53275 through 53276), we finalized our proposal to begin publicly displaying data for the COVID-19 Vaccine: Percent of Patients/Residents Who Are Up to Date measure (Patient/Resident COVID-19 Vaccine) beginning

with the October 2025 Care Compare refresh. In section VI.D. of this final rule, we would remove the Patient/Resident COVID-19 Vaccine measure beginning with the FY 2028 SNF QRP. If finalized as proposed, the reporting of data for the "Resident's COVID-19 vaccination is up to date" data element would be voluntary effective October 1, 2026, and the Patient/Resident COVID-19 Vaccine measure data would be publicly reported for the last time with the October 2026 Care Compare refresh on *Medicare.gov*, based on data from Q4 of 2025.

We invited public comment on our proposal to end the public display of Patient/Resident COVID-19 Vaccine measure data after the October 2026 Care Compare refresh on *Medicare.gov*. The following is a summary of the comments we received and our responses.

Comment: Several commenters supported removal of the Patient/Resident COVID-19 Vaccine measure from public reporting because it no longer reflects current clinical guidance and practice. Commenters stated that the measure no longer serves as a meaningful or current indicator of quality and no longer provides meaningful or actionable information to consumers. Other commenters stated that continued public reporting provides diminishing value as COVID-19 transitions to routine clinical management.

Several commenters opposed removal of the Patient/Resident COVID-19 Vaccine measure from public reporting because they believe vaccination information provides important information to residents, families, caregivers, discharge planners, and other interested parties when evaluating skilled nursing facilities. Commenters stated that publicly reported vaccination information promotes transparency and accountability and helps consumers make informed decisions regarding facility selection. One commenter recommended that CMS continue publicly displaying voluntarily submitted COVID-19 vaccination data if mandatory reporting is removed.

Response: We thank the commenters for their feedback. We appreciate commenters' support for the removal of this measure from public reporting and acknowledge other commenters' interest in maintaining transparency and providing meaningful information to residents, families, caregivers, and discharge planners.

However, we disagree that the publicly reported information provides meaningful information to residents, families, caregivers, and discharge

planners. As discussed in the proposed rule, the Patient/Resident COVID–19 Vaccine measure was intended to provide consumers with information regarding the prevalence of COVID–19 vaccination among SNF residents. Given the changes to CDC recommendations regarding COVID–19 vaccination, both vaccination and non-vaccination may be consistent with current clinical guidance. As a result, these data no longer provide information that allows consumers to ascertain how many residents at a SNF have been vaccinated. Therefore, we believe the measure no longer provides meaningful or actionable information to consumers and that removal of the measure and associated public reporting is appropriate.

With regard to comments about continuing to display voluntarily submitted data, if finalized, we would no longer require data collection on this measure for purposes of the SNF QRP and would not publicly report voluntarily submitted data for a measure that has been removed from the program. Because the measure is being removed from the SNF QRP, associated public reporting will also cease.

After consideration of public comments, we are finalizing our proposal to end the public display of Patient/Resident COVID–19 Vaccine measure data after the October 2026 Care Compare refresh on *Medicare.gov*.

H. Miscellaneous Comments

Comment: Several of the comments received were outside the scope of the SNF QRP proposals in the FY 2027 SNF PPS proposed rule. Specifically, we received comments regarding advancing digital quality measurement and financial incentives for SNFs adopt technology that supports the electronic transmission of health information.

Response: We thank the commenters for bringing these issues to our attention and will take these comments into consideration for potential policy refinements.

VII. Updates to the Skilled Nursing Facility Value-Based Purchasing (SNF VBP) Program

A. Statutory Background

Through the SNF VBP Program, we award incentive payments to SNFs to encourage improvements in the quality of care provided to Medicare beneficiaries. The SNF VBP Program is authorized by section 1888(h) of the Act, and it applies to freestanding SNFs, SNFs affiliated with acute care facilities, and all non-critical access hospitals (CAH) swing-bed rural hospitals. The SNF VBP Program has helped to transform how Medicare payment is made for SNF care, moving toward rewarding better value and outcomes instead of merely rewarding volume. Our codified policies for the SNF VBP Program can be found in our regulations at 42 CFR 413.337(f) and 413.338.

We received several general comments regarding the SNF VBP Program. The following is a summary of the comments and our response.

Comment: A commenter encouraged CMS to continue evaluating the impact of the SNF VBP Program, specifically on providers serving rural, medically complex, and socially vulnerable populations.

A few commenters shared concerns regarding the current SNF VBP Program’s payment methodology and payback percentage. Some of these commenters encouraged CMS to increase the annual payback percentage to better support facilities caring for complex resident populations or to better support facilities’ investments in quality improvement initiatives and

workforce development. Some other commenters specifically suggested that CMS implement a 70 percent annual payback percentage, the maximum percentage currently authorized by statute.

A commenter suggested that CMS reconsider the finalized case minimums for each measure, as well as the finalized measure minimum, and explore alternative statistical approaches to increase participation of lower-volume facilities without compromising measure reliability and validity. This commenter also asked CMS to provide more timely performance feedback, ideally quarterly, to support SNFs’ quality improvement interventions.

Response: We acknowledge the commenters’ concerns and thank the commenters for their feedback. We intend to take this feedback into consideration as part of our SNF VBP Program monitoring and evaluation efforts.

With respect to the concern regarding providing timely performance feedback, we note that we currently provide quarterly confidential feedback reports to SNFs with information on their performance in the SNF VBP Program.

B. SNF VBP Program Measures

1. Background

Our current measure selection, retention, and removal policy is codified at 42 CFR 413.338(k). We also refer readers to the FY 2024 SNF PPS final rule for background on the measures we have adopted for the SNF VBP Program (88 FR 53276 through 53297). Table 15 lists the measures that have been adopted for the SNF VBP Program, along with their status in the program for the FY 2027 program year through the FY 2030 program year.

TABLE 15: SNF VBP PROGRAM MEASURES AND STATUS IN THE SNF VBP PROGRAM FOR THE FY 2027 PROGRAM YEAR THROUGH THE FY 2030 PROGRAM YEAR

Measure	FY 2027 Program Year	FY 2028 Program Year	FY 2029 Program Year	FY 2030 Program Year
Skilled Nursing Facility 30-Day All-Cause Readmission Measure (SNFRM)	Included			
Skilled Nursing Facility Healthcare-Associated Infections Requiring Hospitalization (SNF HAI) measure	Included	Included	Included	Included
Total Nurse Staffing Hours per Resident Day (Total Nurse Staffing) measure	Included	Included	Included	Included
Total Nursing Staff Turnover (Nursing Staff Turnover) measure	Included	Included	Included	Included
Discharge to Community – Post-Acute Care Measure for Skilled Nursing Facilities (DTC PAC SNF)	Included	Included	Included	Included
Percent of Residents Experiencing One or More Falls with Major Injury (Long-Stay) (Falls with Major Injury (Long-Stay)) measure	Included	Included	Included	Included
Discharge Function Score for SNFs (DC Function) measure	Included	Included	Included	Included
Number of Hospitalizations per 1,000 Long Stay Resident Days (Long Stay Hospitalization) measure	Included	Included	Included	Included
Skilled Nursing Facility Within-Stay Potentially Preventable Readmissions (SNF WS PPR) measure		Included	Included	Included

While we did not propose any changes to the previously adopted SNF VBP Program measure set, we received several comments on quality measurement topics. The following is a summary of the comments we received and our response.

Comment: A few commenters supported the Skilled Nursing Facility Healthcare-Associated Infections Requiring Hospitalization (SNF HAI), Total Nurse Staffing Hours per Resident Day (Total Nurse Staffing), and Total Nursing Staff Turnover (Nursing Staff Turnover) measures in the current SNF VBP Program measure set due to staffing level and stability being positively correlated with resident safety and quality of care, and the source data—claims and Payroll-Based Journal (PBJ) staffing data—being concrete and auditable. A commenter supported the Total Nurse Staffing and Nursing Staff Turnover measures in the current SNF VBP Program measure set as they believe staffing measures are one of the most reliable quality indicators. A commenter supported the Skilled Nursing Facility Readmission Measure (SNFRM), SNF HAI, Total Nurse Staffing, Nursing Staff Turnover, and Number of Hospitalizations per 1,000 Long Stay Resident Days (Long Stay Hospitalization) measures in the current SNF VBP Program measure set. A commenter supported the use of claims-based measures in the SNF VBP Program and encouraged the use of measures of hospitalization rates, successful community transitions, maintenance of function, staffing stability, and resident outcomes.

A few commenters shared concerns with the SNFRM and Long Stay Hospitalization measures due to these measures potentially incentivizing facilities to retain residents and avoid appropriate hospitalizations.

Some commenters expressed concern about the use of Minimum Data Set (MDS) assessment data in quality measures. They expressed the need for increased oversight, an auditing program, and a penalty system for inaccurate self-reported data, citing reputational incentives for facilities to manipulate this data as well as reports showing substantial underreporting of falls, pressure injuries, and other adverse outcomes. A commenter supported the use of PBJ data but urged CMS to implement a stronger and more frequent review and auditing process for this data. They suggested that CMS focus on auditing existing structural information within PBJ data, such as reported hours for professional services beyond nursing that are also essential to

meeting residents' complex needs, like medical directors or social workers.

A commenter stated that the SNFRM, Total Nurse Staffing, Nursing Staff Turnover, Discharge to Community—Post-Acute Care Measure for Skilled Nursing Facilities (DTC PAC SNF), and Percent of Residents Experiencing One or More Falls with Major Injury (Long-Stay) (Falls with Major Injury (Long-Stay)) measure were highly relevant to patients with serious illnesses and caregiver needs, but encouraged CMS to continue exploring additional measures that directly address serious illness care in SNFs, including pain and symptom management, referral to palliative care or hospice, serious illness communication and goals of care discussions, and caregiver experience. A commenter recommended CMS develop a quality measure focused on the amount of care time provided per resident day by a variety of staff, not just nurses, to ensure that SNF residents are receiving sufficient hours of care by all professionals. Another commenter recommended CMS incorporate stronger community transition and discharge outcome measures into the SNF VBP Program, including measures related to sustained community discharge and reductions in avoidable long-stay institutionalization, as well as consider measures of behavioral health, dementia care quality, and caregiver engagement.

A few commenters recommended that CMS risk-adjust measures as appropriate so SNFs are incentivized to provide care to all patients.

Response: We thank the commenters for their support and recommendations, as well as acknowledge their concerns. We intend to take this feedback into consideration as part of our monitoring and evaluation efforts related to the SNF VBP Program measure set.

With respect to commenters' recommendations of incorporating measures related to sustained community discharge and successful community transitions, hospitalization rates, maintenance of function, staffing stability, and resident outcomes, we note the current SNF VBP Program measure set addresses these concepts. Specifically, the DTC PAC SNF, Long Stay Hospitalization, Discharge Function Score for SNFs (DC Function) measure, and Nursing Staff Turnover measures, respectively, address one of these concepts directly, and overall, six of the eight currently adopted measures capture resident outcomes. In addition, with respect to the commenter's recommendation to risk-adjust measures as appropriate, we confirm six of the eight currently adopted measures implement a risk adjustment

methodology when assessing SNF performance. We refer readers to the FY 2024 SNF PPS final rule for background on the measures we have adopted for the SNF VBP Program (88 FR 53276 through 53297).

With respect to commenters' concerns regarding the validation of MDS assessment data and PBJ staffing data, we note that validation programs are in place to regularly collect and review these data for compliance and accuracy. In particular, in response to new requirements at section 1888(h)(12) of the Act, we adopted a new MDS Validation Program in the FY 2024 SNF PPS final rule (88 FR 53324 through 53325) and began implementation of this new MDS Validation Program in FY 2026. More information is available on the CMS website: <https://www.cms.gov/medicare/quality/value-based-programs/value-based-purchasing-snf-vbp-program/data-validation-process>.

2. Regulation Text Technical Update

In the FY 2027 SNF PPS proposed rule (91 FR 17701), we proposed to update a reference within our codified measure selection, retention, and removal policy that we finalized in the FY 2025 SNF PPS final rule (89 FR 64126 through 64127) but did not update when finalizing other updates to the regulations in the FY 2026 SNF PPS final rule (90 FR 37345 through 37352). Specifically, we proposed updating 42 CFR 413.338(k)(3) to reference § 413.338(k)(2) of the regulations for details on the measure selection, retention, and removal policy rather than § 413.338(l)(2).

We invited public comment on this proposed technical update to our regulation text. We received a public comment on this proposal. The following is a summary of the comment we received and our response.

Comment: A commenter supported the regulation text technical updates for the SNF VBP Program.

Response: We thank the commenters for their support.

After consideration of public comments, we are finalizing the regulation text technical updates as proposed.

C. SNF VBP Performance Standards

1. Background

Our current definitions for the performance standards are codified at 42 CFR 413.338(a), and our current performance standards notification and updates policies are codified at 42 CFR 413.338(m). We also refer readers to the FY 2024 SNF PPS final rule (88 FR 53299 through 53300) for a detailed

history of our performance standards policies. In the FY 2026 SNF PPS final rule (90 FR 37348 through 37349), we adopted the final numerical performance standards for the remaining measures applicable to the FY 2028 program year, and the final numerical performance standards for the FY 2029 program year for the Discharge to Community—Post-Acute Care Measure for Skilled Nursing Facilities (DTC PAC SNF) and Skilled Nursing Facility Within-Stay Potentially

Preventable Readmissions (SNF WS PPR) measures.

2. Performance Standards for the FY 2029 Program Year

To meet the requirements at section 1888(h)(3)(C) of the Act, we are providing the final numerical performance standards for the remaining measures applicable to the FY 2029 program year: the SNF HAI measure, Total Nurse Staffing measure, Nursing Staff Turnover measure, Falls with Major Injury (Long-Stay) measure,

Long Stay Hospitalization measure, and DC Function measure. In accordance with our methodology for calculating performance standards previously finalized in the FY 2017 SNF PPS final rule (81 FR 51996 through 51998), the final numerical values for the FY 2029 program year performance standards are shown in Table 16. These final values are only minorly different from the estimated values included in the FY 2027 SNF PPS proposed rule (91 FR 17702).

TABLE 16: FY 2029 SNF VBP PROGRAM PERFORMANCE STANDARDS

Measure Short Name	Achievement Threshold	Benchmark
SNF HAI Measure	0.92102	0.94355
Long Stay Hospitalization Measure	0.99762	0.99960
Nursing Staff Turnover Measure	0.44444	0.77731
Total Nurse Staffing Measure	3.33606	5.98992
DC Function Measure	0.42857	0.84522
Falls with Major Injury (Long-Stay) Measure	0.95522	0.99945

3. Performance Standards for the FY 2030 Program Year

To meet the requirements at section 1888(h)(3)(C) of the Act, we are providing the final numerical performance standards for the FY 2030 program year for the DTC PAC SNF and SNF WS PPR measures. In accordance

with our methodology for calculating performance standards previously finalized in the FY 2017 SNF PPS final rule (81 FR 51996 through 51998), the final numerical values for the FY 2030 program year performance standards for the DTC PAC SNF and SNF WS PPR measures are shown in Table 17. These final values are only minorly different

from the estimated values included in the FY 2027 SNF PPS proposed rule (91 FR 17702).

We will provide the estimated numerical performance standards values for the remaining measures applicable to the FY 2030 program year in the FY 2028 SNF PPS proposed rule.

TABLE 17: FY 2030 SNF VBP PROGRAM PERFORMANCE STANDARDS

Measure Short Name	Achievement Threshold	Benchmark
SNF WS PPR Measure	0.85620	0.92121
DTC PAC SNF Measure	0.43459	0.68006

D. Updates to the SNF VBP Review and Correction Process

1. Background

We refer readers to the FY 2026 SNF PPS final rule (90 FR 37350 through 37352) and to 42 CFR 413.338(f) for details on the SNF VBP Program’s confidential feedback reports policies, the two-phase review and correction process, the reconsideration process, and public reporting policies that we have adopted for the Program. We also refer readers to the SNF VBP Program website (<https://www.cms.gov/medicare/quality/nursing-home-improvement/value-based-purchasing/confidential-feedback-reporting-review-and-corrections>) for technical details on

our review and correction process and reconsideration process.

In Phase One of the review and correction process, codified at 42 CFR 413.338(f)(2), we accept correction requests for 30 days after distributing the baseline period and performance period quality measure quarterly reports, which contain the baseline period and performance period measure results, respectively. SNFs may submit requests for corrections to the measure results contained in those reports. The underlying data used to calculate the measure results are not subject to review and correction during this process. As provided in 42 CFR 413.338(f)(1), measure results included in those reports are calculated using data current

as of specified dates for each measure. These specified dates are referred to as “snapshot dates.” If a SNF desires to correct their underlying data used to calculate a particular measure result, the underlying data must be corrected by the specified snapshot date to confirm the correction will be reflected in the SNF VBP Program’s quarterly confidential feedback reports.

In Phase Two of the review and correction process, codified at 42 CFR 413.338(f)(3), we accept correction requests for 30 days after distributing the Performance Score Report, which contains the SNF performance score and ranking. SNFs may submit requests for corrections to the SNF performance

score and ranking contained in this report.

Under our review and correction policy, the SNF must identify the error for which it is requesting correction, explain its reason for requesting the correction, and submit documentation or other evidence, if available, supporting the request. As provided in 42 CFR 413.338(f)(2) and (f)(3), correction requests must contain all of the following:

- The SNF's CMS Certification Number (CCN).

- The SNF's name.
- The correction requested.
- The reason for requesting the correction, including any available evidence to support the request.

We review all review and correction requests and notify the requesting SNF of our decision. We also implement any approved corrections before the affected data becomes publicly available on the website CMS uses to make quality data available to the public, currently the Provider Data Catalog website (<https://data.cms.gov/provider-data/>).

In the reconsideration process, codified at 42 CFR 413.338(f)(6), we allow SNFs to seek reconsideration of a valid review and correction request if they are not satisfied with our decision on the review and correction request submitted under 42 CFR 413.338(f)(2) or (f)(3). We accept reconsideration requests for 15 days, starting the day after the date we issue a decision via email on the review and correction request (as noted on that decision). As provided in 42 CFR 413.338(f)(6), SNFs that seek reconsideration of a review and correction request decision have to submit their reconsideration requests via email in the form and manner specified by CMS in the review and correction decision, and the reconsideration request has to contain all of the following:

- The SNF's CMS Certification Number (CCN).

- The SNF's name.
- The issue for which the SNF submitted a review and correction request, received a review and correction request decision, and are requesting reconsideration of.
- The reason why the SNF is requesting reconsideration, which can be supported by any applicable documentation or other evidence.

We review all reconsideration requests and provide a written decision to the SNF in a timely manner before any affected data becomes publicly available on the website CMS uses to make quality data available to the public, currently the Provider Data

Catalog website (<https://data.cms.gov/provider-data/>).

In the FY 2027 SNF PPS proposed rule (91 FR 17703), we proposed to update the “snapshot dates” codified at 42 CFR 413.338(f)(1)(v) for two MDS-based measures, beginning with FY 2027 data, to maintain alignment with the proposed revisions to SNF QRP submission deadlines for MDS assessment data included in section VI.X. of the FY 2027 SNF PPS proposed rule (91 FR 17695 through 17696).

2. Updated “Snapshot Dates” for the SNF VBP Program’s MDS-Based Measures

In the FY 2024 SNF PPS final rule (88 FR 53286 through 53293), we adopted the Falls with Major Injury (Long-Stay) and DC Function measures, both beginning with the FY 2027 SNF VBP program year. These two measures are calculated using assessment data reported by SNFs on the MDS 3.0.

In the FY 2025 SNF PPS final rule (89 FR 64136), we finalized application of the existing Phase One review and correction process to SNF VBP Program measures calculated using MDS data. That is, SNFs may submit requests for corrections to the measure results for the MDS-based measures adopted by the SNF VBP Program during Phase One of the review and correction process. We also adopted “snapshot dates” for the Falls with Major Injury (Long-Stay) and DC Function measures, the current two MDS-based measures adopted by the SNF VBP Program. For corrections to the underlying MDS assessment data to be reflected in the SNF VBP Program’s quarterly confidential feedback reports, a SNF must make any corrections to the underlying data via the internet Quality Improvement Evaluation System (iQIES) before the snapshot date. We finalized that the snapshot date is the February 15th that is 4.5 months after the last day of the applicable baseline or performance period. However, if February 15th falls on a Friday, weekend, or Federal holiday, the snapshot date is delayed until 11:59 p.m. EST on the next business day. For example, for the FY 2027 SNF VBP program year, the performance period is FY 2025 (October 1, 2024, through September 30, 2025). The snapshot date for this performance period would normally be February 15, 2026. However, since February 15, 2026, falls on a Sunday, the snapshot date was extended until the next business day, which is Tuesday, February 17, 2026, due to Monday, February 16, 2026, being a Federal holiday. This is consistent with the SNF QRP QM User’s Manual available at [https://](https://www.cms.gov/files/document/snf-qm-calculations-and-reporting-users-manual-v70.pdf)

www.cms.gov/files/document/snf-qm-calculations-and-reporting-users-manual-v70.pdf.

However, in the FY 2026 SNF PPS final rule (90 FR 37342 through 37343), we included a Request for Information (RFI) regarding shortening the SNF QRP’s MDS assessment data submission deadline from 4.5 months to 45 days to improve the timeliness of measure calculations and public reporting. Many commenters noted their support for such a change, as timely reporting would be valuable for consumers, professionals, and facilities. In section VI.X. of the FY 2027 SNF PPS proposed rule (91 FR 17695 through 17696), we proposed updating the MDS assessment data submission deadline from 4.5 months to the 15th day of the second month after the end of each calendar quarter, beginning with CY 2027 data, to expedite the reporting of MDS assessment data via iQIES. As discussed in section VI.X. of the FY 2027 SNF PPS proposed rule (91 FR 17695 through 17696), this expedited deadline would improve the timeliness of public reporting by 3 months, which is beneficial to both consumers and SNFs, with minimal impact on data completeness, as the vast majority of SNFs submit their MDS assessment data within 45 days.

To maintain alignment with the revisions to the SNF QRP’s submission deadline for MDS assessment data, in the FY 2027 SNF PPS proposed rule (91 FR 17703) we proposed updating the snapshot date definition for the DC Function and Falls with Major Injury (Long-Stay) measures beginning with data collected in FY 2027. We proposed to redefine the “snapshot date” as the 15th day of the second month after the last day of the applicable baseline or performance period. However, if the 15th day of the second month after the last day of the applicable baseline or performance period falls on a Friday, weekend, or Federal holiday, the snapshot date is delayed until 11:59 p.m. EST on the next business day. We expect this revision will be consistent with the updated SNF QRP QM User’s Manual, to be published prior to the start of CY 2027.

We also proposed to codify this revision to the “snapshot date” for the DC Function and Falls with Major Injury (Long-Stay) measures by updating 42 CFR 413.338(f)(1)(v).

We invited and received public comments on these proposals. The following is a summary of the comments we received and our responses.

Comment: Some commenters supported CMS’ proposed updates to the MDS snapshot date for the SNF VBP

Program to maintain alignment with the SNF QRP's submission deadline for MDS assessment data.

Response: We thank the commenters for their support. We believe that aligning the SNF VBP Program snapshot date with the SNF QRP's submission deadline for MDS assessment data will be beneficial to SNFs, as it promotes consistency across CMS's quality programs.

Comment: A few commenters supported the proposed updates to the MDS snapshot date for the SNF VBP Program but had additional recommendations. A commenter encouraged CMS to provide clear operational guidance, adequate education, and technical support so that SNFs can meet the accelerated timeline while maintaining data accuracy and completeness. A commenter shared that their organization's staff use the additional time available under the existing deadline for retrospective audits and data corrections, and encouraged CMS to explore opportunities to lessen other regulatory burdens for SNFs given this proposal will increase strain on MDS teams. A commenter recommended that CMS clearly communicate the proposed new snapshot date and suggested CMS implement a grace period during the first year to reduce any potential negative impacts from a missed deadline.

Response: We thank the commenters for their support and recommendations, as well as acknowledge their concerns.

With respect to the commenters' concerns regarding the need for operational guidance and technical support, we note that the existing submission process for MDS assessment data utilized by SNFs will remain in place, and technical documentation, such as the SNF QRP QM User's Manual, will be updated to reflect the new submission deadline. Furthermore, no additional action beyond submitting MDS assessment data is needed from SNFs to support the SNF VBP Program's measure calculations, and documentation regarding the SNF VBP Program's snapshot dates for all adopted measures will be made available on the CMS website (<https://www.cms.gov/medicare/quality/nursing-home-improvement/value-based-purchasing>).

With respect to the commenter's recommendation of a "grace period" for late submissions of MDS assessment data, we refer to the analysis included in the FY 2027 SNF PPS proposed rule (91 FR 17696) indicating that very few SNFs are likely to miss the revised submission deadline. Using 2024 data, we identified that 97.18 percent of all

MDS assessments were submitted to CMS within a 45-day timeframe, and 0.13 percent were submitted after the existing 4.5-month data submission deadline, meaning only about 2.69 percent of MDS assessments would be impacted by the revised data submission deadline. Thus, we do not anticipate significant impacts to the SNF VBP Program's measure results calculated using MDS assessment data, and do not believe a grace period is warranted.

In addition, as discussed in the FY 2025 SNF PPS final rule (90 FR 64134), the use of a snapshot date enables us to provide SNF VBP Program results in as timely a manner as possible, both to SNFs for the purpose of quality improvement, and to the public for the purpose of transparency. After the snapshot date, it takes several months to extract Medicare claims data, PBJ staffing data, and MDS assessment data, incorporate other data needed for the measure and scoring calculations, complete the calculations, and populate and distribute the confidential quarterly reports and accompanying data to SNFs. Because several months lead-time is necessary after acquiring the input data to generate these calculations and reports, we believe delaying the snapshot date—and either delaying or potentially regenerating these calculations and reports—to accommodate a grace period would create an unacceptably long delay both for SNFs and the public to receive timely SNF VBP Program results.

Comment: A few commenters did not support the proposed updates to the MDS snapshot date for the SNF VBP Program. While appreciating CMS' intent to align the SNF VBP Program with the SNF QRP's MDS assessment data submission deadline, they expressed concern that the proposed deadline may not provide adequate time for facilities to identify and correct assessment errors, particularly for residents admitted near the end of a reporting quarter. In lieu of the proposed data submission deadline and snapshot date, they encouraged CMS to consider a 90-day submission deadline and snapshot date.

Response: We acknowledge the commenters' concern that the proposed MDS data submission deadline does not provide facilities adequate time to prepare and submit MDS assessment data, and thank the commenters for their recommendation.

We again refer to the analysis included in the FY 2027 SNF PPS proposed rule (91 FR 17696) indicating that very few SNFs are likely to miss the revised submission deadline. Using

2024 data, we identified that 97.18 percent of all MDS assessments were submitted to CMS within a 45-day timeframe. SNFs' reporting efforts indicate they are generally prepared to meet the revised MDS data submission deadline. Thus, we do not anticipate significant impacts to the SNF VBP Program's measure results calculated using MDS assessment data, and do not believe an extended snapshot date is warranted. Moreover, the proposed snapshot date will maintain alignment with the SNF QRP's proposed submission deadline for MDS assessment data, as well as achieve alignment with the existing snapshot date for the SNF VBP Program's measures calculated with PBJ staffing data, promoting consistent processes across data sources and across CMS's quality programs, and reducing confusion for SNFs.

After consideration of public comments, we are finalizing our proposal and codifying this revision to the "snapshot date" for the DC Function and Falls with Major Injury (Long-Stay) measures by updating 42 CFR 413.338(f)(1)(v), as proposed without modification.

E. SNF VBP Extraordinary Circumstances Exception Policy

1. Background

We refer readers to 42 CFR 413.338(l) for details on the SNF VBP Program's Extraordinary Circumstances Exception (ECE) policy. The ECE policy allows SNFs to request an exception to the SNF VBP Program's requirements for one or more calendar months if the SNF is able to demonstrate that an extraordinary circumstance beyond the control of the SNF affected the care provided to its residents, and subsequent measure performance, or affected the SNF's ability to report SNF VBP data on one or more measures by the specified deadline.

SNFs must submit an ECE request within 90 days of the date that the extraordinary circumstance occurred.

We review exception requests, and at our discretion, based on our evaluation of the impact of the extraordinary circumstance on the SNF's care and/or its ability to report data, CMS will respond to the SNF with a decision as quickly as is feasible.

If we approve a SNF's ECE request, we exclude the SNF's underlying data for the calendar months during which the SNF was affected by the extraordinary circumstance from the SNF VBP Program's measure calculations, and calculate a SNF performance score for the program year

that does not include the SNF's performance on the measure or measures during the months the SNF was affected by the extraordinary circumstance.

2. Regulation Text Technical Updates

In the FY 2027 SNF PPS proposed rule (91 FR 17703), we proposed to update certain references within our codified Extraordinary Circumstances Exception (ECE) policy that we finalized in the FY 2025 SNF PPS final rule (89 FR 64136 through 64137) but did not update when finalizing other updates to the regulations in the FY 2026 SNF PPS final rule (90 FR 37345 through 37352). Specifically, we proposed to update 42 CFR 413.338(l)(3) to reference 42 CFR 413.338(l)(4) and (2) of the regulations for details on the ECE policy rather than 42 CFR 413.338(m)(4) and (2).

We invited public comment on these proposed technical updates to our regulation text. We received a public comment on this proposal. The following is a summary of the comment received and our response.

Comment: A commenter supported the regulation text technical updates for the SNF VBP Program.

Response: We thank the commenters for their support.

After consideration of public comments, we are finalizing the regulation text technical updates as proposed.

VIII. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 through 3520, we are required to provide notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, 44 U.S.C. 3506(c)(2)(A) requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.

- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We solicited public comment on each of these issues for the following sections of this document that contain information collection requirements (ICRs):

A. ICRs Regarding the Skilled Nursing Facility Value-Based Purchasing Program (SNF VBP)

With regard to the SNF VBP Program, in section VII.X. of this final rule, we are finalizing our proposal to update the "snapshot date" codified at 42 CFR 413.338(f)(1)(v) for two measures that are calculated using MDS assessment data to maintain alignment with SNF QRP's revised submission deadlines for MDS assessment data, beginning with FY 2027 data. The snapshot date is utilized by the existing review and correction process, which provides SNFs an opportunity to review information that is to be made public with respect to the facility prior to such information being made public, as required by section 1888(g)(6)(B) of the Act. As noted in the FY 2027 SNF PPS proposed rule (91 FR 17704), this opportunity to review is exempt from the Paperwork Reduction Act, as specified by section 1888(g)(7) of the Act. This opportunity to review information during the review and correction process is also voluntary, and the modifications to the snapshot date do not create any new, required reporting burdens for SNFs.

Because this final rule does not remove, modify or add any new or revised collection of information requirements or burden specific to the SNF VBP Program, this final rule does not set out any new SNF VBP Program related collections of information that would be subject to OMB approval under the authority of the Paperwork

Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). For the purpose of this section, collection of information is defined under 5 CFR 1320.3(c) of the PRA's implementing regulations.

Finally, we did not propose any new or revised information collection requirements for the SNF VBP Program, thus we did not invite any public comments. We also did not receive any public comments on the existing information collection requirements for the SNF VBP Program.

B. ICRs Regarding the Skilled Nursing Facility Quality Reporting Program (SNF QRP)

In accordance with section 1888(e)(6)(A)(i) of the Act, the Secretary must reduce by 2-percentage points the otherwise applicable annual payment update to a SNF for a fiscal year if the SNF does not comply with the requirements of the SNF QRP for that fiscal year.

As stated in section VI.F.2. of this final rule, we finalized our proposal to revise the SNF QRP assessment data submission deadline to no later than the 15th day of the second month after the end of each calendar quarter beginning with the FY 2029 SNF QRP. This requirement will not result in additional burden for the SNF QRP.

1. Wage Estimates

For the purposes of calculating the costs associated with the collection of information requirements, we obtained median hourly wages from the U.S. Bureau of Labor Statistics' (BLS) May 2024 National Occupational Employment and Wage Estimates.⁴³ To account for overhead and fringe benefits, we have doubled the hourly wage. These amounts are detailed in Table 18.

⁴³ U.S. Bureau of Labor Statistics' (BLS) May 2024 National Occupational Employment and Wage Estimates. https://www.bls.gov/oes/current/oes_nat.htm.

TABLE 18: U.S. BUREAU OF LABOR AND STATISTICS’ MAY 2024 NATIONAL OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES

Occupation Title	Occupation Code	Median Hourly Wage (\$/hr)	Other Indirect Costs and Fringe Benefit (\$/hr)	Adjusted Hourly Wage (\$/hr)
Administrative Assistants	43-6013	\$21.91	\$21.91	\$43.82
Licensed Practical and Licensed Vocational Nurse (LPN/LVN)	29-2061	\$30.84	\$30.84	\$61.68
Occupational Therapy (OT)	29-1122	\$47.23	\$47.23	\$94.46
Physical Therapy (PT)	29-1123	\$49.23	\$49.23	\$98.46
Registered Nurse (RN)	29-1141	\$47.32	\$47.32	\$94.64
Speech-Language Pathologist (SLP)	29-1127	\$46.08	\$46.08	\$92.16

2. ICRs Regarding Measure Removal Updates Related to the SNF QRP Beginning With the FY 2028 SNF QRP

In section VI.C. of this final rule, we finalized our proposal to remove the COVID–19 Vaccination Coverage among Healthcare Personnel (HCP) (HCP COVID–19 Vaccine) measure. We also finalized our proposal, in section VI.D. of this final rule, to remove the COVID–19 Vaccine: Percent of Patients/Residents Who Are Up to Date (Patient/Resident COVID–19 Vaccine) measure. Both measure removals will be effective beginning with the FY 2028 SNF QRP.

a. ICRs Regarding the Removal of the COVID–19 Vaccination Coverage Among Healthcare Personnel (HCP) Measure Beginning With the FY 2028 SNF QRP

In section VI.C. of this final rule, we finalized our proposal to remove the HCP COVID–19 Vaccine measure, beginning with the FY 2028 SNF QRP. We note that the CDC would account for

the burden associated with the HCP COVID–19 Vaccine measure collection under OMB control number 0920–1317 (expiration 01/31/2028). Currently, the CDC does not estimate burden for COVID–19 vaccination reporting under the CDC PRA package approved under OMB control number 0920–1317 because the agency has been granted a waiver under section 321 of the National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660, enacted on November 14, 1986 (NCVIA)).⁴⁴ However, CMS is providing an estimate of the reduction in burden and cost for SNFs here. Consistent with the CDC’s experience of collecting data using the NHSN, we estimate the removal of this measure will result in a reduction of 1 hour(s) per month to collect data for the HCP COVID–19 Vaccine measure and enter it into NHSN. We believe that this data would be entered by an administrative assistant. However, SNFs determine the staffing resources necessary.

For the purposes of calculating the costs associated with the collection of information requirements, we obtained median hourly wages for these staff from the U.S. Bureau of Labor Statistics’ (BLS) May 2024 National Occupational Employment and Wage Estimates.⁴⁵ To account for other indirect costs and fringe benefits, we doubled the hourly wage. These amounts are detailed in Table 18.

We estimate that the removal of the HCP COVID–19 measure from the SNF QRP will result in a reduction of 12.00 hours per SNF per year. Using FY 2025 data, we estimate an annual decrease of 178,728.00 hours (12.00 hours × 14,894 SNFs) for all SNFs. Given an estimated \$43.82 hourly wage for administrative assistants, we estimate a decrease of \$525.84 per SNF (12 hours × \$43.82), or an annual decrease of \$7,831,860.96 for all SNFs (\$525.84 × 14,894 SNFs). The total estimated annual cost decrease is summarized in Table 19.

TABLE 19: ESTIMATED BURDEN REDUCTION ASSOCIATED WITH REMOVAL OF THE HCP COVID-19 VACCINE MEASURE BEGINNING WITH THE FY 2028 SNF QRP

Requirement	Per SNF		All SNFs	
	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost
Removal of the HCP COVID-19 Vaccine Measure	-12.00	-\$525.84	-178,728.00	\$7,831,860.96

⁴⁴ Section 321 of the NCVIA provides the PRA waiver for activities that come under the NCVIA, including those in the NCVIA at section 2102 of the Public Health Service Act ([https://www.govinfo.gov/content/pkg/USCODE-2023-title42-chap6A-subchapXIX-part1-sec300aa-2.pdf](https://www.govinfo.gov/content/pkg/USCODE-2023-title42/pdf/USCODE-2023-title42-chap6A-subchapXIX-part1-sec300aa-2.pdf)). Section 321 is not codified in the U.S. Code but can be found in a note ([https://www.govinfo.gov/content/pkg/USCODE-2023-title42-chap6A-subchapXIX-part1-sec300aa-1.pdf](https://www.govinfo.gov/content/pkg/USCODE-2023-title42/pdf/USCODE-2023-title42-chap6A-subchapXIX-part1-sec300aa-1.pdf)).

⁴⁵ U.S. Bureau of Labor Statistics. Occupational Employment and Wage Statistics. May 2024. https://www.bls.gov/oes/current/oes_stru.htm.

b. ICRs Regarding the Removal of the COVID–19 Vaccine: Percent of Patients/Residents Who Are Up to Date Measure Beginning With the FY 2028 SNF QRP

In section VI.D. of this final rule, we finalized our proposal to remove the Patient/Resident COVID–19 Vaccine measure, and the MDS item that collects the measure data (O0350. Resident's COVID–19 vaccination is up to date) beginning with the FY 2028 SNF QRP. We identified the staff type based on past SNF burden calculations. We believe that the items would be completed equally by a registered nurse (RN) and a licensed practical and licensed vocational nurse (LPN/LVN). However, SNFs determine the staffing resources necessary.

For the purposes of calculating the costs associated with the collection of information requirements, we obtained

median hourly wages for these staff from the U.S. Bureau of Labor Statistics' (BLS) May 2024 National Occupational Employment and Wage Estimates.⁴⁶ To account for other indirect costs and fringe benefits, we doubled the hourly wage. These amounts are detailed in Table 18. We established a composite cost estimate using our adjusted wage estimates. The composite estimate of \$78.16/hr was calculated by weighting each adjusted hourly wage equally (that is, 50 percent) [$(\$61.68/\text{hr} \times 0.5)$ plus $(\$94.64/\text{hr} \times 0.5) = \$78.16$].

The net result of removing the related Patient/Resident COVID–19 Vaccine Status measure and the MDS item used to collect the measure data (O0350. Resident's COVID–19 vaccination is up to date) is a decrease of 0.3 minutes or 0.005 hour of clinical staff time. We estimate that the burden and cost for SNFs for complying with requirements

of the FY 2028 SNF QRP would decrease under this proposal.

Using FY 2025 data, we estimate an annual total of 1,485,115 Discharge PPS assessments from 14,894 SNFs for an annual decrease of 7,426 hours $(1,485,115 \times 0.005 \text{ hour})$ for all SNFs. Given 0.005 hours at \$78.16 per hour, we estimate the total cost to complete PPS Discharge assessments will decrease annually by \$580,416.16 for all SNFs $(7,426 \text{ hours} \times \$78.16)$. For each SNF, we estimate an annual decrease in burden of 0.50 hours $(7,426 \text{ hours} / 14,894 \text{ SNFs})$ and an annual decrease in cost of \$38.97 $(\$580,416.16 / 14,894 \text{ SNFs})$.

The total estimated annual decrease in cost associated with the removal of the Patient/Resident COVID–19 Vaccine Status Measure beginning with the FY 2028 SNF QRP is summarized in Table 20.

TABLE 20: ESTIMATED BURDEN ASSOCIATED WITH OMB CONTROL NUMBER (CMS-10387) RELATED TO THE SNF QRP BEGINNING WITH THE FY 2028 SNF QRP

Requirement	Per SNF		All SNFs	
	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost
Removal of the Patient/Resident COVID-19 Vaccine Status Measure (O0350)	-0.50	-\$38.97	-7,426	-\$580,416.16

c. Summary of ICRs Beginning With the FY 2028 SNF QRP

In summary, as a result of the policies in this final rule that begin with the FY

2028 SNF QRP, we estimate an annual decrease in burden of 186,153.58 hours for all SNFs or 12.50 hours per SNF. The total annual cost decrease is

estimated at approximately \$8,412,277.12 for all SNFs and \$564.81 per SNF and is summarized in Table 21.

TABLE 21: ESTIMATED BURDEN ASSOCIATED WITH SNF QRP BEGINNING WITH THE FY 2028 SNF QRP

Requirement	Per SNF		All SNFs	
	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost
Removal of the HCP COVID-19 Vaccine Measure	-12.00	-\$525.84	-178,728	\$7,831,860.96
Removal of the Patient/Resident COVID-19 Vaccine Status Measure (O0350)	-0.50	-\$38.97	-7,426	-\$580,416.16
Total Estimated Change in Burden Beginning with the FY 2028 SNF QRP	-12.50	-\$564.81	-186,154	-\$8,412,277.12

We invited public comments on the proposed information collection requirements and of this decrease in burden of 186,153.58 hours for 14,894

SNFs or 12.50 hours per SNF associated with the FY 2028 SNF QRP.

We have summarized the comments we received about the burden related to the removal of the removal of the HCP

COVID–19 measure in section VI.C, and the Patient/Resident COVID–19 Vaccine Status Measure in section VI.D of this final rule and provided responses.

⁴⁶ U.S. Bureau of Labor Statistics. Occupational Employment and Wage Statistics. May 2024. https://www.bls.gov/oes/current/oes_stru.htm.

After consideration of the public comments, we are finalizing our proposal to remove HCP COVID-19 measure in section VI.C. of this final rule, and the Patient/Resident COVID-19 Vaccine Status Measure from the SNF QRP beginning with the FY 2028 SNF QRP.

3. ICRs Regarding the Submission of MDS Data on All SNF Residents Beginning With the FY 2031 SNF QRP

As discussed in section VI.F.3. of this final rule, we finalized our proposal that SNFs participating in the SNF QRP be required to submit MDS data on all residents regardless of payer when the resident is admitted to the SNF for covered skilled care. Three items will be added to the MDS and one item on the MDS will be modified beginning with the FY 2031 SNF QRP to facilitate the submission of these data. To quantify the total estimated burden beginning with the FY 2031 SNF QRP, we first calculate the costs associated with the collection of information requirements for the three new items under the current SNF QRP data collection and submission requirements (that is, for Medicare fee-for-service (FFS) residents).⁴⁷ Second, we calculate the estimated costs associated with the collection of information requirements under the proposed SNF QRP data submission on all residents admitted for covered skilled care regardless of payer. For the costs related to new required assessments, we assume SNFs are already submitting MDS data on many non-Medicare FFS residents due to OBRA requirements and therefore new burden would only be attributed to non-Medicare FFS residents with a LOS < 14 days and those non-Medicare FFS residents who are discharged to a non-skilled bed in the NF.

⁴⁷ Note that we proposed a modification to one admission item that has no impact on burden, so is not included in the following calculations. The modification we are proposing is to add the response option '91. Other Skilled Care Admission Assessment' to MDS Item A0310B.

a. ICRs Regarding the Submission of Three New MDS Items Beginning With the FY 2031 SNF QRP

As discussed in section VI.F.3. of this final rule, three new items will be added to the MDS beginning with the FY 2031 SNF QRP to facilitate the submission of these data. One new item will collect information on the resident's primary payer for a skilled stay at admission and discharge. A second item will capture the start and end dates of a covered skilled stay for a non-Medicare-FFS resident. A third item will be added to A0310. Type of Assessment to indicate whether an assessment is being completed for a non-Medicare FFS resident at the time of discharge from skilled services. We believe the new items will be completed equally by a registered nurse (RN) or licensed practical and licensed vocational nurse (LPN/LVN). We identified the staff type based on past SNF burden calculations, and our assumptions are based on the categories generally necessary to collect this information. However, individual SNFs determine the staffing resources necessary.

For the purposes of calculating the costs associated with the collection of information requirements, we obtained median hourly wage estimates for these staff from the U.S. Bureau of Labor Statistics' (BLS) May 2024 National Occupational Employment and Wage Estimates.⁴⁸ To account for other indirect costs and fringe benefits, we doubled the median hourly wage. These amounts are detailed in Table 18. We established a composite cost estimate using our adjusted hourly wage estimates. The composite estimate of \$78.16/hr was calculated by weighting the adjusted hourly wage of the Registered Nurse (RN) and Licensed Practical and Licensed Vocational Nurse (LPN/LVN) equally $[(\$61.68/\text{hr} \times 0.5) \text{ plus } (\$94.64/\text{hr} \times 0.5) = \$78.16]$.

We estimate that the burden and cost for SNFs for complying with the requirements of the FY 2031 SNF QRP would increase under this proposal.

⁴⁸ U.S. Bureau of Labor Statistics. Occupational Employment and Wage Statistics. May 2024. https://www.bls.gov/oes/current/oes_stru.htm.

The result of collecting two new MDS items at admission is an increase of 0.6 minutes or 0.01 hour of clinical staff time $[(2 \text{ items} \times 0.005 \text{ hour}) = 0.01 \text{ hour}]$. Using FY 2025 data, we estimate a total of 1,584,102 5-day PPS assessments by 14,894 SNFs for an annual increase in burden of 15,841.02 hours for all SNFs at admission $(1,584,102 \text{ 5-day PPS assessments} \times 0.01 \text{ hour})$ or 1.06 hours per SNF at admission $(15,841.02 \text{ hours}/14,894 \text{ SNFs})$. We estimate the total annual increase in cost at admission would be \$1,238,134.12 for all SNFs $(15,841.02 \text{ hours} \times \$78.16/\text{hr})$ or \$83.13 per SNF $(\$1,238,134.12/14,894 \text{ SNFs})$.

The result of collecting three new MDS items at discharge is an increase of 0.9 minutes or 0.015 hours of clinical staff time $[(3 \text{ items} \times 0.005 \text{ hour}) = 0.015 \text{ hours}]$. Using FY 2025 data, we also estimate a total of 1,485,115 Discharge PPS assessments by 14,894 SNFs for an annual increase in burden of 22,276.73 hours for all SNFs at discharge $(1,485,115 \text{ Discharge PPS assessments} \times 0.015 \text{ hour})$ or 1.50 hours per SNF at discharge $(22,276.73 \text{ hours}/14,894 \text{ SNFs})$. We estimate the total annual increase in cost at discharge would be \$1,741,149.22 for all SNFs $(22,276.73 \text{ hours} \times \$78.16/\text{hr})$ or \$116.90 per SNF $(\$1,741,149.22/14,894 \text{ SNFs})$.

The total estimated burden associated with the proposed collection of two new MDS items at admission and three new MDS items at discharge (as described in this section) is summarized in Table 22. The result of collecting new MDS items is an annual increase in burden of 38,117.75 hours for all SNFs $(15,841.02 \text{ hours at admission} + 22,276.73 \text{ hours at discharge})$, or 2.56 hours per SNF $(1.06 \text{ hours at admission} + 1.50 \text{ hours at discharge})$. We estimate the total annual increase in cost would be \$2,979,283.34 $(\$1,238,134.12 \text{ at admission} + \$1,741,149.22 \text{ at discharge})$, or \$200.03 for per SNF $(\$83.13 \text{ at admission} + \$116.90 \text{ at discharge})$.

The increase in burden will be accounted for in a revised information collection request under OMB control number 0938-1140/CMS-10387 (Expiration Date: 11/30/2028).

TABLE 22: ESTIMATED BURDEN ASSOCIATED WITH OMB CONTROL NUMBER 0938-1140 (CMS-10387) RELATED TO THE SNF QRP BEGINNING WITH THE FY 2031 SNF QRP

Requirement	Per SNF		All SNFs	
	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost
Submission of two new MDS items at admission and three New MDS Items at discharge.	+2.56	+\$200.03	+38,117.75	+\$2,979,283.34

b. ICRs Regarding the Submission of MDS Data on All Residents Admitted for Covered Skilled Care Beginning With the FY 2031 SNF QRP

In section VI.F.3. of this final rule, we finalized our proposal to update the data submission requirements for the SNF QRP beginning with the FY 2031 SNF QRP. Specifically, we finalized our proposal to require SNFs to submit MDS data on all residents regardless of payer when the resident is admitted for covered skilled care. Submitting MDS data on all residents regardless of payer will increase the burden on SNFs. However, as noted in section VI.F.3.a. of this final rule, during two national SNF Listening Sessions hosted by our contractor in 2023⁴⁹ and 2024,⁵⁰ we heard from SNFs that submitting data on all SNF residents is feasible. We also heard that some SNFs currently collect MDS data on all residents, regardless of payer, even though they do not submit them to CMS because they want to have the information in the event they retroactively find out the resident disenrolled from their non-FFS benefit prior to their SNF admission.

Most of this new burden would occur when a non-Medicare FFS resident's length of stay (LOS) is < 14 days and/or they are discharged to a non-certified bed in the nursing facility (NF). Specifically, OBRA requirements already require SNFs to complete a comprehensive Admission assessment on all residents regardless of payer when a resident's LOS is equal to or greater than 14 days. Additionally, SNFs are required to complete a Discharge assessment on all residents regardless of payer when a resident is physically discharged from the SNF. Therefore, SNFs are already submitting MDS data on many of these non-Medicare FFS residents, and the new burden would

only be attributed to non-Medicare FFS residents with a LOS < 14 days and those non-Medicare FFS residents who are discharged to a non-skilled bed in the NF.

To estimate the number of new MDS assessments SNFs would submit under this proposed policy, CMS examined two characteristics of current Medicare FFS resident stays: (i) SNF practices for combining comprehensive (OBRA) and PPS item sets; and (ii) estimated LOS. First, regarding SNF practices for combining assessments, our finding was that in practice, SNFs already combine PPS and OBRA assessments a high percentage of the time. Specifically, SNFs combine 5-day PPS and OBRA Admission assessments 77.1 percent of the time, and Part A PPS Discharge assessments and OBRA Discharge assessments 70 percent of the time. For purposes of our estimate, we assume provider behavior will not change under a MDS submission policy for all residents regardless of payer. Specifically, we believe SNFs will combine assessments for non-Medicare FFS residents at admission and discharge at a similar rate to their Medicare FFS resident assessments. The second finding was that the average LOS for Medicare FFS beneficiaries was 27 days. However, public information suggests that nationally, resident stays covered by MA plans, Medicaid, and other payers are shorter, but still remain above the 14-day threshold and would already be required to submit an MDS assessment due to OBRA.⁵¹

We believe the MDS items collected on the PPS Item Set at admission and the Part A PPS Discharge Item Set are completed by RNs, LVNs, Speech-Language Pathologists (SLP), Occupational Therapists (OT), and/or Physical Therapists (PT), depending on

the item. We identified the staff type based on past SNF burden calculations in conjunction with expert opinion who have informed us that interdisciplinary participation in MDS data collection has increased since the implementation of the PDPM. Individual providers determine the staffing resources necessary. To account for overhead and fringe benefits, we have doubled the (BLS) May 2024 National Occupational Employment and Wage Estimates median hourly wage found in Table 18. We established a composite cost estimate using our adjusted hourly wage estimates. The composite estimate of \$88.28/hr was calculated by weighting each hourly wage equally $[(\$61.68/\text{hr} \times 0.2) \text{ plus } (\$94.46/\text{hr} \times 0.2) \text{ plus } (\$98.46/\text{hr} \times 0.2) \text{ plus } (\$92.16/\text{hr} \times 0.2) = \$88.28]$.

We estimate an additional 1,133,649 MDS assessments would be submitted from 14,894 SNFs annually. Given the expected time to complete an MDS, we estimate an annual increase of 963,601.65 hours for all SNFs and 64.70 hours per SNF (963,601.65 hours/14,894 SNFs).

We estimate the total annual cost related to the additional reporting requirements is \$85,066,753.66 for all SNFs (963,601.65 × \$88.28/hr). We estimate an annual increase in cost of \$5,711.48 per SNF (\$85,066,753.66/14,894 SNFs). The total annual burden and cost related to the additional reporting requirements is summarized in Table 23. The increase in burden will be accounted for in a revised information collection request under OMB control number 0938-1140. The required 60-day and 30-day notices would publish in the **Federal Register** and the comment periods will be separate from those associated with this rulemaking.

⁴⁹ Skilled Nursing Facility (SNF) QRP Listening Session Summary: Possible Expansion of MDS Data Submission to All SNF Residents Regardless of Payer. Summary Report. August 29, 2023. Available at <https://www.cms.gov/files/document/snf-listening-session-2023-summary-report.pdf>.

⁵⁰ Skilled Nursing Facility (SNF) QRP Listening Session Summary: Possible Expansion of MDS Data Submission to All SNF Residents Regardless of Payer. Summary Report. October 1, 2024. Available at <https://www.cms.gov/files/document/snfallpayerlisteningsession2024summaryreporttv3508.pdf>.

⁵¹ CMS' SNF MA public use file (PUF) reports LOS has declined from 23.19 days in 2016 to 19.44 days in 2021. (<https://data.cms.gov/summary-statistics-on-use-and-payments/medicare-medicaid-service-type-reports/cms-program-statistics-medicare-advantage-skilled-nursing-facility>).

TABLE 23: ESTIMATED BURDEN ASSOCIATED WITH SUBMISSION OF MDS DATA ON ALL RESIDENTS ADMITTED FOR COVERED SKILLED CARE BEGINNING WITH THE FY 2031 SNF QRP

Requirement	Per SNF		All SNFs	
	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost
Submission of MDS Data on All Residents Admitted for Covered Skilled Care	+64.70	\$5,711.48	+963,601.65	+\$85,066,753.66

c. Summary of ICRs Beginning With the FY 2031 SNF QRP

In summary, as a result of the policies in this final rule that will begin with the

FY 2031 SNF QRP, we estimate an annual increase in burden of 1,001,719.40 hours for 14,894 SNFs or 67.26 hours per SNF. The total annual

cost increase is estimated at approximately \$88,046,037.00 for all SNFs and \$5,911.51 per SNF and is summarized in Table 24.

TABLE 24: ESTIMATED BURDEN ASSOCIATED WITH SNF QRP PROPOSALS BEGINNING WITH THE FY 2031 SNF QRP

Requirement	Per SNF		All SNFs	
	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost
Collection of two new MDS items at Admission and three new MDS Items at Discharge	+2.56	+\$200.03	+38,117.75	+\$2,979,283.34
Submission of MDS Data on All Residents Admitted for Covered Skilled Care	+64.70	+\$5,711.48	+963,601.65	+\$85,066,753.66
Total Estimated Change in Burden Beginning with the FY 2031 SNF QRP	+67.26	+\$5,911.51	+1,001,719.40	+\$88,046,037.00

We invited public comments on the proposed information collection requirements and also on our assumptions and estimations of this burden at an increase of 1,001,719.40 hours for 14,894 SNFs or 67.26 hours per SNF.

We have summarized the comments we received in section VI.F.3. of this final rule and provided responses.

After consideration of the public comments, we are finalizing our proposal to require MDS Data on All SNF Residents Beginning with the FY 2031 SNF QRP.

We have submitted a copy of this final rule to OMB for its review of the rule's information collection and recordkeeping requirements. These requirements are not effective until they have been approved by the OMB.

IX. Regulatory Impact Analysis

A. Statement of Need

1. Statutory Provisions

This final rule updates the FY 2027 SNF prospective payment rates as required under section 1888(e)(4)(E) of the Act. It also responds to section 1888(e)(4)(H) of the Act, which requires the Secretary to provide for publication in the **Federal Register** before the

August 1 that precedes the start of each FY, the unadjusted Federal per diem rates, the case-mix classification system, and the factors to be applied in making the area wage adjustment. These are statutory provisions that prescribe a detailed methodology for calculating and disseminating payment rates under the SNF PPS, and we do not have the discretion to adopt an alternative approach on these issues.

With respect to the SNF QRP, we are making several updates as described in section VI. of this final rule. Specifically, we are removing the COVID-19 Vaccination Coverage among Healthcare Personnel (HCP) (HCP COVID-19 Vaccine) measure and the COVID-19 Vaccine: Percent of Patients/Residents Who Are Up to Date (Patient/Resident COVID-19 Vaccine) measure, beginning with the FY 2028 SNF QRP. We are also revising the SNF QRP Data Submission Deadlines beginning with the FY 2029 SNF QRP. Finally, we are requiring the submission of MDS data on all residents receiving covered skilled care in a SNF, regardless of payer, beginning with the FY 2031 SNF QRP.

With respect to the SNF VBP Program, we are updating the SNF VBP Program requirements for FY 2027 and

subsequent years as described in section VII. of this final rule. Specifically, section 1888(h)(3) of the Act requires the Secretary to establish and announce performance standards for SNF VBP Program measures no later than 60 days before the beginning of the performance period, and this final rule provides final numerical performance standards for the FY 2029 program year for the SNF HAI, Total Nurse Staffing, Nursing Staff Turnover, Falls with Major Injury (Long-Stay), DC Function, and Long Stay Hospitalization measures; and provides final numerical performance standards for the FY 2030 program year for the DTC PAC SNF and SNF WS PPR measures. We are also updating the "snapshot date" codified at 42 CFR 413.338(f)(1)(v) for two measures that are calculated using MDS assessment data to maintain alignment with SNF QRP's revised submission deadlines for MDS assessment data, beginning with FY 2027 data, and making technical updates to our regulatory text.

2. Discretionary Provisions

This final rule does not include any discretionary provisions.

B. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866, “Regulatory Planning and Review”; Executive Order 13132, “Federalism”; Executive Order 13563, “Improving Regulation and Regulatory Review”; Executive Order 14192, “Unleashing Prosperity Through Deregulation”; the Regulatory Flexibility Act (RFA) (Pub. L. 96354); section 1102(b) of the Social Security Act; section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4); and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President’s priorities.

A regulatory impact analysis (RIA) must be prepared for a regulatory action that is significant under section 3(f)(1) of E.O. 12866. Based on our estimates, the Office of Management and Budget’s (OMB) Office of Information and Regulatory Affairs (OIRA) has determined this rulemaking is significant per section 3(f)(1). Accordingly, we have prepared an RIA that to the best of our ability presents

the costs and benefits of the proposed rule.

C. Detailed Economic Analysis

1. Impacts for the FY 2027 SNF PPS

This rule updates the SNF PPS rates contained in the FY 2026 SNF PPS final rule (90 FR 37310). We estimate that the aggregate impact will be an increase of approximately \$882.74 million (2.4 percent) in Part A payments to SNFs in FY 2027. These impact numbers do not incorporate the SNF VBP Program reductions that we estimate will total \$203.60 million in FY 2027. We note that events may occur to limit the scope or accuracy of our impact analysis, as this analysis is future-oriented, and thus, susceptible to forecasting errors due to events that may occur within the assessed impact time period.

In accordance with sections 1888(e)(4)(E) and (e)(5) of the Act and implementing regulations at 42 CFR 413.337(d), we are updating the FY 2026 payment rates by a factor equal to the market basket percentage increase reduced by the productivity adjustment to determine the payment rates for FY 2027. The impact to Medicare is included in the total column of Table 25. The annual payment rate update in this rule applies to SNF PPS payments in FY 2027. Accordingly, the analysis of the impact of the annual update that follows only describes the impact of this single year. Furthermore, in accordance with the requirements of the Act, we will publish a rule or notice for each subsequent FY that will provide for an update to the payment rates and include an associated impact analysis.

The FY 2027 SNF PPS payment impacts appear in Table 25. Using the most recently available claims data, in this case FY 2025, we apply the current FY 2026 case-mix indices (CMIs), wage index and labor-related share value to the number of payment days to simulate FY 2026 payments. Then, using the same FY 2025 claims data, we apply the FY 2027 case-mix indices, wage index and labor-related share value to simulate FY 2027 payments. We tabulate the resulting payments according to the classifications in Table 25 (for example, facility type,

geographic region, facility ownership) and compare the simulated FY 2026 payments to the simulated FY 2027 payments to determine the overall impact. The breakdown of the various categories of data in Table 25 is as follows:

- The first column shows the breakdown of all SNFs by urban or rural status, hospital-based or freestanding status, census region, and ownership.
- The first row of figures describes the estimated effects of the various changes contained in this proposed rule on all facilities. The next six rows show the effects on facilities split by hospital-based, freestanding, urban, and rural categories. The next twenty rows show the effects on facilities by urban versus rural status by census region. The last three rows show the effects on facilities by ownership (that is, government, for-profit, and non-profit status).
- The second column shows the number of facilities in the impact database.
- The third column shows the effect of the annual update to the wage index, including the updates to the labor related-share discussed in section III.D. of this final rule. This represents the effect of using the most recent wage data available as well as accounts for the 5 percent cap on wage index decreases. The total impact of this change is 0.0 percent. However, there are distributional effects of the change.
- The fourth column shows the net (total) effect of all of the changes on the FY 2027 SNF PPS payments. This column reflects the overall 2.4 percent update applicable to all providers plus or minus the wage index adjustment in column 3. It is projected that aggregate payments will increase by 2.4 percent, assuming facilities do not change their care delivery and billing practices in response.

As illustrated in Table 25, the combined effects of all of the changes vary by specific types of providers and by location. For example, due to changes in this rule, rural providers will experience a 2.7 percent increase in FY 2027 total payments.

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TABLE 25: IMPACT TO THE SNF PPS FOR FY 2027

Impact Categories	Number of Facilities	Update Wage Data	Total Change
Group			
Total	14,894	0.0%	2.4%
Urban	10,816	0.0%	2.4%
Rural	4,078	0.3%	2.7%
Hospital-based urban	302	0.5%	2.9%
Freestanding urban	10,514	-0.1%	2.3%
Hospital-based rural	344	0.5%	2.9%
Freestanding rural	3,734	0.3%	2.7%
Urban by region			
New England	678	0.1%	2.5%
Middle Atlantic	1,427	1.4%	3.8%
South Atlantic	1,863	-0.9%	1.4%
East North Central	2,090	-0.8%	1.6%
East South Central	549	-0.9%	1.5%
West North Central	906	-0.1%	2.3%
West South Central	1,380	-0.8%	1.6%
Mountain	526	-0.5%	1.9%
Pacific	1,390	0.1%	2.5%
Outlying	7	1.9%	4.4%
Rural by region			
New England	112	2.1%	4.6%
Middle Atlantic	214	0.7%	3.1%
South Atlantic	526	1.6%	4.1%
East North Central	848	0.2%	2.6%
East South Central	482	-0.2%	2.2%
West North Central	938	0.7%	3.1%
West South Central	687	-1.3%	1.1%
Mountain	185	-1.8%	0.5%
Pacific	85	1.9%	4.3%
Outlying	1	-0.1%	2.3%
Ownership			
For -profit	10,830	0.0%	2.4%
Non-profit	3,098	-0.1%	2.3%
Government	966	-0.5%	1.9%

Note: The Total column includes the FY 2027 SNF market basket update of 2.4 percent. The values presented in Table 25 may not sum due to rounding.

BILLING CODE 4169-69-C**2. Impacts for the SNF QRP Beginning FY 2028 and Beginning FY 2031**

Estimated impacts for the SNF QRP are based on analysis discussed in section VI. of this final rule. In accordance with section 1888(e)(6)(A)(i) of the Act, the Secretary must reduce by 2 percentage points the annual payment update applicable to a SNF for a fiscal year if the SNF does not comply with the requirements of the SNF QRP for that fiscal year.

a. Impacts for Updates Related to the SNF QRP Beginning With the FY 2028 SNF QRP

As discussed in section VI.C. of this final rule, we are finalizing our proposal

to remove the HCP COVID-19 Vaccine measure beginning with the FY 2028 SNF QRP. We estimate a decrease in burden of 12 hours and \$525.84 per SNF per year. We estimate this equates to a decrease in burden of 178,728 hours and \$7,831,860.96 for all SNFs annually ($\$525.84 \times 14,894$ SNFs).

As discussed in section VI.D. of this final rule, we are finalizing our proposal to remove the Patient/Resident COVID-19 Vaccine measure beginning with the FY 2028 SNF QRP. We estimate a decrease in burden of 0.50 hours and \$38.97 per SNF per year. We estimate this equates to a decrease in burden of 7,426 hours and \$580,416.16 for all SNFs annually ($7,426 \text{ hours} \times \$78.16$).

b. Impacts for Submission of Data on All SNF Residents Beginning With the FY 2031 SNF QRP

As discussed in section VI.F.3. of this final rule, we are finalizing the proposal that SNFs participating in the SNF QRP be required to submit MDS data on all residents receiving covered skilled care in a SNF, regardless of payer, beginning with residents admitted on October 1, 2029, for the FY 2031 SNF QRP. Although the increase in burden for submitting MDS data on all residents admitted for covered skilled care regardless of payer will be accounted for in a revised information collection request under OMB control number (0938-1140), we are providing

estimated impact information as reflected in Table 26.

(1) Impacts for Submission of Three New MDS Items Beginning With the FY 2031 SNF QRP

As discussed in section VIII.B.2.a. of this final rule, we estimate the net result of this proposal will increase burden. Three items will be added to the MDS. One new item will collect information on the resident's primary payer for a skilled stay at admission and discharge. A second item will capture the start and ends dates of a covered skilled stay for a non-Medicare-FFS resident. A third item will be added to the Type of Assessment section of the MDS to indicate whether an assessment is being completed for a non-Medicare-FFS resident at the time of discharge from skilled services.

Using FY 2025 data, we estimate a total of 1,584,102 5-day PPS assessments for an annual increase in burden of 15,841.02 hours and an increased cost of \$1,238,134.12 (15,841.02 hours × \$78.16/hr) for all

SNFs at admission. For each SNF, we estimate an annual burden increase of 1.06 hours at an additional cost of \$83.13 at admission. Using FY 2025 data, we also estimate a total of 1,485,115 Discharge PPS assessments for an annual increase in burden of 22,276.73 hours and an increase cost of \$1,741,149.22 (22,276.73 hours × \$78.16/hr) for all SNFs at discharge. For each SNF, we estimate an annual burden increase of 1.50 hours at an additional cost of \$116.90 at discharge.

The result of collecting new MDS items is an annual burden increase of 38,117.75 hours for all SNFs or 2.56 hours per SNF. We estimate the total annual cost would increase by \$2,979,283.34 or \$200.03 per SNF.

(2) Impacts for the Submission of MDS Quality Data on All Residents Admitted for Covered Skilled Care Beginning With the FY 2031 SNF QRP

As discussed in section VIII.B.2.b. of this final rule, we estimate the net result of this proposal will increase burden. We estimate an additional 1,133,649

MDS assessments would be collected from 14,894 SNFs annually. This equates to an increase of 963,601.65 hours in burden for all SNFs and an increase of \$85,066,753.66 (963,601.65 hours × \$88.28/hr). For each SNF, we estimate an annual burden increase of 64.70 hours at an additional cost of \$5,711.48.

We solicited public comments on the overall impact of the SNF QRP proposals for FY 2028 and FY 2031 displayed in Tables 26 and 27, respectively.

We have summarized the comments we received in sections VI.C, VI.D, and VI.F of this final rule and provided responses.

After consideration of the public comments, we are finalizing our proposal to remove HCP COVID-19 measure and the Patient/Resident COVID-19 Vaccine Status Measure from the SNF QRP beginning with the FY 2028 SNF QRP. We are also finalizing our proposal to require MDS Data on All SNF Residents Beginning with the FY 2031 SNF QRP.

TABLE 26: ESTIMATED IMPACTS FOR THE FY 2028 SNF QRP

	Per SNF		All SNFs	
	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost
Estimated Impacts for the FY2028 SNF QRP				
Estimated Change in Burden Associated with Removal of the HCP COVID-19 Vaccine Measure Beginning with the FY 2028 SNF QRP	-12.00	-\$525.84	-178,728	\$831,860.96
Estimated Change in Burden Associated with Removal of the Patient/Resident COVID-19 Vaccine Measure Beginning with the FY 2028 SNF QRP	-0.50	\$38.97	7,426	-\$580,416.16
Total Estimated Change in Burden Beginning with the FY 2028 SNF QRP	-12.50	\$564.81	186,154	\$8,412,277.12

TABLE 27: ESTIMATED IMPACTS FOR THE FY 2031 SNF QRP

	Per SNF		All SNFs	
	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost	Estimated Change in Annual Burden Hours	Estimated Change in Annual Cost
Estimated Impacts for the FY2031 SNF QRP				
Estimated Change in Burden Associated with Collection and Submission of Two MDS Items at Admission and Discharge and One MDS Item at Discharge Beginning with the FY 2031 SNF QRP	+2.56	+\$200.03	+38,117.75	+\$2,979,283.34
Estimated Change in Burden Associated with Proposed Collection and Submission of MDS Data on All Residents Admitted for Covered Skilled Care Beginning with the FY 2031 SNF QRP	+64.70	+\$5,711.48	+963,601.65	+\$85,066,753.66
Total Estimated Change in Burden Beginning with the FY 2031 SNF QRP	+67.26	+\$5,911.51	+1,001,719.40	+\$88,046,037.00

3. Impacts for the SNF VBP Program

The estimated impacts of the FY 2027 SNF VBP Program are based on historical data and appear in Tables 28 through 30. We modeled SNF performance in the Program using

SNFRM, SNF HAI, Total Nurse Staffing, Nursing Staff Turnover, Falls with Major Injury (Long-Stay), DC Function, and Long Stay Hospitalization measure results from FY 2022 as the baseline period and FY 2024 as the performance

period, and using DTC PAC SNF measure results from FY 2020–FY 2021 as the baseline period and FY 2023 to FY 2024 as the performance period. Additionally, we modeled a logistic exchange function with a payback

percentage of 60 percent, as we finalized in the FY 2018 SNF PPS final rule (82 FR 36619 through 36621).

For the FY 2027 program year, we will reduce each SNF's adjusted Federal per diem rate by 2 percent, as required by section 1888(h)(6)(B) of the Act. This 2 percent is referred to as the "withhold". We will then redistribute 60 percent of that 2 percent withhold to SNFs based on their measure performance. Additionally, in the FY 2023 SNF PPS final rule (87 FR 47585 through 47587), we finalized a case minimum requirement for the SNFRM, Total Nurse Staffing, SNF HAI, and DTC PAC SNF measures, and in the FY 2024 SNF PPS final rule (88 FR 53301 through 53302) we finalized a case minimum requirement for the Nursing Staff Turnover, Falls with Major Injury

(Long-Stay), DC Function, and Long Stay Hospitalization measures, as required by section 1888(h)(1)(C)(i) of the Act. Furthermore, in the FY 2024 SNF PPS final rule (88 FR 53302 through 53303), we finalized the measure minimum requirement for the FY 2027 SNF VBP program year, as required by section 1888(h)(1)(C)(ii) of the Act. As a result of these provisions, SNFs must meet the case minimum requirement for at least four of the eight measures during the applicable performance period to receive a SNF performance score and to receive a value-based incentive payment for FY 2027; SNFs that do not meet this measure minimum requirement finalized for the FY 2027 program year will be excluded from the Program and will receive their adjusted Federal per

diem rate for that fiscal year. As previously finalized, this policy will maintain the overall payback percentage at 60 percent for the FY 2027 program year. Based on the 60 percent payback percentage, we estimated that we will redistribute approximately \$305.39 million (of the estimated \$508.99 million in withheld funds) in value-based incentive payments to SNFs in FY 2027, which means that the SNF VBP Program is estimated to result in approximately \$203.60 million in savings to the Medicare Program in FY 2027.

Our detailed analysis of the impacts of the FY 2027 SNF VBP Program is shown in Tables 28 through 30.

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TABLE 28: ESTIMATED SNF VBP PROGRAM IMPACTS FOR FY 2027

Characteristic	Number of Facilities	Mean Risk-standardized Readmission Rate (SNFRM) (%)	Mean Total Nursing Hours per Resident Day (Total Nurse Staffing)	Mean Risk-standardized Rate of Healthcare-associated Infections (SNF HAI) (%)	Mean Total Nursing Staff Turnover Rate (Nursing Staff Turnover) (%)
Group					
Total*	13,302	20.48	3.84	7.25	47.49
Urban	9,797	20.56	3.83	7.26	47.50
Rural	3,505	20.28	3.89	7.23	47.46
Hospital-based urban**	227	20.29	4.81	6.55	40.46
Freestanding urban**	9,563	20.56	3.80	7.28	47.66
Hospital-based rural**	126	19.97	4.95	6.54	38.81
Freestanding rural**	3,341	20.29	3.85	7.26	47.77
Urban by region					
New England	655	20.77	3.91	6.98	43.47
Middle Atlantic	1,348	20.22	3.75	7.22	43.00
South Atlantic	1,769	20.71	3.83	7.38	46.85
East North Central	1,789	20.77	3.53	7.18	49.51
East South Central	512	20.78	3.90	7.30	51.35
West North Central	783	20.43	4.20	7.04	51.86
West South Central	1,166	20.95	3.74	7.49	53.38
Mountain	473	19.87	3.80	6.83	50.35
Pacific	1,300	20.17	4.11	7.46	41.94
Outlying	2	21.74	4.18	6.77	14.84
Rural by region					
New England	101	19.99	4.19	6.90	50.43
Middle Atlantic	202	19.99	3.78	7.00	48.10
South Atlantic	464	20.35	3.68	7.31	46.36
East North Central	740	20.23	3.58	7.11	46.22
East South Central	438	20.58	4.00	7.43	44.42
West North Central	747	20.12	4.18	7.17	48.95
West South Central	551	20.80	3.88	7.59	48.49
Mountain	177	19.64	3.96	6.73	51.57
Pacific	85	19.01	4.31	6.73	46.71
Outlying	N/A	N/A	N/A	N/A	N/A
Ownership					
Government	748	20.34	4.29	7.09	44.44
Profit	9,958	20.56	3.64	7.38	48.73
Non-Profit	2,596	20.21	4.51	6.79	43.46

* The total group category excludes 1,508 SNFs that failed to meet the finalized measure minimum requirement.

** The group category that includes hospital-based/freestanding by urban/rural excludes 45 swing bed SNFs that satisfied the finalized measure minimum requirement.

N/A = Not available because no facilities in this group received a measure result.

TABLE 29: ESTIMATED SNF VBP PROGRAM IMPACTS FOR FY 2027

Characteristic	Number of Facilities	Mean Risk-Standardized Discharge to Community Rate (DTC PAC SNF) (%)	Mean Number of Risk-adjusted Hospitalizations per 1,000 Long-stay Resident Days (Long stay Hospitalization)	Mean Percentage of Stays Meeting or Exceeding Expected Discharge Function Score (DC Function) (%)	Mean Percentage of Stays with a Fall with Major Injury (Falls with Major Injury (Long-Stay)) (%)
Group					
Total*	13,302	50.60	1.81	52.84	3.31
Urban	9,797	51.30	1.84	52.85	3.05
Rural	3,505	48.61	1.70	52.82	4.04
Hospital-based urban**	227	58.58	1.64	51.45	2.51
Freestanding urban**	9,563	51.12	1.85	52.89	3.06
Hospital-based rural**	126	53.63	1.38	51.96	4.05
Freestanding rural**	3,341	48.21	1.71	52.96	4.04
Urban by region					
New England	655	54.70	1.78	54.27	3.73
Middle Atlantic	1,348	49.67	1.73	55.76	2.90
South Atlantic	1,769	51.11	1.85	51.86	3.08
East North Central	1,789	51.70	1.71	50.76	3.32
East South Central	512	51.19	1.86	50.65	3.31
West North Central	783	50.58	1.76	54.70	3.70
West South Central	1,166	49.04	2.15	51.78	3.34
Mountain	473	56.00	1.45	57.90	2.60
Pacific	1,300	51.81	2.07	52.23	1.88
Outlying	2	60.48	0.00	43.21	0.00
Rural by region					
New England	101	51.69	1.45	53.46	4.71
Middle Atlantic	202	46.00	1.39	51.20	3.68
South Atlantic	464	48.47	1.74	50.60	3.52
East North Central	740	51.03	1.61	50.36	4.04
East South Central	438	48.85	1.95	48.40	3.79
West North Central	747	46.32	1.55	55.55	4.42
West South Central	551	47.31	2.19	55.77	4.13
Mountain	177	51.05	1.17	59.80	4.41
Pacific	85	53.63	1.17	56.05	3.32
Outlying	N/A	N/A	N/A	N/A	N/A
Ownership					
Government	748	49.47	1.74	52.53	3.85
Profit	9,958	49.89	1.87	52.33	3.11
Non-Profit	2,596	53.65	1.57	54.92	3.95

* The total group category excludes 1,508 SNFs that failed to meet the finalized measure minimum requirement.

** The group category that includes hospital-based/freestanding by urban/rural excludes 45 swing bed SNFs that satisfied the finalized measure minimum requirement.

N/A = Not available because no facilities in this group received a measure result.

TABLE 30: ESTIMATED SNF VBP PROGRAM IMPACTS FOR FY 2027

Characteristic	Number of Facilities	Mean Performance Score	Mean Incentive Payment Multiplier	Percent of Total Payment
Group				
Total*	13,302	35.7412	0.99070	100.00
Urban	9,797	36.0195	0.99088	86.53
Rural	3,505	34.9632	0.99021	13.47
Hospital-based urban**	227	48.3943	1.00009	1.65
Freestanding urban**	9,563	35.7123	0.99065	84.87
Hospital-based rural**	126	47.8633	0.99952	0.31
Freestanding rural**	3,341	34.2843	0.98972	13.08
Urban by region				
New England	655	37.8333	0.99174	5.38
Middle Atlantic	1,348	37.7825	0.99176	19.82
South Atlantic	1,769	35.0507	0.99022	16.23
East North Central	1,789	33.7189	0.98933	10.40
East South Central	512	33.2514	0.98911	2.85
West North Central	783	36.7634	0.99173	3.60
West South Central	1,166	29.8160	0.98719	6.47
Mountain	473	42.7563	0.99548	3.74
Pacific	1,300	41.4868	0.99436	18.03
Outlying	2	55.5748	1.00500	0.00
Rural by region				
New England	101	38.6689	0.99233	0.56
Middle Atlantic	202	34.8048	0.98968	0.99
South Atlantic	464	33.0780	0.98902	2.18
East North Central	740	35.1632	0.99040	2.83
East South Central	438	34.1521	0.98960	1.72
West North Central	747	36.5501	0.99130	1.80
West South Central	551	30.4390	0.98726	2.09
Mountain	177	41.1291	0.99423	0.61
Pacific	85	46.2058	0.99800	0.70
Outlying	N/A	N/A	N/A	N/A
Ownership				
Government	748	39.3435	0.99320	3.04
Profit	9,958	33.5802	0.98919	81.26
Non-Profit	2,596	42.9926	0.99577	15.70

* The total group category excludes 1,508 SNFs that failed to meet the finalized measure minimum requirement. The total group category includes 55 SNFs that did not have historical payment data used for this analysis.

** The group category that includes hospital-based/freestanding by urban/rural excludes 45 swing bed SNFs that satisfied the measure minimum requirement.

N/A = Not available because no facilities in this group met the finalized measure minimum requirement.

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D. Alternatives Considered

Section 1888(e) of the Act establishes the SNF PPS for the payment of Medicare SNF services for cost reporting periods beginning on or after July 1, 1998. This section of the statute prescribes a detailed formula for calculating base payment rates under the SNF PPS and does not provide for the use of any alternative methodology. It specifies that the base year cost data to be used for computing the SNF PPS

payment rates must be from FY 1995 (October 1, 1994, through September 30, 1995). In accordance with the statute, we also incorporated a number of elements into the SNF PPS (for example, case-mix classification methodology, a market basket update, a wage index, and the urban and rural distinction used in the development or adjustment of the Federal rates). Further, section 1888(e)(4)(H) of the Act specifically requires us to disseminate the payment rates for each new FY through the **Federal Register**, and to do so before the

August 1 that precedes the start of the new FY. Accordingly, we are not pursuing alternatives for this process.

With regard to the updates to remove both the COVID–19 Vaccination Coverage among Healthcare Personnel (HCP) and COVID–19 Vaccine: Percent of Patients/Residents Who Are Up to Date measure, we considered keeping both measures. However, when these measures were adopted, there were well-defined parameters for receiving the COVID–19 vaccination. We determined that these measures no

longer align with current clinical guidelines, and therefore the publicly reported measures may not be reliably give consumers information on the percent of HCP or residents that are vaccinated in a SNF.

With regard to the updates for the SNF QRP assessment data submission deadline from 4.5 months to no later than the 15th day of the second month after the end of each quarter, we considered keeping the deadline unchanged. We determined that the revised timeframe is a reasonable amount of time for SNFs to submit data and make any necessary corrections, and that the benefits of this shortened timeframe include making the data timelier and more actionable which increases the value of publicly reported data both for consumers and their families and for SNFs to use in their quality improvement activities.

With regard to the updates to require the submission of MDS data on residents receiving covered skilled care in a SNF, regardless of payer, we believe the data could support SNFs in their quality improvement activities and contribute to better healthcare outcomes for our beneficiaries by enabling them to make more informed decisions. Furthermore, we believe that this policy aligns with CMS' aims to pursue greater program alignment through standardization of data collection and submission on a consistent patient/resident population across provider

settings. Therefore, we decided not to withdraw the proposal.

With regard to the updates for the SNF VBP Program, we discussed alternatives considered within those sections.

E. Regulatory Review Costs

Due to the uncertainty involved with accurately quantifying the number of entities that will review the rule, we assume that the total number of unique commenters on last year's proposed rule will be the number of reviewers of this year's final rule. We acknowledge that this assumption may understate or overstate the costs of reviewing this rule. It is possible that not all commenters reviewed last year's proposed rule in detail, and it is also possible that some reviewers chose not to comment on last year's proposed rule. For these reasons, we believe that the number of past commenters would be a fair estimate of the number of reviewers of this year's final rule.

We also recognize that different types of entities are in many cases affected by mutually exclusive sections of this final rule, and therefore, for the purposes of our estimate we assume that each reviewer reads approximately 50 percent of the rule.

The median wage rate for medical and health service managers (SOC 11–9111) in the May 2025 Bureau of Labor Statistics (BLS) is \$59.55, assuming benefits plus other overhead costs equal 100 percent of wage rate, we estimate

that the cost of reviewing this rule is \$119.10 per hour, including overhead and fringe benefits. The median wage rate can be found at the following website: <https://www.bls.gov/oes/tables.htm>. Assuming an average reading speed, we estimate that it will take approximately 4 hours for the staff to review half of this final rule. For each SNF that reviews the rule, the estimated cost is \$476.44 (4 hours × \$119.10). Therefore, we estimate that the total cost of reviewing this regulation is \$36,206 (\$453.68 × 76 reviewers).

F. Accounting Statements and Tables

Consistent with OMB Circular A–4 (available online at <https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf>), in Tables 31 through 34, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this proposed rule for FY 2027. Tables 25 and 31 provide our best estimate of the possible changes in Medicare payments under the SNF PPS as a result of the policies outlined in this rule, based on the data for 14,894 SNFs in our database. Tables 32 and 33 provide our best estimate of the additional cost to SNFs to submit the data for the SNF QRP as a result of the policies outlined in this final rule. Table 34 provides our best estimate of the possible changes in Medicare payments under the SNF VBP as a result of the policies for this program.

TABLE 31: ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES, FROM THE FY 2026 SNF PPS TO THE FY 2027 SNF PPS

Category	Transfers
Annualized Monetized Transfers	\$882.74 million
From Whom To Whom?	Federal Government to SNF Medicare Providers

TABLE 32: ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED SAVINGS FOR THE CHANGES TO THE FY 2028 SNF QRP

Category	Costs
Estimated Savings to SNFs for Proposed Changes to the FY 2028 QRP	-\$8.4 million

TABLE 33: ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES FOR THE CHANGES TO THE FY 2031 SNF QRP

Category	Costs
Estimated Costs to SNFs for Proposed Changes to the FY 2031 QRP	\$88.0 million

TABLE 34: ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES FOR THE FY 2027 SNF VBP PROGRAM

Category	Transfers
Annualized Monetized Transfers	\$305.39 million *
From Whom To Whom?	Federal Government to SNF Medicare Providers

*This estimate does not include the 2 percent reduction to SNFs' Medicare payments (estimated to be \$508.99 million) required by statute.

G. Conclusion

This rule updates the SNF PPS rates contained in the FY 2026 SNF PPS final rule (90 FR 37310). We estimate that the overall payments for SNFs under the SNF PPS in FY 2027 are projected to increase by approximately \$882.74 million, or 2.4 percent, compared with those in FY 2026. We estimate that in FY 2027, SNFs in urban and rural areas will experience, on average, a 2.4 percent increase and 2.7 percent increase, respectively, in estimated payments compared with FY 2026. Providers in the rural New England region will experience the largest estimated increase in payments of approximately 4.6 percent. Providers in the rural Mountain region will experience the smallest estimated increase in payments of 0.5 percent.

H. Regulatory Flexibility Act Analysis

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, non-profit organizations, and small governmental jurisdictions. Most SNFs and most other providers and suppliers are small entities, either by reason of their non-profit status or by having revenues of \$34 million or less in any 1 year. For the purposes of the RFA, we estimate that 92.3 percent of SNFs are small entities.⁵² As such, that term is used in the RFA, according to the Small Business Administration's latest size standards (NAICS 623110), with total revenues of \$34 million or less in any 1 year. (For details, see the Small Business Administration's website at <https://www.sba.gov/document/support-table-size-standards>). In addition, based on Table 25, approximately 20 percent of SNFs classified as small entities since they are non-profit organizations. Finally, individuals and States are not

included in the definition of a small entity.

This rule updates the SNF PPS rates contained in the SNF PPS final rule for FY 2026 (90 FR 37310). We estimate that the aggregate impact for FY 2027 will be an increase of \$882.74 million in payments to SNFs, resulting from the SNF market basket update to the payment rates. While it is projected in Table 25 that all providers will experience a net increase in payments, we note that some individual providers within the same region or group may experience different impacts on payments than others due to the distributional impact of the FY 2027 wage indexes and the degree of Medicare utilization.

Guidance issued by the Department of Health and Human Services on the proper assessment of the impact on small entities in rulemakings, utilizes a cost or revenue impact of 3 to 5 percent as a significance threshold under the RFA. In their March 2025 Report to Congress (available at <https://www.medpac.gov/document/march-2025-report-to-the-congress-medicare-payment-policy/>), MedPAC states that Fee-for-Service (FFS) Medicare accounted for approximately 8 percent of total patient days in freestanding facilities and 14 percent of facility revenue in 2023. Analysis of FY 2024 SNF cost reports shows that FFS Medicare represents a relatively small share of patient days for most facilities. The median SNF derived only 7 percent of its total patient days from Medicare, and even at the 95th percentile, Medicare accounted for just 29 percent of total days. Because Medicare comprises a limited portion of overall utilization for the vast majority of SNFs, even relatively large Medicare payment changes would have only a modest effect on total facility revenues. Specifically, in combination with MedPAC's analysis, Medicare revenue would then account for 51 percent of the 95th percentile facility's total revenue (29 percent * 14 percent/8 percent). Since Medicare accounts for an estimated 51 percent of total revenue for the 95th percentile facility, in order to have an impact that surpasses 3

percent of annual revenues, the rule would need to update payments by 5.9 percent (3 percent/51 percent), larger than any of the payment updates. Therefore, the rule is not expected to have a significant economic impact on a substantial number of small SNFs. As indicated in Table 25, the effect on facilities is projected to be an aggregate positive impact of 2.4 percent for FY 2027. As the overall impact on small entities does not meet the 3 to 5 percent threshold discussed previously, the Secretary certifies that this final rule will not have a significant impact on a substantial number of small entities for FY 2027.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of an MSA and has fewer than 100 beds. This final rule will affect small rural hospitals that: (1) furnish SNF services under a swing-bed agreement; or (2) have a hospital-based SNF. We anticipate that the impact on small rural hospitals will be similar to the impact on SNF providers overall. Moreover, as noted in previous SNF PPS final rules (most recently, the one for FY 2026 (90 FR 37310)), the category of small rural hospitals is included within the analysis of the impact of the rule on small entities in general. As the overall impact on the industry as a whole does not meet the 3 to 5 percent threshold discussed previously, the Secretary has determined that this final rule will not have a significant impact on a substantial number of small rural hospitals for FY 2027.

I. Unfunded Mandates Reform Act (UMRA)

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995

⁵² Based on data from the 2022 Statistics of U.S. Business (SUSB), approximately 92.5% of SNFs (NAICS 623110) had total revenues of less than \$35 million. This data can be accessed at the following link: <https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.html>.

dollars, updated annually for inflation. In 2026, that threshold is approximately \$193 million. This final rule would not impose mandates on State, local, or Tribal governments or on the private sector.

J. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it issues a proposed rule (and subsequent proposed rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. This final rule will have no substantial direct effect on State and local governments, preempt State law, or otherwise have Federalism implications.

K. E.O. 14192, “Unleashing Prosperity Through Deregulation”

Executive Order 14192, entitled “Unleashing Prosperity Through Deregulation” was issued on January 31, 2025, and requires that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations”. This rule is expected to be an E.O. 14192 regulatory action. We estimated that this rule will generate \$47.09 million in annualized cost at a 7 percent discount rate, discounted relative to year 2024, over a perpetual time horizon.

Mehmet Oz, Administrator of the Centers for Medicare & Medicaid Services, approved this document on July 29, 2026.

List of Subjects in 42 CFR Part 413
Diseases, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.
For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR part 413 as set forth below:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES; PAYMENT FOR ACUTE KIDNEY INJURY DIALYSIS

■ 1. The authority citation for part 413 continues to read as follows:

Authority: 42 U.S.C. 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395m, 1395x(v), 1395x(kkk), 1395hh, 1395rr, 1395tt, and 1395ww.

■ 2. Section 413.338 is amended by revising paragraphs (f)(1)(v), (k)(3), and (l)(3) to read as follows:

§ 413.338 Skilled nursing facility value-based purchasing program.

- (f) * * *
- (1) * * *
- (v) For the Discharge Function Score for SNFs (“DC Function measure”) and the Percent of Residents Experiencing One of More Falls with Major Injury (Long Stay) (“Falls with Major Injury (Long Stay)”) measure, beginning with data collected in FY 2023, and ending with data collected in FY 2026, the specified date is the February 15th that is approximately 4.5 months after the last day of the applicable baseline

period or performance period. Beginning with data collected in FY 2027, the specified date is the 15th day of the second month after the last day of the applicable baseline period or performance period. If the 15th day of the second month after the last day of the applicable baseline period or performance period falls on a Friday, weekend, or Federal holiday, the date is delayed until 11:59 p.m. EST on the next business day.

* * * * *

(k) * * *

(3) Upon a determination by CMS that the continued requirement for SNFs to submit data on a measure specified under paragraph (k)(2) of this section raises specific resident safety concerns, CMS may elect to immediately remove the measure from the SNF VBP Program. Upon removal of the measure, CMS will provide notice to SNFs and the public, along with a statement of the specific patient safety concern that would be raised if SNFs continued to submit data on the measure. CMS will also provide notice of the removal in the **Federal Register**.

* * * * *

(l) * * *

(3) Except as provided in paragraph (l)(4) of this section, CMS will not consider an exception request unless the SNF requesting such exception has complied fully with the requirements in paragraph (l)(2) of this section.

* * * * *

Robert F. Kennedy, Jr.,
Secretary, Department of Health and Human Services.



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Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91, 121, and 129

Requirements for Interference-Tolerant Radio Altimeter Systems; Final Rule

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 91, 121, and 129**

[Docket No.: FAA–2025–5666; Amdt Nos. 91–384, 121–396 and 129–56]

RIN 2120–AM21

Requirements for Interference-Tolerant Radio Altimeter Systems

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: In July 2025, President Trump signed the One Big Beautiful Bill Act. Section 40002 of that law re-institutes the Federal Communications Commission’s general auction authority and specifically directs the Commission to complete a system of competitive bidding for not less than 100 megahertz in the 3.98–4.2 gigahertz band (Upper C-band). This final rule supports the Federal Communications Commission’s July 2026 Report and Order that makes 160 megahertz of the Upper C-band available for terrestrial wireless flexible use via a system of competitive bidding. To ensure safe, efficient, and reliable aviation operations in the presence of wireless signals in the C-band, the Federal Aviation Administration is issuing new regulations that require all radio altimeters to meet specific minimum performance requirements. These new radio altimeters must withstand interference from wireless signals in neighboring spectrum bands and continue to provide accurate altitude readings to both pilots and integrated aircraft safety systems. These regulations require all aircraft equipped with radio altimeters operating under part 121 and those aircraft with radio altimeters operating under part 129 with 30 or more passenger seats or a payload capacity of more than 7,500 pounds to comply with the minimum performance requirements by December 30, 2030, which is prior to the date the Federal Communications Commission authorizes the use of the Upper C-band for new wireless services, as stated in its Report and Order. All other aircraft equipped with radio altimeters that are required to comply with part 91, including aircraft operating under parts 125, 133, 135, 136, 137, 194, and all other aircraft operating under part 129 that are not subject to the initial deadline, must comply with the same minimum performance requirements on or before October 31, 2034.

DATES:

Effective date: Effective September 29, 2026.

Compliance date: The compliance date for the requirements in title 14 of the Code of Federal Regulations (14 CFR) sections 121.326 and 129.16(a) in this final rule is December 30, 2030, and the compliance date for the requirements in 14 CFR 91.220(a) and 129.16(b) is October 31, 2034.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see “Additional Information” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Mark Fox, Flight Technologies and Procedures Division, AFS–400, Federal Aviation Administration, 6500 S MacArthur Blvd., Building 26, Suite 217, Oklahoma City, OK 73169; telephone (847) 294–7546; email mark.e.fox@faa.gov.

SUPPLEMENTARY INFORMATION:**List of Abbreviations and Acronyms Frequently Used in This Document**

A4A—Airlines for America
 AAAE—American Association of Airport Executives
 AAS—Active Antenna System
 AC—Advisory Circular
 AD—Airworthiness Directive
 ADS-B—Automatic Dependent Surveillance—Broadcast
 AGL—Above Ground Level
 AIA—Aerospace Industries Association
 AMOC—Alternative Method of Compliance
 ASRI—Aviation Spectrum Resources, Inc.
 BLS—Bureau of Labor Statistics
 CAA—Civil Aviation Authority
 CAT—Category (CAT II, CAT III)
 C-band—3.7–4.2 GHz frequency band
 CFTI—Controlled Flight Into Terrain
 CFR—Code of Federal Regulations
 CPI—U—Consumer Price Index for All Urban Consumers
 dB—Decibel
 dBm—Decibel-milliwatts
 dBm/MHz—Decibel-milliwatts per megahertz
 dBW/m2/MHz—Decibel-watts per square meter per megahertz
 DOT—Department of Transportation
 DOW—Department of War
 EA—Environmental Assessment
 EASA—European Union (EU) Aviation Safety Agency
 EFVS—Enhanced Flight Vision Systems
 EIRP—Effective Isotropic Radiated Power
 EIS—Environmental Impact Statement
 E.O.—Executive Order
 EUROCAE—European Organisation for Civil Aviation Equipment
 FAA—Federal Aviation Administration
 FCC—Federal Communications Commission
 FRFA—Final Regulatory Flexibility Analysis
 GA—General Aviation
 GAMA—General Aviation Manufacturers Association
 GHz—Gigahertz
 IBA—International Bureau of Aviation

ICAO—International Civil Aviation Organization
 IRFA—Initial Regulatory Flexibility Analysis
 ITM—Interference Tolerance Mask
 JAC—Joint Aviation Community
 JCAB—Japan Civil Aviation Bureau
 Lower C-band—3.70–3.98 GHz frequency band
 MHz—Megahertz
 MOPS—Minimum Operating Performance Standards
 MSD—Minimum Separation Distance
 NAICS—North American Industrial Classification System
 NAS—National Airspace System
 NM—Nautical Mile
 NOTAM—Notice to Airmen
 NPRM—Notice of Proposed Rulemaking
 NTIA—National Telecommunications and Information Administration
 NVG—Night Vision Goggles
 OBBBA—One Big Beautiful Bill Act of 2025
 OEM—Original Equipment Manufacturer
 OMB—Office of Management and Budget
 R&O—Report and Order
 RA—Radio Altimeter (also known as Radar Altimeter)
 RAA—Regional Airline Association
 RA Band—4.2–4.4 GHz frequency band
 RFA—Regulatory Flexibility Act
 RFI—Radio Frequency Interference
 RIA—Regulatory Impact Analysis
 SA CAT—Special Authorization Category (SA CAT I, SA CAT II)
 SB—Service Bulletin
 SBA—Small Business Administration
 SC–239—RTCA Special Committee 239
 STC—Supplemental Type Certificate
 TAWS—Terrain Awareness and Warning System
 TC—Type Certificate
 TCAS—Traffic Collision Avoidance System
 TSO—Technical Standard Order
 TSOA—Technical Standard Order Authorization
 UAS—Unmanned Aircraft Systems
 Upper C-band—3.98–4.2 GHz frequency band
 VSL—Value of a Statistical Life
 WG–119—EUROCAE Working Group 119

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I. Executive Summary

A. Purpose of the Regulatory Action

The Federal Aviation Administration (FAA) is adopting new regulations that will require all radio (also known as radar) altimeter (RA) systems on aircraft operating under 14 CFR part 91 in the airspace of the 48 contiguous United States and the District of Columbia to meet minimum performance

requirements necessary to withstand interference from wireless services licensed in the 3.7–4.2 gigahertz (GHz) frequency band (C-band), which is immediately adjacent to the RA frequency band. RAs on aircraft operating in this airspace must meet these minimum RA performance requirements by one of two different compliance dates based on the type of operation being performed. RA systems on aircraft operating under 14 CFR part 121, and on aircraft operating under 14 CFR part 129 with 30 or more passenger seats or a payload capacity of more than 7,500 pounds, must meet the new minimum performance requirements by December 30, 2030. This compliance date is one day before the date the Federal Communications Commission's (FCC) Report and Order (R&O)¹ authorizes new wireless service in the 3.98–4.2 GHz band (Upper C-band). All RA systems on other aircraft subject to part 91 operating rules in the airspace of the 48 contiguous United States and the District of Columbia are required to meet the new minimum performance requirements by October 31, 2034. These final regulations require the installation of new or upgraded RA systems for all aircraft currently equipped with RA operating under part 121; the majority of aircraft operating under part 91, subpart K, as well as parts 125, 129, 135, and 194; aircraft with an RA installed operating under parts 133, 136, and 137; and a minority of general aviation (GA) aircraft operating under part 91. This regulation does not affect aircraft that are currently not equipped with an RA system.

B. Changes Made in This Final Rule

This final rule adopts the minimum performance requirements proposed in the Notice of Proposed Rulemaking (NPRM)² with three minor changes to the remaining regulatory text. First, this final rule adds the specific compliance deadlines applicable to each type of operator. These deadlines fall within the schedule window that was proposed in the NPRM, which was an initial compliance date between 2029 and 2032 for aircraft operating under part 121 and aircraft operating under part 129 with 30 or more seats or a payload capacity of more than 7,500 pounds, and a final compliance date two years later for all remaining aircraft with RAs subject to part 91. This final rule adopts December

30, 2030 as the initial compliance date and October 31, 2034 as the final compliance date. In doing so, FAA aligned the initial compliance date with the date on which FCC's R&O authorizes transmission in the Upper C-band, December 31, 2030, and extended the gap between the initial and final compliance deadlines from two to four years due to comments received on the NPRM.

Second, the final rule adds language to §§ 91.220, 121.326, and 129.16 that allows the Administrator to authorize an operator to continue to fly with an RA system that does not meet the minimum performance requirements adopted in this final rule after an applicable compliance date, subject to appropriate limitations. FAA does not anticipate the use of such authorizations to become routine; rather, FAA added this provision to provide an efficient mechanism to address limited and unique situations that may preclude an operator from replacing or upgrading its RA system on schedule.

Third, this final rule adopts the interference tolerance mask (ITM) as proposed in the NPRM for aircraft at and below 500 ft above ground level (AGL), but with one change: adding a new requirement for the $4170 \leq f < 4180$ range to Table 1 in § 91.220.

C. Summary of the Costs and Benefits

RA systems are integral to aviation safety by providing altitude information directly to pilots and to safety systems that require accurate information to function properly. Aside from the importance of pilots having accurate height over terrain information in low visibility conditions, RA data is vital for the proper functioning of safety systems such as Traffic Collision Avoidance Systems (TCAS), Terrain Awareness and Warning Systems (TAWS), and other aircraft-specific functions, which historically have reduced the risk of airline crashes in the United States significantly. Upgrading to new interference-tolerant RA systems allows RAs and their dependent safety systems to continue to play their important role in ensuring safe aircraft operations in the National Airspace System (NAS).

FAA is mandating two dates for RA compliance. FAA considered several factors in adopting a staggered compliance schedule, including the economic impact of the likely operational restrictions, the expected level of safety, and the expected availability of RA units. The December 30, 2030 initial RA compliance date applies to all aircraft utilizing an RA operating in the airspace of the 48 contiguous United States and the

¹ The R&O will finalize the action FCC proposed in its November 21, 2025 "Upper C-band (3.98–4.2 GHz), Notice of Proposed Rulemaking." FCC R&O citation unavailable due to concurrent publication with this final rule.

² *Requirements for Interference-Tolerant Radio Altimeter Systems*, 91 FR 459 (Jan. 7, 2026).

District of Columbia under part 121 and under part 129 with an aircraft with 30 or more passenger seats or a payload capacity of more than 7,500 pounds. FAA determined that an initial compliance date earlier than for other aircraft operations is necessary because they constitute flights by the major domestic and international airlines that affect the flying public, have the highest public expectation of safety, perform a significant majority of low-visibility operations that would otherwise be restricted to protect from hazardous interference, and are the most critical to the national economy. This initial compliance date is prior to the date FCC authorizes the use of the Upper C-band for new wireless services.

All other aircraft operating in the airspace of the 48 contiguous United States and the District of Columbia equipped with an RA are required to retrofit with an RA system that meets the performance requirements by October 31, 2034. There are several airworthiness directives (AD)³ in place to address the unsafe condition in the current spectrum environment. FAA may supersede these ADs to impose operating limitations on the use of RAs that do not meet the performance requirements between December 31, 2030 and the time the RA system is replaced. The superseding ADs would address all RA-equipped operators,

including those who have already upgraded to a Lower C-band (3.7–3.98 GHz) interference-tolerant RA in compliance with current ADs, but do not upgrade to an RA system that is resistant to Upper C-band signals by the initial compliance date of December 30, 2030 (see section IV.G).

In order to properly evaluate a regulation, agencies must measure its costs and benefits against a baseline. Office of Management and Budget (OMB) Circular A–4 defines the “no-action” baseline as “the best assessment of the way the world would look absent the proposed action.” FAA considers the primary baseline for this final rule analysis to be a no-action baseline in which FAA does not issue a rule requiring new interference-tolerant RAs, and as a result FCC completes the spectrum auction as required by Public Law 119–21 but receives no bids and therefore realizes no value from the planned spectrum reallocation. If FAA takes no action to mandate minimum RA system performance, there would not only be uncertainty for aviation stakeholders, but in the wireless industry as well due to the increased likelihood that the wireless companies would not reap the full economic benefit of the spectrum. That is, the value of the spectrum license would decrease significantly because auction winners would have little confidence that they could initiate new wireless service on the dates designated by the FCC R&O, given what happened after the 2020 Lower C-band auction.⁴ Wireless stakeholders would have to consider the risk of service delays and the required overhead cost for new Upper C-band license holders to fund the RA retrofit rebate program, as well as relocation and incentive payments for current Upper C-band license holders, in addition to the separate cost of the auction bid.

⁴ Lower C-band wireless base station deployment and full-power activation were limited around airports and delayed for more than a year, and RA retrofits were required for many aviation operators as both industries collaboratively worked towards solutions that would support safe coexistence.

Therefore, without FAA’s RA mandate, wireless companies will have little confidence that they can produce sufficient revenue to cover the overhead cost of funding RA system rebates and license bids. If there are no bidders, there would be no resulting changes in the spectrum environment, and FAA would not need to issue superseding ADs to maintain safety in the NAS. The potential for interference from the Lower C-band would persist, so FAA assumes the wireless voluntary commitments would need to be extended indefinitely, and operating restrictions in the current ADs would remain in effect. Therefore, because the resiliency provided by the new RA systems would allow FAA to remove the operational restrictions of the ADs, this rule will ensure the FCC auction can meet its full, expected value and will continue the broader economic and operational benefits of enabling safe coexistence of full aviation operations with Upper C-band spectrum usage.

The range of total costs to replace RAs across the civil fleet can be found in Table 1. For domestic operators, this burden is minimized with the RA replacement cost transferred to the spectrum auction winners via the FCC RA retrofit rebate program (see section III.B). While foreign operators are not covered under FCC’s RA retrofit rebate program and therefore bear the full burden of replacement, some may be able to reduce their total costs by only replacing RAs in a subsection of aircraft designated for U.S. operations instead of replacing the RAs for all their aircraft. The low end of the range estimated assumes the new airplane equipment costs, including labor to install, of \$80,000 per radar altimeter, while the high end of the range estimated assumes a cost of \$120,000 per radar altimeter.⁵

⁵ Most commercial airliners are equipped with at least two or three independent RA systems to ensure redundancy for automatic landings. Smaller aircraft may have only one, while larger aircraft use multiple systems to cross-verify altitude data during critical low-altitude operations, such as approach and landing, when high accuracy is required.

³ Airworthiness Directives; Transport and Commuter Category Airplanes, 88 FR 34065 (May 26, 2023), available at <https://www.federalregister.gov/documents/2023/05/26/2023-11371/airworthiness-directives-transport-and-commuter-category-airplanes>; Airworthiness Directives; Various Helicopters, 88 FR 40685 (June 22, 2023), available at <https://www.federalregister.gov/documents/2023/06/22/2023-13319/airworthiness-directives-various-helicopters>; AD 2023–12–05 for Boeing 747–8 and 777 models, AD 2023–12–10 for Boeing 787 models, AD 2023–12–11 for newer Boeing 737 models, AD 2023–12–12 for Boeing 757 and 767 models, AD 2023–12–13 for older Boeing 737 models, AD 2023–12–14 for older Boeing 747 models, and AD 2023–12–15 for legacy McDonnell Douglas models; AD 2025–04–08 for MHI RJ regional jet models; AD 2023–14–01 for Bombardier Model BD–700–2A12 airplanes; AD 2023–13–15 for Bombardier Model BD–700–1A10 and –1A11 airplanes; AD 2023–06–13 for Bombardier Model BD–700–2A12 airplanes; and AD 2023–14–02 for Airbus Model BD–500–1A10 and –1A11 airplanes.

Table 1: Costs and Transfers of RA Retrofit for the Civil Fleet (millions of 2025\$)

Range of Costs of the Rule							
Deadline	Part	Undiscounted Total		Annualized Costs ^A			
				3% Discount Rate		7% Discount Rate	
		Range: \$80k to \$120 per RA		Low - High		Low - High	
12/30/2030	121	\$1,474	\$2,211	\$88	\$132	\$106	\$159
	129 (over 30 seats)	\$891	\$1,336	\$53	\$80	\$64	\$96
10/31/2034	91 (domestic)	\$1,685	\$2,467	\$98	\$143	\$113	\$166
	91 (foreign)	\$26	\$39	\$1	\$2	\$2	\$3
	129 (under 30 seats)	\$71	\$106	\$4	\$6	\$5	\$7
	135	\$675	\$970	\$39	\$56	\$45	\$65
Total Costs		\$4,821	\$7,129	\$284	\$419	\$336	\$496

Range of Transfers (from FCC/Wireless Bidders to Domestic Operators)							
Deadline	Part	Undiscounted Total		Annualized Transfers ^A			
				3% Discount Rate		7% Discount Rate	
		Range: \$80k to \$120 per RA		Low - High		Low - High	
12/30/2030	121	\$1,474	\$2,211	\$88	\$132	\$106	\$159
10/31/2034	91 (domestic)	\$1,685	\$2,467	\$98	\$143	\$113	\$166
	135	\$675	\$970	\$39	\$56	\$45	\$65
Total Transfers		\$3,833	\$5,648	\$225	\$331	\$265	\$391

Notes: Columns may not sum due to rounding

Rotorcraft RA replacement remains at \$40k per RA in both scenarios

A. Costs and transfers are annualized over a 20-year period, estimated to be the average remaining service life for current fleet aircraft.

II. Authority for This Rulemaking

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

This rulemaking is issued under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate and revise regulations and rules related to aviation safety. This rulemaking is also issued under the authority described in Subtitle VII, part A, Subpart III, section 44701: General requirements. Under that section, FAA is charged with prescribing regulations 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 this authority. This final rule will ensure continued safety after completion of FCC's auction of spectrum immediately adjacent to the RA band, which Pub. L. 119-21 requires

to be completed by July 4, 2027, and the implementation of the associated rules related to the use of the Upper C-band as well as any revisions to the Lower C-band licensing as prescribed in FCC's R&O.

III. Background

A. Summary of the NPRM

FAA proposed new regulations⁶ that would require all RA systems⁷ on aircraft operating under 14 CFR part 91 in the airspace of the 48 contiguous United States and the District of Columbia to meet minimum performance requirements necessary to withstand interference from new wireless services in the Upper C-band, which is immediately adjacent to the RA frequency band. FAA proposed two separate compliance dates. FAA proposed RA systems on aircraft operating under 14 CFR part 121, and

on aircraft operating under 14 CFR part 129 with 30 or more passenger seats or a payload capacity of more than 7,500 pounds, meet the new minimum performance requirements by the date FCC's R&O authorizes wireless service in the Upper C-band. FAA expected the initial RA compliance deadline to be achievable between 2029 and 2032, based on a variety of factors discussed in the NPRM. FAA proposed that all RA systems on other aircraft operating under part 91 in the airspace of the 48 contiguous United States and the District of Columbia meet the new minimum performance requirements two years later. The proposed timeline for this retrofit was intended to accommodate the urgency of expanding next-generation wireless services while allowing sufficient time for the development of equipment that meets the RA performance requirement and the retrofit with an acceptable schedule risk.

Aircraft rely on RA systems to measure height above terrain and obstacles in all phases of flight. The RA provides this information to the pilot and to the aircraft's interconnected navigation and safety systems to support

⁶ Requirements for Interference-Tolerant Radio Altimeter Systems, 91 FR 459 (Jan. 7, 2026).

⁷ RA systems are generally comprised of a transceiver, cabling, and antennas. When necessary, different terms are used throughout the NPRM and this final rule to discuss the RA system as a whole or specific parts of it.

functions such as low-visibility approaches and landings, terrain awareness and alerting,⁸ windshear detection and recovery,⁹ aircraft collision avoidance,¹⁰ automated rotorcraft systems, and other flight control systems. The safety and efficiency of flight depend heavily on RAs providing accurate inputs to these systems. For example, automatic and manual flight guidance systems on airplanes rely on RA data to facilitate low-visibility operations such as autoland, Category (CAT) II, CAT III, Special Authorization (SA) CAT I, SA CAT II, and Enhanced Flight Vision Systems (EFVS) operations. These inputs determine when and where the pilot or automation system flares for landing (*i.e.*, raising the aircraft's nose just before landing to smooth touchdown), when power reductions are made for landing, and when other control inputs are made. On helicopters, automatic and/or manual flight guidance systems rely on accurate RA height data to facilitate low-visibility operations such as Category A and Category B takeoff operations.

Accurate RA readings are critical for all these applications. Inaccurate altitude information from an RA experiencing signal interference from higher-powered wireless services in neighboring frequency bands may give the pilot a false sense of the aircraft's height above terrain and can cause missing or erroneous (anomalous) RA inputs to navigation and safety systems, potentially resulting in catastrophic consequences. For example, automated safety systems reading erroneous altitude information can cause the aircraft to make unexpected or hazardous maneuvers during the final stages of approach and landing, or prevent ground collision alerting technology from functioning properly. Importantly, the pilot might not be able to detect the error or adjust the flight path in time to maintain safe flight and landing, which could result in an accident with fatalities or injuries.

RA systems work by emitting and then detecting low-powered signals returning from the ground or other obstacles, similar to how radar works. The 4.2–4.4 GHz frequency band (RA band) is allocated for RA operational use in the U.S. and worldwide. Before 2020, satellite operators and other low-powered sources used the neighboring frequency bands, and their signals in-band and out-of-band did not interfere with RAs. This changed when FCC reallocated the Lower C-band to permit high-powered commercial wireless services.¹¹ This significant increase in signal power can interfere with the RA's ability to receive the low-power signal reflected off the ground or other obstacles. As a result, the RA can register incorrect data (or no data at all) unless the RA system has the means to block or otherwise filter out this interference from neighboring spectrum bands and their unwanted emissions into the RA band. To help mitigate this problem, before July 1, 2023, Verizon, AT&T, and the other 19 Lower C-band license holders voluntarily committed to coordinate power levels and limit emissions into the RA band to minimize the disruption to air carrier operations until January 1, 2028. However, the RA equipment installed in aircraft today cannot withstand interference from wireless signals at the limits prescribed by the initial Lower C-band rules if the initial wireless voluntary commitments expire. The RA equipment installed in aircraft today also cannot withstand interference from new wireless signals in the Upper C-band.

The minimum interference tolerance requirements proposed by FAA reflect the best achievable interference rejection using current technology without compromising the RA system performance. These new RA systems must provide accurate altitude readings to pilots and integrated safety systems in the presence of the defined interference environment. The goal of the proposed regulations was to minimize the impact on the safety, efficiency, and reliability of aviation operations as a result of the Presidential¹² and Congressional goals of increased wireless and broadband access for the American people.

B. Future Spectrum Environment

The OBBBA, signed on July 4, 2025, requires FCC to auction at least 100 megahertz (MHz) in the Upper C-band by July 4, 2027. Pursuant to the OBBBA requirement, the FCC R&O¹³ provides the timelines and technical requirements for wireless operators to support a system of competitive bidding to reallocate Upper C-band spectrum between 3980 and 4140 MHz for terrestrial wireless services, with a guard band of 20 MHz from 4140 to 4160 MHz and the remainder of the Upper C-band (4160 to 4200 MHz) repacked for fixed satellite services. This reallocation applies only within the 48 contiguous United States and the District of Columbia and does not seek to introduce new wireless service in other geographic areas, such as Alaska, Hawaii, or U.S. territories. Though the auction must be completed by July 4, 2027, the FCC R&O sets December 31, 2030 as the earliest date to initiate new terrestrial wireless service in the Upper C-band.

The FCC R&O also sets technical requirements for Upper C-band wireless base stations, which affect the safety analysis for next-generation RA systems. The wireless technical requirements critical to the RA are the band designated for this new service (3980–4140 MHz), maximum Effective Isotropic Radiated Power (EIRP) permitted for wireless base stations (65 dBm/MHz), maximum base station transmitter height of 450 ft AGL, and out-of-band emissions no greater than –28.4 dBm/MHz dual-polarization EIRP or –46 dBm/MHz conducted power into the RA band. The FCC R&O also reduces the out-of-band emissions from the Lower C-band into the RA band from the limit of –13 dBm/MHz conducted power in the R&O FCC issued in 2020¹⁴ to a new limit of –28.4 dBm/MHz dual-polarization EIRP or –46 dBm/MHz conducted power. Section IV.B discusses the compatibility of the ITM with these limits.

The FCC R&O also creates an RA retrofit rebate program for eligible U.S. civil aircraft owners and operators. These rebates are expected to be funded within 6–12 months of the completion of the Upper C-band auction, which the OBBBA requires to be complete by July 4, 2027. Once funding is available, domestic aircraft owners who install

⁸ *Ground Proximity Warning Systems*, 39 FR 44439 (Dec. 18, 1974); *Special Federal Aviation Regulation No. 30: Ground Proximity Warning System*, 43 FR 28176 (June 29, 1978); *Ground Proximity Warning Systems*, 57 FR 9944 (March 20, 1992); and *Terrain Awareness and Warning System*, 65 FR 16736 (March 29, 2001).

⁹ See *Airborne Low-Altitude Windshear Equipment Requirements*, 55 FR 13236 (Apr. 9, 1990).

¹⁰ Public Law 100–223, 101 Stat. 1486 (1987), available at <https://www.govinfo.gov/app/details/STATUTE-101/STATUTE-101-Pg1486>; *Traffic Alert and Collision Avoidance System*, 54 FR 940 (Jan. 10, 1989); *Collision Avoidance Systems*, 68 FR 15884 (Apr. 1, 2003); and *Regulation of Fractional Aircraft Ownership Programs and On-Demand Operations*, 68 FR 54520 (Sept. 17, 2003).

¹¹ In the Matter of Expanding Flexible Use in the 3.7–4.2 GHz Band, GN Docket No. 18–122, Federal Communications Commission (March 3, 2020), available at <https://www.fcc.gov/document/fcc-expands-flexible-use-c-band-5g-0>.

¹² National Telecommunications and Information Administration (NTIA) Comments re Upper C-band Notice of Inquiry, available at <https://www.fcc.gov/ecfs/search/search-filings/filing/1080426626787>.

¹³ FCC R&O citation unavailable due to concurrent publication with this final rule.

¹⁴ In the Matter of Expanding Flexible Use in the 3.7–4.2 GHz Band, GN Docket No. 18–122, Federal Communications Commission (March 3, 2020), available at <https://www.fcc.gov/document/fcc-expands-flexible-use-c-band-5g-0>.

compliant next-generation RA equipment can obtain a lump-sum payment to defray the cost of an RA transceiver and the aircraft alteration cost. In accordance with FCC's R&O, the RA retrofit rebate program is not available to foreign operators.

As discussed in section IV and section V, FAA considered the technical requirements and RA retrofit rebate program established in FCC's R&O when adopting this final rule, and accordingly, FAA's minimum performance standard and compliance schedule are harmonized and aligned with FCC's rule.

C. Overview of Comments Received

During the comment period (which closed on March 9, 2026), FAA received 50 comments on the NPRM on a broad range of topics. FAA received many comments on coordination with FCC, with commenters generally supporting FAA's action to coordinate with FCC to ensure that new wireless signals and RA systems would be compatible. Numerous commenters from the aviation and wireless industries strongly supported continued coordination between FAA and FCC to align technical requirements and timelines to ensure the full functionality of radio altimeters in the presence of expanded wireless services. Airlines for America (A4A) stressed that FAA and FCC must continue with concurrent and coordinated rulemakings. Airports Council International-North America (ACI-NA) noted that collaboration worked well to implement new wireless service without compromising aviation safety. The Joint Aviation Community (JAC) as a group,¹⁵ and many of their individual members' such as A4A, the Air Line Pilots Association, International (ALPA), Boeing, the Regional Airline Association (RAA), strongly recommended that FAA and FCC coordinate the timing and technical requirements of each final rule to ensure consistency and avoid regulatory gaps

or conflicts, and stressed that aviation safety is best maintained by final rules that codify and control rather than make references or assumptions.

FAA also received some comments on the safety justification for the rule. An individual commenter questioned whether the proposed rule is necessary or proportionate, suggesting that no systemic interference or unsafe behavior has occurred, and that current Lower C-band voluntary wireless commitments and ADs have preserved safe operations without requiring equipment replacement. ATR suggested mitigation measures from both aviation and wireless to ensure compatibility for both industries, such as improved RA system performance and improved base station design. Gulfstream Aerospace Corporation (Gulfstream) recommended low-pass filters on wireless base stations to prevent spurious outputs into the RA band.

Nearly all commenters supported the general goal of a single RA system upgrade to support long-term interference tolerance and safe coexistence with current and future wireless transmissions in neighboring spectrum bands. Nearly all commenters generally supported the proposed rule for safe coexistence between aviation operations and wireless transmissions in neighboring spectrum bands. The JAC supported the goals of the NPRM to maintain the full functionality of RA systems in the presence of next-generation wireless services in neighboring spectrum bands, recognizing that this is essential to aviation safety, and that the proposed rule establishes a sound technical and regulatory framework. ALPA supported an RA performance requirement rather than reliance on ADs, operational limitations, and voluntary agreements. Boeing agreed that no existing RA systems are compatible with expanded commercial wireless service in the Upper C-band and expressed support for a mandate to ensure continued operational safety under all conditions. Lockheed Martin welcomed the rulemaking initiative to safeguard aviation operations in a spectrum environment where out-of-band emissions from wireless networks are expected to threaten flight safety. Honeywell supported the goal of a singular definitive solution suitable to address current and future spectrum rulemaking near the RA band and agreed that no current RA will meet the proposed performance requirements. Freeflight Systems expressed full support for preserving RA performance in the presence of current and future signals in adjacent bands by establishing

clear RA performance requirements. The Competitive Carriers Association (CCA) noted that a performance-based standard is preferable to continued reliance on temporary restrictions or voluntary mitigations. It asked FAA to avoid delays that could affect the availability of adjacent spectrum for wireless use.

Some commenters also stated that they have already completed RA retrofits to comply with current ADs related to the introduction of commercial wireless services in the Lower C-band. Gulfstream stated that the industry needs assurance that this is the last time the Upper C-band is auctioned, and that meeting the proposed requirements in FAA's rule will address this spectrum reallocation. It noted that spectrum changes requiring RA upgrade or replacement are too costly and disruptive to the industry and the safety of the flying public.

No commenters proposed any changes to the ITM below 500 ft AGL as proposed in the NPRM. Nearly all aviation commenters agreed that extending the current voluntary wireless commitments until a suitable RA compliance deadline is critical for continued safe coexistence with Lower C-band wireless signals.

FAA asked for comments on an initial RA compliance deadline between 2029 and 2032, with a second deadline two years later, and FAA received many comments addressing the feasibility of a compliance date within this range. Some commenters, such as the JAC, suggested an initial compliance deadline for part 121 and 129 operators in 2032 is feasible, but also stated that this compliance timeline could be significantly expedited by financial incentive payments. Another commenter stated that compliance by 2029 did not realistically reflect production and installation rates and recommended the earliest compliance timeline begin in 2030. In addition, a significant group of aviation stakeholders¹⁶ submitted a public letter to FCC's docket stating that, if rebate payments are available to help expedite RA upgrades, the vast majority of the in-service mainline fleet and a significant portion of the regional fleet could be accelerated and completed by the end of

¹⁵ Signatories to the Joint Aviation Community comments include the Aerospace Industries Association; the Air Line Pilots Association, International; the Air Medical Operators Association; Airbus Operations SAS; the Aircraft Electronics Association; the Aircraft Owners and Pilots Association; Airlines for America; the Allied Pilots Association; Aviation Spectrum Resources Inc.; the Boeing Company; the Cargo Airline Association; Freeflight Systems; Garmin International, Inc.; the General Aviation Manufacturers Association; Gulfstream Aerospace Corporation; the International Air Transport Association; Lockheed Martin Corporation; the National Air Transportation Association; the National Business Aviation Association; the Regional Airline Association; RTX (Collins Aerospace, Pratt & Whitney, Raytheon) Corporation; Thales Group; and Vertical Aviation International.

¹⁶ Airlines for America, in conjunction with the Aerospace Industries Association, Collins Aerospace, the Regional Airline Association, Airbus, Embraer, the Thales Group, Honeywell Aerospace Technologies, and The Boeing Company, submitted a letter to FCC's docket on March 26, 2026, providing revised timelines for the replacement of Upper C-band interference tolerance RAs. This letter is publicly available on FCC's docket, at <https://www.fcc.gov/ecfs/search/search-filings/filing/10326310057272>.

2029, and thus an initial compliance deadline of late 2030 is achievable. Many commenters to FAA's docket also agreed that small operators and out-of-production aircraft would have the biggest challenge meeting any required deadlines due to increased cost, complexity, and time required to upgrade to a suitable RA system.

Many commenters were concerned about the costs to aviation stakeholders and the implementation risks associated with the expedited timelines necessary to support the OBBBA. Commenters identified various potential factors that could impact the timeline for compliance, such as a delay in completing the new RTCA/European Organisation for Civil Aviation Equipment (EUROCAE) minimum operating performance standards (MOPS), supply chain risks for critical parts, RA system or aircraft certification delays, and demand for new RA systems that meet performance requirements. Many commenters suggested factors that could accelerate or delay the potential implementation timelines, including proposed changes to related FAA policy and guidance. Section V discusses comments on costs, and section IV discusses comments received on other topics in greater detail.

IV. Discussion of Comments and the Final Rule

A. RA Performance Requirements

In the NPRM, FAA proposed an RA performance requirement that reflects the best achievable interference rejection using current technology and without compromising RA system performance. Table 1 in § 91.220 describes this required RA performance as an ITM with different RA performance requirements relevant to the expected interference environment in specific frequency ranges. The ITM defines the maximum amount of radio frequency interference (RFI) that the RA system must safely tolerate at the surface of the RA antenna and includes a safety margin above the expected interference environment. RA systems have the lowest tolerance within the RA band (constant power flux density across 4.2–4.4 GHz), with increasing tolerance capability at frequencies further from the RA band edges. This proposal was informed by briefings from existing RA suppliers and various industry forums that have discussed performance collectively. In the NPRM, FAA explained that next-generation RA systems could be developed that are compliant with the ITM without requiring or waiting for a new industry standard that is being developed jointly

by U.S. and European consensus bodies through RTCA Special Committee 239 (SC-239)¹⁷ and EUROCAE Working Group 119 (WG-119).¹⁸

Nearly all commenters agreed that the proposed RA system performance requirements are necessary to support long-term, safe coexistence between aviation and wireless operations, and many stressed the importance of ensuring that no further upgrades will be needed. The American Association of Airport Executives (AAAE) supported FAA efforts with industry stakeholders towards a permanent solution for safe coexistence with no negative operational impacts on airports. CCA and CTIA supported efforts to establish long-term RA performance requirements to help ensure safe coexistence between aviation and wireless. CCA suggested that FAA rules should not hinder wireless deployment, require additional voluntary wireless commitments, or introduce uncertainty that could impact the required Upper C-band auction.

1. ITM At or Below 500 ft AGL

The proposed rule effectively defined an interference environment within which the intended RA system functions and performance are achieved. FAA did not propose changes to the intended function or performance requirements of RA systems, which may also include requirements derived by the aircraft design approval holder for each RA application. No commenters requested changes to the ITM below 500 ft AGL as proposed in the NPRM. Many commenters agreed that an ITM solution is appropriate due to the need for quick wireless access and the timelines required by the OBBBA.

The JAC supported the proposed ITM, noting that it reflects the best achievable interference rejection using current technology without compromising RA system performance. In joint and individual comments, the JAC agreed that the ITM was developed with input from all five RA original equipment manufacturers (OEM) and reflects the designs currently under development, while also noting that any updates as a result of ongoing validation efforts would be shared with FAA. Freeflight Systems agreed with the use of an ITM to define the interference environment and applicable RA performance, noting that this provides a testable compliance target and a consistent basis for certification and approval. The RAA noted that efforts to mitigate potential Lower C-band interference focused on

major hub airports and that regional airlines serve airports where terrain, weather, and wireless deployments may differ compared to major hub airports. It urged FAA to maintain the NPRM approach to establish universal performance requirements protecting all airports equally, rather than measures that are more airport specific.

After the comment period closed, Honeywell requested a change to part of the ITM. As a result of recent RA test data as part of the RTCA/EUROCAE MOPS validation process, Honeywell stated it identified an issue with the feasibility of FAA's proposed ITM in the 4170–4180 MHz frequency range. Honeywell recommended reducing the ITM from -1 dBW/m²/MHz to -7 dBW/m²/MHz between 4170 MHz and 4180 MHz.

This range is above the Upper C-band range authorized in the FCC R&O and does not impact compatibility with wireless services. Based on Honeywell's testing, retaining the proposed requirement could delay the availability of next-generation RA systems. Therefore, in this final rule, FAA adopts the ITM as proposed in the NPRM for aircraft at and below 500 ft AGL, but with one change, adding a new requirement for the 4170 ≤ f < 4180 range to Table 1 in § 91.220.

2. Performance Requirements Above 500 ft AGL

In the NPRM, FAA did not propose RA performance requirements when operating at altitudes above 500 ft AGL.

Several commenters requested that FAA add a requirement to address RA performance above 500 ft AGL. The JAC, ALPA, Aviation Spectrum Resources, Inc. (ASRI), and Boeing stated concern about the lack of specific RA performance requirements above 500 ft AGL in the proposed regulation. These commenters recommended that the ITM be defined throughout the entire RA operational envelope to establish the basis for spectrum compatibility beyond Upper C-band wireless services with proposed 450 ft AGL emitter height limitations. They noted potential safety impacts at higher altitudes, such as erroneous ground proximity warnings. These commenters pointed out that RA systems have a decreased interference tolerance with increasing altitude due to required sensitivity characteristics, and that an ITM for the full RA operational envelope would align more closely with the RTCA/EUROCAE MOPS in development. The JAC and ASRI recommended expanding the ITM requirement up to RA operational limits, because RA data continues to influence flight crew decision-making or

¹⁷ <https://www.rtca.org/sc-239/>.

¹⁸ <https://www.eurocae.net/working-group/wg-119/>.

integrated systems logic, and included information and tables as a potential addition to § 91.220 to address this recommendation.

The JAC noted that the actual interference would decrease above 500 ft AGL, provided wireless base stations are limited to less than 500 ft AGL height, and recommended a 450 ft AGL limit for wireless transmitters. It provided an example of rooftop heliports for consideration, as transmitters are often sited on tall buildings that may also have a heliport in very close proximity. ALPA disagreed with the NPRM statement that interference is less likely above 500 ft AGL and that the consequences are reduced because there is more time to recover. It referred to Turkish Airlines flight 1951, where a faulty RA triggered hazardous automation behavior, and suggested that automation malfunctions well above 500 ft AGL can create failures that only become apparent at lower altitudes, eroding the time to recover.

The JAC and others suggested a baseline for future compatibility with other signals and recommended two new requirements for altitudes above 500 ft AGL: one for interference more than 200 MHz from the band edge, and a second for in-band and near-band interference. For example, they recommended that the interference levels for in-band and near-band interference be reduced as altitude increases, because the RA signal return (returning from the ground) becomes weaker and more difficult to detect. Above 5000 ft AGL, they recommended that the in-band and near-band interference remain constant. For interference more than 200 MHz from the band edge, the achievable interference tolerance is not affected by the receiver sensitivity, so the achievable performance at 500 ft AGL can also be achieved at 5000 ft AGL.

FAA agrees that RA functionality above 500 ft AGL should be maintained. However, the purpose of this final rule is to resolve the safety issues associated with wireless signals in the adjacent bands as a result of FCC's upcoming spectrum auction in the Upper C-band and its revisions to the Lower C-band technical requirements. The JAC acknowledged that the proposal in the NPRM was pragmatic for assuring compatibility with terrestrial wireless base stations, particularly if the maximum height is bounded. FAA notes that FCC adopted a height restriction for wireless base stations of 450 ft AGL. Therefore, the interference environment experienced by aircraft at higher altitudes will be lower than that which

can be achieved at 500 ft AGL due to the additional free-space path loss. In addition, FAA reevaluated the terrain surrounding the existing Lower C-band antennas after the NPRM was proposed in order to explore the sensitivity of aircraft altitude and antenna altitude (as they may be horizontally displaced). FAA confirmed that the terrain variation within the horizontal minimum separation distance (MSD) of the existing antennas is minimal, so the additional free-space path loss will dominate in all realistic scenarios.

Therefore, since this regulation addresses adjacent wireless transmitters and the requirement at 500 ft AGL is adequate for that purpose, FAA is not adopting a new requirement for altitudes above 500 ft AGL in this final rule.

3. Safety Margin

When evaluating the proposed ITM, FAA used a six decibel (dB) safety margin between the maximum interference environment based on the FCC Lower and Upper C-band R&Os' technical requirements for wireless base stations and the proposed RA performance. The six dB safety margin accounts for uncertainties in the design and implementation of adjacent-band wireless base stations that do not have to meet aviation safety standards and addresses the risk from unforeseen factors. The JAC recommended reducing the ITM by the six dB safety margin so the requirement would align with the maximum authorized interference environment and incorporating the six dB safety margin into policy and guidance documents concerning RA performance. ALPA made a similar recommendation that the published ITM be expressed to describe the spectrum environment due to concern that stakeholders outside aviation may view the ITM as a published limit on their emissions and negate the safety margin. ASRI also recommended improving clarity concerning the maximum safely tolerable RFI environment and the required RA performance in that environment, including application of the six dB safety margin.

While FAA agrees with the need for the safety margin, FAA's authority is to regulate the aircraft and its operation; regulating the interference environment is outside of FAA's authority. FAA is specifying the aircraft interference tolerance and not the interference environment. It is essential that aircraft comply with the interference tolerance proposed in the NPRM, and FAA cannot incorporate a performance requirement into its guidance material that is more stringent than the regulation itself.

For these reasons, FAA is retaining the safety margin in the safety analysis and is not revising the ITM in this final rule.

4. Single Retrofit Solution

The JAC and several other commenters, including AAAE, Dassault Aviation, the Lufthansa Group (Lufthansa),¹⁹ and Virgin Atlantic stressed the importance of a "one and done" strategy, requiring a single retrofit or replacement RA system to address the upcoming Upper C-band auction, the future expiration of voluntary wireless commitments in the Lower C-band, and any future reallocation of spectrum near the RA band. Commenters noted that a phased approach involving multiple retrofits would impose significant additional costs on the aviation industry, increase demand on manufacturers in a way that would extend the overall timeline, and divert resources from the development and certification of next-generation RAs. Dassault Aviation asked for RA performance requirements to be suitable for future expansions, such as potential expansion in the 4.4–4.8 GHz band, and asked FAA to state that these RA performance standards will fully address exposure in the Upper C-band.

The RAA noted that regional carriers are highly affected by indirect costs, such as aircraft downtime, scheduling disruptions, and diverted maintenance labor, and suggested that additional retrofit requirements could be devastating for some regional operators. An anonymous commenter noted their company's recent RA upgrades to support U.S. operations and stressed that it is critical to implement a long-term solution to prevent the need for additional upgrades to RA systems in the future.

FAA agrees with these commenters. A single retrofit of RA systems meeting the performance requirements in this final rule can address long-term compatibility with wireless in both the Lower and Upper C-band. Aligned with the goals of the RTCA/EUROCAE MOPS development efforts, the ITM in § 91.220(b) is intended to allow for future spectrum reallocation near the RA band without creating new interference risks or the need for a subsequent retrofit.

In this final rule, FAA retains the ITM requirements proposed in the NPRM, which include requirements in the 4.4 to 5.6 GHz band (which is above the 4.2–4.4 GHz band used by RAs), to

¹⁹ The Lufthansa Group includes Lufthansa Airlines, SWISS, Austrian Airlines, Brussels Airlines, Discover Airlines, and Edelweiss.

provide a basis for compatibility with potential wireless services at those frequencies. FAA notes, however, that as no specific proposals have been adopted for potential spectrum reallocation in the 4.4–4.8 GHz band mentioned by Dassault Aviation, FAA cannot guarantee compatibility with the ITM.

5. External RFI

ASRI recommended FAA change proposed § 91.220(b) to add a definition for External Radio Frequency Interference to mean RFI originating from systems operating outside the RA band. ASRI stated this would distinguish RFI from RA-to-RA interactions, which are not applicable to the proposed ITM. No other commenters raised this concern.

FAA agrees RA-to-RA interactions between aircraft systems are not applicable to the proposed ITM; however, the proposed rule must be met in the presence of signals from all RA systems on the same aircraft (*i.e.*, dual or triple RA system installations), which may impact performance against the ITM. Therefore, external RFI would not be appropriate in this context, and FAA finds that no changes to the regulation are necessary.

6. RA Antenna Characteristics

Gulfstream suggested that the interference issue seems to be viewed as an RA system issue without addressing the impact of antenna polarization and noise rejection. It recommended adding antenna performance standards to permit antenna tuning compliance solutions in addition to other RA changes, which may be a feasible alternative for RA systems that are close to meeting the required performance requirements.

FAA notes that the ITM requirements in this final rule apply to the entire RA system performance and allow for industry to consider the effects of antenna signal rejection and transceiver noise rejection. The impact of antenna polarization is directly addressed in the final rule, as the defined interference tolerance is a single polarization at any orientation at the phase center of the antenna. An RA system may demonstrate compliance through a combination of improved antenna performance and the noise rejection of the RA transceiver.

7. Relationship With Draft RTCA/EUROCAE Standards

Many commenters addressed the relationship between the NPRM and the industry standard being developed by RTCA and EUROCAE. Many

commenters were concerned that a delay in completing the new RTCA/EUROCAE MOPS would delay implementation. ATR suggested that any delay in RTCA/EUROCAE publication of the new MOPS would lead to a delay in Technical Standard Order Authorization (TSOA) approval. It asked FAA to reiterate that the new MOPS are expected by March 2027. The CCA recommended FAA address the potential for delay by requiring standards finalization on a more accelerated timeline. The Cargo Airline Association supported moving forward with these new RA requirements while industry standards are being completed due to the accelerated timeline. Honeywell agreed with the proposed approach to define ITM requirements and allow for more than one means of compliance, such as a future Technical Standard Order (TSO) TSO–C221 or ITM compliance demonstrations under legacy TSO–C87. Lufthansa recommended RA systems that meet the proposed ITM are most suitable for retrofit of existing aircraft to expedite the replacement schedule, and RA systems that will meet the full MOPS are the most suitable for new production aircraft.

The European Union (EU) Aviation Safety Agency (EASA) stated that the ITM portion of RA systems performance cannot be addressed completely separately from other parts of the MOPS that are currently being validated due to interdependencies between different requirements. EASA noted that it intends to reference the new RTCA/EUROCAE MOPS in future amendments to its aviation regulations, and the MOPS will also be an input to spectrum compatibility studies to ensure safe coexistence between wireless and aviation in the EU. It suggested that the non-standardized approach of RA systems that meet the ITM requirements does not have the benefits and efficiency of the standardized approach using the new MOPS, which may add a significant burden for platform-level integration or require additional specifications similar to MOPS requirements. It also suggested that meeting the ITM requirements alone would expose the aviation industry to further retrofits in the future if EASA or other civil aviation authorities (CAA) require RA systems and equipment developed according to the new standards.

EASA suggested that imposing ITM requirements before completion of the validation process (scheduled for September 2026) for the RTCA/EUROCAE MOPS would introduce a risk for this final rule. EASA invited

FAA to consider issuing the final ITM requirements after that validation process is complete, to increase confidence that the validated MOPS will be an acceptable means of compliance. One commenter suggested that FAA should wait until the completion of the new RTCA/EUROCAE MOPS for new RA systems before introducing new RA performance requirements.

FAA declines to delay finalizing the proposed RA performance requirement until completion of the new RTCA/EUROCAE standards, which FAA confirms are scheduled to be published in March 2027, as such a delay would introduce unacceptable costs, limitations, and risks to completing equipage for the part 121 and 129 fleets subject to the first compliance date of December 30, 2030. The RA suppliers performing the technical work to validate the MOPS have all indicated, via submissions in response to the NPRM from the JAC and individual comments, that they support the ITM as proposed in the NPRM below 500 ft. None indicated any risk that the standard is not achievable. Therefore, FAA does not agree that MOPS validation issues present a reasonable risk to the ITM requirements in this rule.

In this final rule, FAA is not adopting the new industry standard as a requirement. The holder of a type certificate (TC) or supplemental type certificate (STC) for an aircraft design, including an RA system, has the responsibility to define the RA system requirements, regardless of any design approval for the equipment itself under a TSO. For this reason, FAA agrees with Lufthansa that operators may comply with the final rule using equipment that meets aircraft OEM requirements and the ITM without meeting the planned industry standard. Operators may also comply with the final rule using equipment that meets the planned industry standard, the aircraft OEM requirements, and the ITM. The tradeoff between using an RA system that complies with legacy RA system requirements (*e.g.*, TSO–C87) or the new industry standard is a market consideration. FAA does not view this trade-off as a regulatory consideration because both options will ensure safe operations in the presence of wireless signals. FAA does not have a regulatory basis to discriminate among these market selections.

FAA plans to support the industry segment that chooses to comply with the new industry standard when it is available. FAA plans to recognize the industry standard with a new TSO for

RA transceivers and a new TSO for RA antennas. These TSOs will provide one means for obtaining FAA design and production approval for compliant equipment to facilitate aircraft equipage. To ensure authorization of compliant equipment, the ITM in the new RA transceiver TSO will conform to the FAA final rule regardless of the ITM in the industry standard; however, FAA does not anticipate any differences between the ITM of the industry standard and this final rule.

8. International Harmonization

ALPA and the JAC emphasized the need for international harmonization due to the global nature of RA equipment and aircraft operations, as well as the work of the RTCA SC-239 and EUROCAE WG-119 joint committee, and requested FAA seek alignment with EASA and other CAAs on RA performance requirements and test methods to simplify global certification of new RA systems. The JAC also recommended that FAA work with the International Civil Aviation Organization (ICAO) to ensure the final rule aligns with any new Standards and Recommended Practices (SARPs) and supports international recognition of U.S. compliance to avoid duplicative certification requirements. Lockheed Martin requested that FAA coordinate an international interference-tolerance standard with ICAO, EASA, and EUROCAE WG-119 prior to the compliance mandate or provide a temporary exemption for foreign-registered aircraft if necessary. The General Aviation Manufacturers Association (GAMA) recommended that FAA work with other CAAs to facilitate methods of RA performance compliance when operating in the U.S., including U.S. state of design aircraft that must be validated by other CAAs for operations under part 129 into the U.S. and foreign state of design aircraft that must be validated by FAA for delivery to U.S. operators. GAMA stated that foreign aircraft OEMs have experienced different flight test requirements for past RA certifications for Lower C-band interference tolerance. GAMA further noted that foreign aircraft OEMs may be subject to a more rigorous validation process because there is no foreign equivalent to this final rule.

FAA seeks to prevent future differences between U.S. aviation standards and those of other CAAs by adopting new RA system performance standards that are based on the best achievable interference rejection. FAA is also providing the safety analysis in section IV.B below to preserve the full functionality of RA systems, which can

be used by other countries seeking to expand wireless services. FAA is not proposing any changes to aircraft certification rules or procedures affecting the installation approval for RA systems and will work with other CAAs to facilitate methods of RA performance compliance.

B. Safety Analysis and Assuring Safety in the New Spectrum Environment

In the NPRM, FAA explained the purpose of the proposed rule is to achieve the full functionality of RAs in the presence of next-generation wireless services in the adjacent C-band. FAA explained the safety analysis for the proposed requirements, which considers the operational uses of RA systems, the anticipated interference environment, the ITM, and supporting analysis. The safety analysis in the NPRM assumed there would be no siting constraints on the wireless base stations, while also considering a potential interference environment generally aligned with Lower C-band technical rules (to the extent practicable) as was contemplated by the FCC NPRM.

Several commenters had comments and recommendations about the safety case considerations, including aircraft MSD from wireless base stations, aggregation of signal due to multiple base stations in very close proximity, assumed aircraft bank angle, and wireless base station antenna patterns. CTIA noted that the aviation and wireless industries had reached consensus on nearly all relevant technical issues concerning Upper C-band wireless operations and aligned with the FAA coexistence analysis, including maximum fundamental base station power (up to 65 dBm/MHz total EIRP) up to 4160 MHz, with emitter height limits of 450 ft AGL and half of fundamental and spurious power in each polarization. CTIA referred to a range of reports that analyzed the characteristics and coexistence between RAs and wireless signals in the adjacent spectrum, such as the RTCA 2020 report,²⁰ the Joint Interagency 5G Radar Altimeter Interference program,²¹ and the Electronic Communications Committee studies,²² noting that recent studies show that existing filters are

working better than anticipated to facilitate safe coexistence.

The JAC supported FAA's safety analysis, noting that the analysis is sufficient to cover the broad range of safety-critical systems dependent on RA data, such as TAWS, TCAS, autoland, windshear alerting, helicopter automation modes, Night Vision Goggles (NVG) operations, and emergency flight phases. ALPA stated that the NPRM presented appropriate conservative assumptions to evaluate catastrophic severity hazards and was consistent with the interference susceptibility envelope in the RTCA SC-239 assessment. It also noted that failure to align RA performance requirements with FCC Upper C-band service rules will make it difficult for either industry to plan with confidence.

Many commenters reiterated that external signals into the RA band must be constrained because RAs cannot filter out interference within the RA band. The JAC and other commenters recommended FCC implement EIRP-based limits on out-of-band emissions to capture the total radiated power at the point of emission, citing concerns that active antenna system (AAS) emissions and directivity performance are not validated and that conducted power limits alone do not account for base station antenna gain. Commenters further suggested that an EIRP limit eliminates the need to document and validate the characteristics of all AAS configurations within the compressed timeline while preserving design choices for wireless licensees and providing compatibility assurance for RA systems.

FAA has updated its safety case in consideration of comments received and to align with the interference environment defined by FCC's Upper C-band R&O²³ (discussed in section III.B). This section addresses the comments received on specific parameters in the safety analysis and presents FAA's final analysis for RA systems compliant with the ITM operating safely in the spectrum environment authorized by FCC.

In developing the final safety analysis, FAA considered the worst-case configuration of wireless base stations that are compliant with FCC requirements. The average or typical conditions are not the dominant consideration in the safety case, as FAA does not allow for safety to be traded off among various geographic locations. A single critical location, such as one or more wireless base stations under a

²⁰ Available at https://www.rtca.org/wp-content/uploads/2020/10/SC-239-5G-Interference-Assessment-Report_274-20-PMC-2073_accepted_changes.pdf.

²¹ Available at <https://its.ntia.gov/publications/details?pub=3289>.

²² Available at <https://docdb.cept.org/download/4596>.

²³ FCC R&O citation unavailable due to concurrent publication with this final rule.

flight path and very near an airport or heliport, would increase the risk of hazardous interference for all operations at that location. The FCC Upper C-band R&O limits new wireless base stations to no greater than 450 ft AGL but does not place any other applicable restrictions on wireless base stations, including no limitations on transmissions above the horizon, under flight routes, or near airports.

FAA proposed to protect all aeronautical applications of RA systems, including those for low-visibility operations, TCAS, TAWS, aids to helicopter and airplane pilots to know their height above ground, and various aircraft-specific applications. No commenters proposed additional applications or identified applications that should not be protected.

Due to the wide range of applications for the RA system and the variety of aircraft equipped with RAs, FAA's methodology was based on the RA functioning reliably at 35 ft MSD from any wireless base station when the aircraft is 500 ft AGL or lower. This was also necessary to address the assumption that there would be no siting constraints on wireless base stations, such as those in the current wireless voluntary commitments for the Lower C-band. MSD was defined as a sphere with a 35-ft radius centered on the wireless base station antenna phase center. FAA used this MSD to support the continued safe function of the RA and integrated safety systems in all nominal, off-nominal, and emergency operations.

The JAC, in several separate comments as well as group comments, supported FAA's methodology using 35 ft MSD from any wireless base station, noting that it is appropriate to preserve the operational integrity of the RA and integrated safety systems across all nominal, off-nominal, and emergency operational scenarios, except those scenarios where the risk of collision with the base station and structural mount are greater than the risk of interference.

Wireless industry group CTIA recommended that FAA instead consider a 300 ft horizontal MSD, based on the recommendation in FAA Advisory Circular (AC) 120-91A, *Airport Obstacle Analysis*, for aircraft with one engine inoperative (OEI) to maintain at least 300 ft of lateral separation from obstacles outside of the airport boundary. CTIA also recommended a 50 ft vertical MSD, referencing EASA OEI vertical separation requirements and MSD assumptions used in previous Lower C-band coexistence assessments. Embraer

noted that Brazil's Agência Nacional de Aviação Civil (ANAC) considered 35 ft MSD to be too conservative during a previous safety assessment. Lockheed Martin recommended using a more conservative MSD, noting that 35 ft is smaller than the wingspan of many transport category aircraft, and that unmanned aircraft systems (UAS) could fly within 10 ft of a wireless base station.

In this final rule, FAA is retaining use of the 35 ft MSD in its methodology to encompass the diversity of operations identified in the NPRM. FAA notes that the EASA OEI vertical separation requirements are not directly applicable for flight in U.S. airspace. FAA OEI obstacle clearance requirements in §§ 121.189, 135.379, and 135.398 require 35 ft of vertical clearance. The safety assessments for the Lower C-band considered other limiting characteristics of the Lower C-band wireless base stations in the voluntary commitments, such as limits on out-of-band emissions and signal power above the horizon. The Lower C-band and ANAC safety assessments addressed a subset of operations where misleading RA information would create a safety hazard and did not address the safety benefits of an RA as a mitigation against other failures or operational errors. For example, RAs reduce controlled flight into terrain (CFIT) accidents by providing the pilot with a direct reference of the height above the ground, alerting pilots if the rate of closure to the ground or proximity to the ground is too low, and affecting the functionality of traffic alerting systems. The standards for terrain warning require the RA to function to 50 ft AGL, whereas wireless base stations may be up to 450 ft AGL. The takeoff and touchdown use cases should provide accurate data to zero ft AGL, and both airplanes and helicopters could transit over wireless base stations during takeoff and landing operations. With respect to spurious emissions, the Lower C-band analysis provided adequate protection for a vertical MSD of 25 ft. By using an MSD of 35 ft in its methodology, FAA assures the proper functioning of this equipment except in those circumstances where the structure that the base station is sited on is a physical hazard in and of itself.

In this final rule, FAA is not increasing the horizontal MSD in its methodology. While CTIA cited a 300 ft horizontal separation recommendation in AC 120-91A for OEI operations, that applies to obstacles outside the airport boundary. AC 120-91A recommends a lateral separation of 200 ft for obstacles within the airport boundary, which

could include wireless base stations. The terrain warning system application has no defined horizontal distance, as the purpose of the system is to alert when the aircraft is being flown at a location and altitude it is not otherwise supposed to be. For this application, it is not necessary to protect the RA (located near the center of the aircraft) if the aircraft were to hit the antenna itself, so aircraft half-wingspan provides an appropriate lower bound on where the RA system should be able to operate. The smallest transport category airplanes certificated under 14 CFR part 25 have wingspans greater than 35 ft (and half-wingspans of approximately 35 ft), and most helicopters required to be equipped with RA have an overall length of 35 ft or more. FAA heliport design guidance²⁴ also defines obstacle-free areas based on the largest helicopter supported at the heliport, allowing immediately adjacent buildings or antennas as close as 45 ft from the heliport center for smaller RA-equipped helicopter types commonly used by multiple operators.

The JAC concurred with the application of a six dB safety margin to account for uncertainties in the design and implementation of adjacent band base stations that are not required to meet aviation safety design assurance standards, noting this is consistent with ICAO recommendations for aeronautical safety systems. No commenters proposed changes to the six dB safety margin.

FAA agrees with commenters regarding the need for margins sufficient for safety applications. The safety analysis for this final rule continues to apply a six dB safety margin above the expected interference environment to account for unknown issues that could impact the safe operation of the RA. This is consistent with ICAO recommendations in ICAO Doc 9718, the Handbook on Radio Frequency Spectrum Requirements for Civil Aviation,²⁵ which indicates applying a safety margin of six to 10 dB for aeronautical safety systems.

CTIA recommended updating the safety case to account for the aircraft RA antenna rolloff from the vertical to horizontal aircraft body axis and to assume no greater than a 25-degree bank angle. However, FAA did not consider the aircraft antenna rolloff or the bank angle when conducting its safety analysis. These factors are not relevant

²⁴ AC 150/5390-2D, Heliport Design, available at https://www.faa.gov/airports/resources/advisory_circulars/index.cfm/go/document.current/documentnumber/150_5390-2.

²⁵ Available at <https://www.icao.int/FSMP/documents>.

because the FCC limit on EIRP does not have any directional constraint, and the ITM adopted in this rule applies to signals with any angle of arrival. Though wireless base stations and RA antennas have directional antenna gain, FCC and FAA regulations do not directly define or constrain those characteristics to support inclusion in this analysis. Accounting for bank angle and associated RA antenna patterns would necessitate additional information and potentially lead to requirements in the ITM concerning aircraft antenna characteristics. FAA would have to consider bank angles achieved in a variety of operations, which are not accounted for in the proposal made by CTIA. These considerations are not relevant or critical because the RA performance requirements adopted in this final rule support compatibility with signals in neighboring spectrum bands that meet FCC R&O technical requirements, regardless of antenna rolloff or aircraft bank angle.

CTIA also suggested that an aggregation factor is not required in the safety case concerning wireless out-of-band emissions into the RA band. It noted that multiple wireless base stations are rarely co-located on the same structure. In support, CTIA submitted data from a recent survey of

nearly 12,500 locations by a leading tower management company showing that there is one wireless base station on over 88% of those towers, with two base stations on over 11 percent of those towers, and three base stations on a single tower. It also noted that multiple base stations on the same tower must be vertically separated to prevent interference, limiting the potential for interference above the tower structure when some base stations are lower on the tower.

FAA disagrees with the recommendation to disregard the potential for aggregation of spurious emissions into the RA band. The CTIA data confirms that there are sites with three base stations at the same location. In addition, FAA evaluated the Lower C-band base stations submitted as part of previous and current wireless commitments and identified over 230 locations with three unique wireless transmitters at each location. FAA agrees that vertical separation of base stations on an antenna or other structure supports the assumption of reduced aggregation above the antenna, but that argument does not apply when considering an aircraft adjacent to the antenna. In the NPRM, FAA also explained that the aggregation factor was intended to provide an allowance for a potentially much larger number of

interference sources at greater distances. FAA has updated the six dB aggregation assumption used in the NPRM and instead adopted an aggregation of five dB, recognizing that interference from other wireless sources at greater distances would not aggregate to the same power as a base station at 35 ft.

In conclusion, FAA finds that the ITM in this final rule is fully compatible with the power levels of next-generation wireless services in both the Lower and Upper C-band as authorized in their respective FCC R&Os. FAA considered MSD and safety margins to conclude that wireless transmissions in the adjacent band do not exceed the ITM adopted in this final rule, as shown in Table 2. The adjacent band analysis applies the ITM at 4140 MHz, the highest frequency authorized for wireless base stations.

The FCC R&O also allows for a conducted spurious emissions limit of -46 dBm, rather than the -28.4 dBm/MHz EIRP shown in Table 2. This conducted limit allows for an antenna gain in the RA band of up to 17.6 dBi. That antenna gain is consistent with the proposal in the NPRM and FAA received no comments on that proposal. Additional discussion of the compatibility with the Lower C-band is provided in section IV.C.

Table 2: Summary of Compatibility Analysis

Parameter	Adjacent Band	In-Band
Wireless emission (EIRP, dual-polarization)	65 dBm/MHz	-28.4 dBm/MHz
Wireless emission, per polarization (EIRP)	62 dBm/MHz	-31.4 dBm/MHz
Field Strength at 35' MSD	0.4 dBW/m ² /MHz	-93 dBW/m ² /MHz
Safety Margin	6 dB	6 dB
Aggregation Factor	NA	5 dB
Total Field Strength	6.4 dBW/m ² /MHz	-82 dBW/m ² /MHz
ITM	9.5 dBW/m ² /MHz	-82 dBW/m ² /MHz

C. Lower C-band Coexistence

Many commenters expressed significant concern about out-of-band emissions from wireless signals into the RA band, including recommendations for FCC to update the technical requirements for Lower C-band licensees to ensure they are aligned with new Upper C-band requirements and compatible with FAA's RA performance requirements. The JAC explained the need for consistency between the out-of-band emissions limits applicable to Lower C-band and Upper C-band

licensees and highlighted the viability of the current voluntary wireless commitment, which limits conducted spurious emissions to -48 dBm/MHz. GAMA noted that the National Telecommunications and Information Administration (NTIA) submitted comments²⁶ on the FCC Upper C-band NPRM that stated "[u]pdating the appropriate wireless service limits for transmissions in the [L]ower C-band (3.7–3.98 GHz) may be necessary for

long-term safe wireless and aviation coexistence."

FAA agrees with commenters that it is critical for aviation and wireless timelines to align and for the spectrum environment defined by FCC to be compatible with the RA performance requirements adopted by this rule to best support long-term safe coexistence. The FCC R&O adopts a new requirement on spurious emissions from Lower C-band wireless base stations into the RA band of -28.4 dBm/MHz EIRP or -46 dBm/MHz conducted power that conforms to the Upper C-band

²⁶ <https://www.fcc.gov/ecfs/search/search-filings/filing/10121029347178>.

requirement. This is consistent with the assumptions FAA used to formulate and adopt its ITM, as explained in the safety analysis in section IV.B for the Upper C-band. The conducted spurious limit is also compatible with the voluntary commitment made by the wireless carriers.

Aviation industry commenters agreed that the best method to address interference risks from Lower C-band base stations is to extend the current wireless voluntary commitments to provide sufficient time for aviation operators to equip with RA systems that meet the final performance requirements. Boeing noted that the expiration of these agreements would leave existing RAs and the safety systems that depend upon them unprotected, jeopardizing aviation safety and current fleet operational capabilities. The RAA recognized that FAA would be forced to reimpose restrictive operational limitations. Embraer suggested that the wireless voluntary commitments be extended until the final RA compliance deadline to protect part 91 operators. All Nippon Airways suggested interim voluntary agreements to address the Upper C-band if part 121 and 129 aircraft will be operationally impacted by not meeting the initial RA compliance deadline.

A4A noted that these voluntary commitments are the primary mitigation for legacy RAs before the new performance standards, associated technical authorizations, and next-generation equipment are developed, approved, and widely deployed. The JAC stressed that many aircraft currently equipped with Lower C-band tolerant RAs have already completed one RA retrofit at their own expense to address the current ADs to address Lower C-band interference, and the RA performance requirements in the proposed rule represent a second modification to the same system within a relatively short period. When considering the need for an extension of the voluntary wireless commitments, the CCA suggested that it is unacceptable to place the burden of the aviation industry's delay on wireless carriers and urged FAA to accelerate aviation industry compliance so extensions and new mitigations are not necessary. No commenters provided specific information regarding burdens that wireless operators experience due to the current voluntary commitments.

With an initial RA compliance deadline on December 30, 2030, aligned with the FCC R&O that permits new Upper C-band signals beginning the next day, FAA agrees with aviation commenters that an extension of the

wireless voluntary commitments until that date is critical to protect current RA systems and support safe coexistence with Lower C-band signals. FAA notes that, in response to FCC's request for comments on proposed revisions to the Lower C-band R&O,²⁷ AT&T, T-Mobile, and Verizon stated that they "are prepared to extend the voluntary commitments until the FCC's initial date for licensees' access to Upper C-Band spectrum."²⁸

ASRI supported FAA's initiative to encourage, track, and analyze reports of potential spectrum interference and recommended continuing this initiative beyond the RA compliance deadlines to monitor long-term effectiveness. To ensure the safe transition, FAA plans to continue to track and analyze reports of potential spectrum interference.

D. Applicability

1. Aircraft Applicability

To maintain the safety advantages provided by reliable, accurate RA data, FAA proposed that all aircraft equipped with RA must be equipped with an RA system that can operate in the future interference environment. Many aircraft rely on accurate RA data to support safety systems required by other regulations, and RA systems must function properly to provide the safety benefits that justify these equipment requirements. There are also aircraft that have voluntarily been equipped with an RA for safety and operational reasons. The intended function of that equipment is to provide accurate altitude data, and FAA proposed to preserve that capability in the future operating environment.

GAMA noted that the current ADs are a limited regulatory action compared to the scope of the proposed RA performance requirements, as fewer aircraft types are affected by the current ADs while the NPRM proposed a new minimum aviation safety basis for all

aircraft equipped with an RA system. A couple of commenters, including ATR, recommended clarification concerning operations under parts other than 91, 121, and 129 that would be bound by the requirements of § 91.220, specifically referencing operations under parts 125, 135, and 194. One commenter asked FAA to clarify whether the RA performance requirements will apply to all RAs on board the aircraft. Another commenter suggested that new regulations be a forward-fit requirement for new aircraft and should be addressed to aircraft manufacturers rather than operators, because operators have no control over the process necessary to meet these requirements.

FAA clarifies that the requirements in this final rule apply to all aircraft operations subject to part 91, as identified in the applicability provisions in § 91.1. This includes aircraft operations that are also subject to parts 121, 125, 129, 133, 135, 136, 137, and 194. While the current ADs issued for the Lower C-band had a narrower applicability, they only addressed those RA applications where interference created an unsafe condition. This final rule also addresses RA applications that require accurate RA data for a safety enhancement, which affects the entire fleet. For an aircraft with more than one RA system, the requirement applies to all RA systems. This requirement must apply equally to all aircraft operating after the applicable compliance date, including previously manufactured and new aircraft, as the interference can affect these aircraft in identical ways.

This final rule does not address operations that are not subject to part 91, in accordance with the applicability provisions in § 91.1, and therefore does not apply to UAS operating under part 107, operating under the proposed part 108,²⁹ or conducting limited recreational operations under 49 U.S.C. 44809.³⁰ RA systems are not currently integrated into these aircraft, and integrating them is challenging due to size restrictions. Any future use of RAs by UAS should consider the radio frequency environment of their operation, and the performance requirements for such equipment should be handled through the appropriate aircraft or operational qualification process. The final rule also does not address operations under part 101 or 103, as ultralights, balloons, and

²⁷ See *Wireless Telecommunications Bureau Refreshes Record on Lower C-Band Petitions for Reconsideration*, 91 FR 20084 (Apr. 15, 2026).

²⁸ CTIA, in conjunction with the AT&T, T-Mobile, and Verizon, submitted a letter to FCC's docket on June 18, 2026, available at <https://www.fcc.gov/ecfs/search/search-filings/filing/26109835127>. As of July 15, 2026, 14 other licensees also submitted letters to FCC's docket extending their voluntary commitments, including Widespread Wireless, LLC; East Kentucky Network, LLC; Canopy Spectrum, LLC; Nex-Tech Wireless, LLC; Carolina West Wireless, Inc.; Union Telephone Company; Smith Bagley, Inc.; Little Bear Wireless, LLC; LICT Wireless Broadband Company, LLC; Array Digital Infrastructure (formerly known as UScellular); Pioneer Telephone Cooperative, Inc.; NewLevel LP; Night Spectrum, LLC; and Cellular South Licenses, LLC. These letters are available at [https://www.fcc.gov/ecfs/search/search-filings/results?q=\(proceedings.name:\(%2218-122%22\)\)](https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2218-122%22))).

²⁹ *Normalizing Unmanned Aircraft Systems Beyond Visual Line of Sight Operations*, 90 FR 38212 (Aug. 7, 2025).

³⁰ <https://www.govinfo.gov/content/pkg/USCODE-2023-title49/pdf/USCODE-2023-title49-subtitleVII-partA-subpartIII-chap448-sec44809.pdf>.

other aircraft covered under these parts generally do not have RA systems.

FAA proposed specific RA regulations for part 91, 121, and 129. ATR requested clarification of the proposed requirements for part 129 and suggested that FAA issue specific regulatory requirements for parts 125, 135, and 194. While part 91 applies to operations in parts 121, 125, 129, 133, 135, 136, 137, and 194, FAA proposed specific regulations in parts 121 and 129 to make compliance dates easier to identify by the affected operators. That is, the earlier compliance date for operators under parts 121 and for certain part 129 operators is intended to ensure early equipping for aircraft with greater seating and payload capacity. The later compliance date in part 91 is intended to apply to all remaining operators. Even though the part 91 requirement and compliance date are the same as the requirement and compliance date in § 129.16(b) that is applicable to the remaining part 129 fleet, FAA will be retaining § 129.16(b) to ensure clarity for part 129 operators. To summarize, § 129.16(a) applies to foreign air carrier operations conducted under part 129 on or after December 30, 2030, of aircraft with 30 or more passenger seats or a payload capacity of more than 7,500 pounds in the airspace of the 48 contiguous United States and the District of Columbia with a radio altimeter. This is the same date as the RA compliance deadline for part 121 operators in § 121.326 because these operations are the most critical to the national economy, have the highest expected level of safety, perform a significant majority of low-visibility operations that would otherwise be restricted to protect from hazardous interference, and are most economically impacted by operational limitations that are required when the risk of interference is too great, making them a priority. Section 129.16(b) requirements align with the § 91.220(b) compliance date of October 31, 2034, which is applicable to part 135 operators, among others, because of the similar economic impact and expected level of safety for those kinds of operations.

2. Geographic Applicability

The JAC, in group and individual comments, expressed support for aligning FAA and FCC regulations regarding requirements outside the 48 contiguous United States and the District of Columbia. The JAC also supported the proposal not to extend RA performance requirements to the three to 12 nautical mile (nm) offshore zone, noting that aircraft operating to and from the 48 contiguous states would

be subject to these requirements. Lockheed Martin expressed concern about mixed-fleet management and operational constraints due to the different geographic scope of the proposed RA performance requirements and suggested the proposal undermined the “uniform safety standards” principle in 49 U.S.C. 44701. It further suggested that the proposal was inconsistent with the practice of issuing RA standards nationwide and that there may be safety implications for operations outside of the 48 contiguous states. CTIA noted that it is encouraging FCC to license the Lower and Upper C-band outside of CONUS, as such areas are underserved today by mid-band spectrum. An individual commenter suggested that there may be operators that do not routinely operate near wireless transmissions and may not be subject to levels of interference enough to justify the expense of an RA system upgrade.

While FAA agrees that specific RA performance is not required for operators that do not operate near the source of wireless transmissions, that is only the case for operators that do not fly in the 48 contiguous United States and the District of Columbia. Wireless service providers have already deployed tens of thousands of Lower C-band base stations throughout the 48 contiguous United States and the District of Columbia, and FAA expects a similar broad geographic deployment of Upper C-band base stations. The FCC R&O only authorizes wireless base stations in the contiguous United States. Outside of the contiguous United States, the interference environment is not changing, and aircraft with existing RA systems can continue to operate safely.

Therefore, the RA performance requirement in the final rule does not apply to operations in the airspace over the State of Alaska, the State of Hawaii, Puerto Rico, and other U.S. territories and possessions, including territorial waters. Aircraft that are only operated in the airspace where this rule does not apply are not required to be equipped with RA systems that meet these RA performance requirements.

As proposed in the NPRM, the final RA performance requirements do not extend into the airspace overlying the waters between three and 12 nm from the coast of the U.S. The final RA performance requirements are applicable to aircraft operating in offshore airspace if they arrive, depart, or otherwise operate in the airspace within three nm of the coast of the 48 contiguous United States in accordance with § 91.1(a).

E. RA Compliance Deadlines

In the NPRM, FAA proposed an initial compliance deadline for operations under part 121 and operations under part 129 conducted with aircraft with 30 or more passenger seats or a payload capacity of more than 7,500 pounds sometime between 2029 and 2032, and proposed a final compliance deadline two years later for all remaining aircraft with RAs subject to part 91. The NPRM noted that a variety of factors would influence the deadlines and sought comments to help balance the urgency as a result of expanding wireless services in the Upper C-band with the development of next-generation RA systems with acceptable schedule risk. At the time of the NPRM's publication, FAA did not have sufficient data to determine specific dates in the NPRM and requested comments on the feasibility and factors that would affect the compliance timeline.

The commenters who addressed the inclusion of two different deadlines supported the distinction. Lockheed Martin suggested that the compressed timeline is unrealistic and suggested a more phased approach to account for differences in requirements for different aircraft fleets. Boeing and GAMA noted that there are limited engineering and production resources within the industry. These are critical resources for the aircraft relevant to the initial and final RA compliance deadlines. Many commenters noted that the achievable schedule for the GA fleet would be considerably longer than the schedule for the air carrier community. Accordingly, and as discussed in this section, this final rule retains two different compliance dates.

1. Aligning FAA and FCC Deadlines

FAA explained in the NPRM that it would align the initial RA compliance date with the date FCC authorizes wireless signals in the Upper C-band. The initial RA compliance deadline applies to the operations that are the most critical to the national economy, have the highest expected level of safety, perform a significant majority of low-visibility operations that would otherwise be restricted to protect from hazardous interference, and are most economically impacted by operational limitations that are required when the risk of interference is too great, making them a priority. The FCC R&O, which was issued after the NPRM, authorizes these services beginning on December 31, 2030. These future wireless signals are likely to cause interference to current RA systems that do not meet the

performance requirements adopted by this final rule.

Many commenters supported aligning the initial RA compliance deadline with the date FCC authorizes new Upper C-band wireless services to commence, including signatories of the JAC jointly and in separate comments. Lufthansa asked for no Upper C-band activation or power increases until retrofits are complete for part 121 and part 129 operators. Many commenters, including the JAC, the RAA, Boeing, AIA, GAMA, and the Cargo Airline Association, referenced NTIA comments to the FCC NPRM that also recommended aligning these timelines. An individual commenter was concerned that the NPRM tied proposed RA compliance deadlines to the date FCC authorizes wireless services in the Upper C-band rather than setting a specific date.

FAA is adopting an initial compliance date of December 30, 2030, aligned with FCC authorization of wireless service in the Upper C-band the next day. Aligning the dates provides for safe and efficient operations conducted under part 121 and with large aircraft under part 129. FAA also considered the feasibility of achieving this compliance date. As noted in the NPRM, FAA proposed that an initial RA compliance deadline between 2029 and 2032 would be feasible and asked for comments to better inform that decision. As discussed in the following section, IV.E.2, FAA considered comments from aviation stakeholders to support its determination that a compliance date of December 30, 2030, is achievable for operators subject to the initial deadline.

2. Summary of Schedule Considerations

To confirm that an initial RA compliance date of December 30, 2030 is achievable for aviation stakeholders, and to determine a suitable final RA compliance date, FAA considered numerous comments on estimated schedules and factors that could accelerate or delay implementation. AIA, Airbus, A4A, Collins Aerospace, Embraer, Honeywell, RAA, Thales Group, and Boeing jointly submitted a supplemental comment to the FCC docket³¹ indicating a coordinated initial compliance date at the end of 2030. These organizations represent the RA suppliers, aircraft OEMs, and operators associated with the initial deadline. In its initial comments, the JAC noted that the typical timeline for an equipment retrofit of this magnitude would normally extend to at least 2035, and this represents an “unprecedented

acceleration” to support the expansion of wireless service for the American public. It also noted that its timeline is based on several assumptions, including simplifying the draft AC 20–199³² guidance to show compliance, no additional competing equipment mandates, and no resource conflicts due to military aircraft retrofit that would significantly impact their estimated schedule.

The JAC and numerous commenters expressed support for FCC’s consideration of financial incentive mechanisms and noted the potential to meaningfully accelerate the retrofit schedule, potentially enabling earlier fleet-wide compliance and reducing equipment costs. They also suggested that incentives would be very useful for small operators who may face disproportionate costs per aircraft or have more difficulty absorbing the cost of the RA system upgrade. In its initial comments to the FCC NPRM, A4A stated that the initial 2032 deadline suggested by the JAC is reasonable for part 121 operators, but incentives and rebates could speed this upgrade to 2030. It noted that incentives and accelerated upgrade payments would enable quicker operator installations by supporting greater availability of new RA systems and reinforcing manufacturing capacity, supply lines, and maintenance capacity, as airline-induced market pressures facilitate growth in RA supply. The updated JAC comments to FCC also stressed that completion by the end of 2030 would be contingent upon rebates for the reasonable cost of upgrade being available to aircraft operators. Singapore Airlines, All Nippon Airways, and KLM Royal Dutch Airlines (KLM) each noted that financial incentives are critical to support an accelerated timeline.

FAA agrees that rebates and incentives are an effective means to reduce schedule risk. The FCC R&O creates an RA retrofit rebate program to defray the costs to civil aircraft owners and operators to enable the wireless authorizations between 3980 and 4140 MHz. The FCC RA retrofit rebate program is expected to be funded within six to 12 months of the completion of the Upper C-band auction, which the OBBBA requires to be complete by July 4, 2027. Once funding is available, domestic aircraft owners who install compliant next-generation RA equipment can obtain a lump-sum payment to defray the cost of an RA system and the aircraft alteration cost,

subject to the terms and conditions established by FCC in its R&O.

In its initial comments on FAA’s NPRM, JAC proposed that an initial RA compliance deadline in 2032 and a final compliance deadline in 2034 would be achievable by all aviation industry stakeholders, considering the scope, complexities associated with out-of-production (but still in service) aircraft and RA models, and resource constraints, while balancing the urgency of enabling new commercial wireless spectrum. The JAC provided a graphic showing late 2033 completion for aircraft operating under part 91 and part 135. Garmin International stated that its estimates for RA system replacement were incorporated into the JAC timelines.

Lockheed Martin stated that an initial RA compliance deadline of 2029 is not realistic, considering production and installation rates for the volume of aircraft and RA units required to upgrade, and suggested an initial date of 2030 or later. The Cargo Airline Association suggested that an initial deadline of mid-2032 would be a genuine achievement of compressed design, certification, manufacture, and installation. Boeing estimated that certification for the vast majority of the Boeing fleet could be completed within 12–18 months of a TSOA and receipt of testable RA units, to support the aircraft upgrades necessary after that certification. Bombardier Aerospace recommended a buffer in the timeline to identify and address potential issues during certification testing.

ATR proposed an initial compliance date at the end of 2036, with a 2038 deadline for all other RA-equipped aircraft. In their initial comments, Embraer stated that a normal avionics development and replacement timeline would result in certification in 2031, impacted by potential testing and demonstration requirements, so a 2032 initial RA compliance deadline and 2034 final compliance deadline would be more realistic and achievable than 2029 and 2031. The Japan Civil Aviation Bureau (JCAB) and AAEE both encouraged FAA to set reasonable deadlines to ensure that new RAs are sufficiently available for retrofit. CTIA urged FAA to adopt an initial RA compliance deadline in 2029 and noted the critical nature of timely access to spectrum for future wireless licensees.

Turkish Airlines, Inc. stated it completed previous retrofits at a rate of 45 aircraft per year when addressing Lower C-band compatibility but noted that this timeline will likely be longer due to increased complexity. It recommended providing clear and

³¹ <https://www.fcc.gov/ecfs/search/search-filings/filing/10326310057272>.

³² FAA Advisory Circular (AC) 20–199, Installation of an Airborne Low-Range Radio Altimeter System.

stable final technical requirements. Cathay Pacific Airways estimated that it will take two years and nine months to complete RA upgrades for a fleet of 48 airplanes, assuming normal turnaround times and sufficient RA units to speed replacement. Emirates Airlines requested that RA compliance deadlines ensure that large aircraft operators have at least two years to comply after suitable RA systems are certified and available for aircraft. Lufthansa also suggested that an additional two years are required for operators once sufficient replacement units are available. Based on previous, recent retrofit times, Singapore Airlines noted that it will take three to four years to upgrade the entire fleet. All Nippon Airways recommended that RA compliance deadlines be set to avoid operational impacts and suggested that several months be allowed after the necessary parts are available to modify all affected aircraft.

In addition to the recommendation for incentives and rebates, the commenters identified several activities and decisions that could accelerate the achievable implementation date. GAMA suggested expediting the new RA performance standard would help accelerate the timeline, along with expedited publication of the new TSO and updating TSO-C87a to include the new requirements. Many commenters, including the JAC (jointly and separately), Dassault Aviation, and Embraer, made similar recommendations to leverage the TSO process to the greatest extent possible and streamline the requirements for ITM compliance, such as by requiring compliance with the ITM rather than all of the proposed guidance in the draft AC 20-199. Singapore Airlines, All Nippon Airways, and KLM each recommended retrofit via service bulletin (SB) rather than supplemental type certification to minimize potential delays and noted that parts supply and seed RA units from OEMs are critical to support an accelerated timeline. KLM suggested that aircraft OEMs fully support and authorize hardware modifications performed by maintenance repair and overhaul (MRO) facilities. Freeflight Systems recommended final ITM consistent with the NPRM and associated safety analysis, as well as clear means of compliance in AC 20-199, timely FAA response to certification efforts, and recognizing § 91.220 compliance as a means of compliance for existing ADs. It also stated that it will apply to amend its STCs for RA retrofit installations quickly to meet the proposed ITM and

the critical deadlines. CTIA suggested FAA issue a draft TSO before the new RA industry standards are finalized to help expedite the timeline and noted that the ITM and proposed rule provide RA OEMs a clear roadmap to move forward with design, development, and manufacturing.

The commenters also identified several factors that could delay the completion of retrofits in the fleet. Several commenters suggested the proposed deadlines could create scheduling problems at maintenance facilities, increase aircraft time out of service, and impact parts availability. Some of those commenters also noted that this burden may have a greater impact on small operators. Many commenters pointed out the risk of certification delays, late delivery of parts, and other supply chain issues throughout the retrofit process. Lockheed Martin noted current supply chain constraints, such as semiconductor availability and rare earth element inventory, and suggested that some GA operators may delay implementation if there is not a general need for that aircraft to undergo scheduled heavy maintenance at the appropriate time. RAA expressed concern about worsening the current strain on the global avionics supply chain, which is already impacted by post-pandemic disruptions, labor shortages, and competing demands from new aircraft in production.

Many commenters also pointed out the risk of delay because the RTCA/EUROCAE MOPS are not yet complete, and further risk if completion of those MOPS is delayed. Dassault Aviation recommended FAA allocate sufficient time after MOPS finalization to facilitate equipment design, certification, production, and fleet implementation. Gulfstream remarked that using filters within existing RA systems may be difficult due to the proximity to new Upper C-band wireless services, which may require complete system upgrades and replacements. Embraer stated that compressing processes to meet an expedited timeline increases the risk of design or integration errors that would need to be addressed for safe implementation. Pilatus Aircraft suggested there is a significant risk that industry production capacity will not be sufficient to meet the proposed mandate, and the design, qualification, and certification timelines are highly compressed and likely unachievable.

The JAC outlined several interdependent tasks that risk delaying implementation of new RA systems, such as engineering releases, supply chain activities, contract approvals, and

maintenance planning. It noted the difference between an overnight maintenance activity for an RA transceiver replacement compared to the potential for multiple days removed from revenue service for complex installations to replace antennas or cabling, complete operational checks, and resolve installation issues when necessary. It also highlighted potential complications for aircraft operating under parts 91 and 135 that rely on specialized avionics maintenance facilities with limited capacity, complicating coordination and timing, with potential for disruption from limited hangar space, workforce availability, increased overtime, fleet management, and supply chain constraints. The JAC also noted the potential for delays due to the need for military aircraft to upgrade RA systems and increased international demand if other nations implement similar mandates aligned with this final rule or the new industry standard.

A4A stressed that operators have limited influence over many steps of a fleet-wide retrofit that can be affected by delays in any stage of a multi-step process that includes completing industry standards, issuing new TSOs, completing aircraft-specific certification, ramping up production of suitable RA systems, and executing installation across diverse fleets operating on tight maintenance and utilization schedules. The Cargo Airline Association stated that the retrofit rate will depend heavily on the available solutions for each specific airframe, and GAMA stressed that implementation requirements will vary widely across aircraft types and configurations. Lufthansa and Virgin Atlantic expressed concern that delays at any stage of the implementation process would further compress the schedule. For example, operators are dependent on aircraft OEM SBs or STCs, vendor contracts, available maintenance capacity, seed RA units from OEMs with appropriate turnaround times for additional RA units, and planning retrofits across multiple fleets without impacting operations. GAMA and Bombardier Aerospace suggested that large part 91 and part 135 operators will seek to upgrade before the first deadline to preserve all operational capabilities, increasing demand on RA system OEMs and the supply chain.

Bombardier Aerospace noted that reviewing all necessary supplier documentation for TSO approval may delay approvals because multiple suppliers and units will seek approval in the same timeframe. Boeing also pointed out that certification times will

be dependent on available resources to support the large number of simultaneous certification activities for many different aircraft-RA combinations, as well as potential risks from competing equipment mandates over the next five to seven years, some of which may leverage the same personnel. It suggested FAA consider a risk-based certification approach, leveraging applicant safety and compliance assurance systems. Boeing and GAMA recommended that FAA use designees and Organization Designation Authorizations to the maximum extent possible to reduce strain on FAA resources. These commenters also asked FAA to consider designating a special aircraft certification team to manage all RA-related certification projects for consistency and expediency. GAMA estimated two to four years to complete RA retrofit/replacement work based on individual projects without full consideration of numerous simultaneous projects. GAMA stated that retrofits will be more complicated and diverse for operators impacted by the final RA compliance deadline due to the wider distribution of aircraft among many operators, greater dependence on specialized avionics maintenance facilities, and larger variations in aircraft configuration, avionics architecture, and unique engineering and certification approvals.

The JAC stated the aviation industry considered the Automatic Dependent Surveillance—Broadcast (ADS-B) Out mandate timeline to be the most relevant comparison when considering the historical equipment mandates in the NPRM, noting that both are broad, fleet-wide mandates to meet national program objectives. The Cargo Airline Association and GAMA also agreed that the ADS-B Out mandate is the most relevant comparison, noting that the proposed timeline for RA compliance is shorter and currently lacks a published performance standard. CTIA stated that this RA performance mandate is dramatically less complex than the ADS-B Out mandate and suggested that the more comparable mandates are those with shorter timelines, like the TCAS and TAWS mandates.

The JAC agreed with FAA's assumption in the NPRM that it may be more costly and complex to upgrade RAs in older aircraft models due to reduced OEM support for out-of-production units and potential compatibility issues with older integrated systems. It further noted that similar issues will apply to many part 91 and part 135 operators, who may have less support from the aircraft OEM,

and many more impacted small operators.

Pilatus Aircraft recommended that FAA consider extending the compliance window for part 91 and part 135 operators to help preserve the entire schedule in the event of delays in earlier stages of RA system development, certification, and retrofit. GAMA suggested that business and GA aircraft will be less likely to have a simple in-service upgrade option compared to commercial air transport aircraft and that those aircraft will also be more likely to require other system modifications, such as replacing cables and antennas. ATR noted that a full replacement RA system is more difficult to develop, certify, and support for out-of-production aircraft and recommended providing an additional two years after the initial RA compliance deadline for operators of those aircraft, aligned with the part 91 compliance deadline. Freeflight Systems expected its current RAs to be suitable for an ITM-compliant upgrade, but a more complex RA system replacement would be required for aircraft equipped with older RAs. Another commenter noted the practical constraints faced by small operators and suggested providing additional compliance time while maintaining the same RA performance requirements.

Based on these comments, FAA concludes that the initial compliance date of December 30, 2030 is achievable, considering the RA retrofit rebate program for U.S. operators defined in the FCC R&O, updates to the FAA guidance for installing replacement RA equipment as discussed in section IV.F, and the decision of FAA to extend the second compliance date for the remainder of the fleet from two years to four years after the first compliance date to enable the industry to prioritize the parts 121 and 129 community. FAA also concludes that this initial compliance date is feasible for applicable part 129 aircraft, which are not eligible for the RA retrofit rebate program. The jointly submitted supplemental letter to the FCC docket³³ includes the RA suppliers and aircraft OEMs that are most critical to supporting part 129 operators and indicates that these aircraft can meet the initial deadline. Some part 129 operators may be able to expedite their schedules by upgrading the RA systems

on a subset of their existing fleet sufficient to ensure compliance for all flights to the U.S. For unique situations in which an aircraft cannot meet the initial compliance date, this final rule also includes a mechanism for the Administrator to authorize continued operations, subject to restrictions to prevent unsafe conditions and mitigate the loss of safety enhancements for the RA, as discussed in section IV.E.3 below.

Considering comments recommending that GA and similar operators be provided as much time as possible, FAA is adopting a final compliance date of October 31, 2034, which aligns with the expected date for final compliance discussed by FAA in the NPRM. The NPRM proposed that the second compliance date would be two years after an initial date, which, in the preamble, FAA explained would likely occur between 2029 and 2032. However, the diversity and size of the GA fleet support extending that two-year time to minimize conflicting resource demands for operators who must meet the initial deadline of December 30, 2030. This will help to account for unique market factors in GA and to reduce stress on supply chains, manufacturing, and installation. The final deadline applies to over two-thirds of the aircraft affected by this final rule, providing additional time for the GA fleet to procure parts and schedule RA replacements while minimizing the impact on their operations.

3. Operations After the Applicable Deadlines

The commenters also indicated that, for some small number of aircraft, the range of compliance dates in the proposed rule may not be achieved due to factors outside of the control of the aircraft owner or operator. The commenters noted a strong relationship between the approval processes and the risks associated with meeting these schedules. Several commenters, including the RAA and the JAC, suggested that FAA maintain flexibility to adjust deadlines if global demand has a significant impact on the supply of suitable RA systems. ACI-NA also urged FAA and FCC to remain flexible and develop contingency plans to address potential delays. The commenters also indicated that the risk of achieving this schedule is affected by other factors outside of FAA control.

In response to commenters' concerns, FAA recognizes there may be external factors and unique circumstances that prevent an operator from meeting the compliance date. However, FAA does not agree with the comments that the

³³ Airlines for America, in conjunction with the Aerospace Industries Association, Collins Aerospace, the Regional Airline Association, Airbus, Embraer, the Thales Group, Honeywell Aerospace Technologies, and The Boeing Company, submitted a letter to FCC's docket on March 26, 2026, available at <https://www.fcc.gov/ecfs/search/search-filings/filing/10326310057272>.

deadline be flexible. For the part 121 and applicable part 129 operators, failure to equip by the first deadline would result in significant disruptions to air commerce and create conflict with the expansion of wireless services. The remainder of the affected aircraft must be equipped by October 2034 to restore the safety benefits of RA systems. The NPRM only contemplated the degradation of those safety systems through 2034. Extending that date would increase the likelihood of controlled flight into terrain or mid-air collisions where the safety systems fail to alert.

However, for rare circumstances, FAA is adopting, in this final rule, a mechanism for the Administrator to authorize the continued operation of an aircraft after the compliance date, subject to restrictions to prevent unsafe conditions and mitigate the loss of safety enhancements for the RA. Those restrictions are further addressed in section IV.G, but will include, at a minimum, a prohibition on conducting certain low-visibility approach and landing operations, including CAT II and III approaches, SA CAT I and II approaches, EFVS to touchdown, autoland, use of a Head Up Display to touchdown, rotorcraft Category A and Category B takeoff operations, search and rescue autopilot modes, hover autopilot modes, and certain rotorcraft procedures that require RA minima.

4. Monitoring Schedule Risk

Commenters also addressed the interdependencies among the industry stakeholders: TC holders are dependent on RA suppliers, operators are dependent on both RA suppliers and TC holders, and RA suppliers can only estimate the orders that will be placed for their units when planning production cycles. GAMA noted the positive collaboration between FAA and aviation stakeholders on the Equip 2020 working group, which was tasked with addressing challenges with the implementation of the ADS-B Out mandate, and recommended FAA create a similar collaboration forum to address RA system upgrades. That initiative gathered the aviation community together regularly to review progress towards fleet equipage and identify and address systemic challenges.

Recognizing that the initial compliance deadline cannot be extended in order to align with FCC's date for authorizing full use of the auctioned spectrum, FAA plans to convene RA transition meetings to gather industry representatives and track progress toward equipage. FAA plans to ask part 121 and 129 operators

to voluntarily submit equipage plans for their fleets to their respective certification management offices by the end of 2026 and to maintain those plans through the transition.

F. Streamlining the Compliance Process

To facilitate the demonstration of compliance with the proposed rule and to streamline equipment certification, the NPRM noted that FAA planned to recognize the industry standard with a new TSO for next-generation RA transceivers and a separate TSO for RA antennas. FAA also explained that previously installed antennas would not be subject to requalification or evaluation if the RA transceiver demonstrates the frequency selectivity of the ITM. In tandem with the NPRM, FAA also solicited comments on draft AC 20–199, Installation of an Airborne Low-Range Radio Altimeter System, which addresses the installation of RA systems in aircraft.

Several commenters were concerned that the planned early 2027 publication of the RTCA/EUROCAE MOPS, the requirement for TSO publication or amendment to incorporate those MOPS, and the subsequent certification and implementation work dependent on those steps would jeopardize the industry's ability to meet the compliance date. ATR asked FAA to clarify plans for TSOs, including which type of MOPS and TSOs will be available, to verify that there will be a TSO that aligns the final industry standard to the required RA performance, and to clarify how to meet these requirements. The RAA asked FAA to ensure TSOs address all RA configurations in the regional airline fleet and provide a path to certification for complex retrofits.

Several commenters had suggestions to help streamline the certification process and minimize risk to the compliance timeline. The JAC asked FAA to provide clarity concerning RA in-service upgrades, such as potential solutions under a change to the TSO–C87 authorization for current RA units by demonstrating interference tolerance compliance, as opposed to the complete means of compliance prescribed in FAA's draft AC 20–199, to help expedite approvals where practicable. It further stated that longer timelines will be required for a new full replacement RA development under a new TSOA due to the requirement to complete design, development, testing, and documentation to demonstrate compliance. GAMA asked FAA to provide clear direction to FAA personnel while leveraging designees to support the required certification work

and suggested reinforcing that the RA systems upgrade should be considered a “minor” change to type design under § 21.93(a). Freeflight Systems suggested a minor/major design change approval under TSO–C87a as an option in addition to the planned TSO–C221 compliance option. Boeing recommended allowing aircraft OEMs to leverage TSOAs directly for aircraft-level certification without the need for additional compliance demonstrations, as long as the baseline RA was already certified on that platform, the modification was limited to hardware and software modifications necessary to meet the ITM, and the TSOA package included aircraft-level electromagnetic interference and environmental qualification data. Boeing further recommended FAA provide a similar process for STC approvals to minimize redundant compliance efforts.

Dassault Aviation asked for clarification about any changes to specific RA requirements for Category I/II/III Instrument Landing System approaches, automatic landing operations, and whether the aircraft OEM will be required to perform flight testing or whether the RA OEM's compliance demonstration will be sufficient.

Many commenters referenced comments submitted on draft AC 20–199 that accompanied the NPRM, including comments on the AC from the JAC. Boeing suggested that the AC requires additional refinement and clarification to ensure consistency and remove ambiguity, and that the AC appears to have requirements beyond what is necessary to demonstrate compliance with the proposed RA performance requirements. For example, it noted new or expanded expectations for aircraft-level certification, system performance demonstrations, and testing activities unrelated to interference mitigation. It suggested an in-service RA would need only an ITM compliance demonstration for existing and modified aircraft installations and asked FAA to provide greater clarity on the requirements for retrofit programs. Embraer suggested that following the full certification process proposed in draft AC 20–199 would further compress the implementation timeline.

Garmin International and GAMA stated that draft AC 20–199 proposed a burdensome approval path that is not efficient for minor changes to existing RAs or for installation of new RA systems, suggesting it contains unnecessary analysis and testing requirements for existing RAs and unnecessary limitations on the re-use of equipment-level compliance data

relating to aircraft certification. Garmin International proposed that the AC focus on only the necessary installation and testing guidance for existing RAs. It also proposed using the AC for installation guidance of new RA systems, supplemented by equipment-level minimum performance standards in a new or updated RA TSO based on the current TSO-C87a and expanded as needed. It suggested this will decouple the completion of future MOPS, which can later be referenced in a new or updated TSO, while providing a TSO path for new RA systems, and made specific suggestions concerning the placement of existing AC materials aligned with their comments.

GAMA noted that RA manufacturers normally complete flight tests as part of a TSO authorization, which has been acceptable in the past for aircraft manufacturers and the certification process, when appropriate. It emphasized the importance of continuing to work with aviation stakeholders to address concerns with draft AC 20-199 and asked FAA to provide the ability to expedite the process of showing compliance with the final rule. GAMA further recommended that FAA specify terrain characteristics or suitable surveyed test locations, similar to test sites for TAWS evaluations, also noting that the intent of the AC is sound but flight test requirements in the draft are simultaneously too broad and insufficiently defined. Bombardier Aerospace also asked FAA to provide clear instructions on required testing and locations. Lockheed Martin noted that AC 20-199 must be finalized before the initial RA compliance deadline to minimize uncertainty for aviation stakeholders.

FAA recognizes the importance of efficient installation approvals. To facilitate efficient aircraft equipage, operators of aircraft with a standard airworthiness certificate can accomplish compliance with the regulation through several methods. RA suppliers may alter equipment with an existing RA TSO authorization, may obtain a new TSO authorization under TSO-C87a, or may obtain a new TSO authorization to the new industry standard once it becomes available.

While not a requirement, FAA expects the majority of RA OEMs to demonstrate the performance of their next-generation RA transceiver in conjunction with a TSO authorization. For RA suppliers who are modifying an RA design that is authorized under TSO-C87 or TSO-C87a, the new design would be a minor change under the existing TSO authorization if the scope of the change

is not extensive enough to require a substantially complete investigation into the compliance with the requirements of the applicable TSO. Data establishing compliance with the ITM, or with transceiver-related requirements related to the ITM, are considered related data approved under the TSOA and do not affect the eligibility of the change as a minor change. In this case, the RA supplier should also identify any changes to the performance of its RA, other than the demonstrated interference tolerance, to support TC and STC holders assessing the impact when replacing the original RA with the modified design.

For RA suppliers with new designs, or significantly modified designs that require a substantially complete investigation into compliance with the requirements of the TSO, the supplier may apply for authorization under TSO-C87a or under the new TSO-C221 when it becomes available. FAA plans to publish TSO-C221 immediately after the new industry consensus standard is published. RA suppliers may also design and manufacture RA systems under the authority of a TC or STC holder, addressed below.

Regardless of the compliance standard used for the RA transceiver (*i.e.*, TSO-C87, TSO-C87a, TSO-C221, or under the authority of a TC or STC holder), the RA system must perform its intended function(s) as integrated into the aircraft. New RA designs can be incorporated as amendments to an existing TC or STC, or can be approved through a new STC, in accordance with §§ 21.93 and 21.95 or 21.97, as applicable. FAA encourages RA suppliers to work closely with TC and STC holders to ensure that the data developed under the TSOA is sufficient to address RA transceiver performance for the TC or STC.

The approval of a change under the TC, or an amended TC or STC, considers the extent to which the modification of the previously approved RA transceiver affects the performance of the transceiver as installed in accordance with § 21.93. If the RA supplier approves a minor change under a previously issued TSOA and demonstrates that the ITM-related alterations do not have an appreciable effect on other performance parameters, the replacement of the RA can also be considered a minor change to the type design. For new RA systems, or if the ITM-related alterations to existing RA systems do appreciably affect other performance parameters, the effect of those changes must be assessed and compliance demonstrated for any areas

that are affected as a major change to type design, in accordance with § 21.97.

In demonstrating compliance with the ITM under a TC or STC, the TC or STC holder/applicant should consider the supporting data and assumptions from the RA supplier. If the installation is within the parameters defined by the RA supplier and the RA supplier has demonstrated compliance with the ITM, an additional aircraft-level showing of compliance is not necessary. If the installation is outside the parameters defined by the RA supplier, those parameters must be addressed, and ITM compliance demonstrated as appropriate.

When approving an aircraft design, or design change, that complies with the ITM, FAA recommends that the compliance is stated in the flight manual. That provides the pilot, and operator as applicable, with the assurance that they can operate in compliance with the regulation. This guidance on requirements and procedures for replacing RA systems is also included in the final version of AC 20-199, which will be published to support implementation of this rule.

FAA has also considered the applicability of the rule to aircraft operations under a special airworthiness certificate. Pilots or operators of aircraft with a special airworthiness certificate with an installed RA should evaluate the RA and determine if it is compliant with the ITM. If the RA meets the performance requirements of this final rule, no separate or specific FAA design approval is required.

If an RA system is not compliant with the ITM, or compliance has not yet been determined, this final rule adds language to the regulatory text that allows the Administrator to authorize a deviation from this requirement when appropriate. For example, if the purpose of an experimental airworthiness certificate includes showing compliance with the interference tolerance, the authorization to operate can be documented in conjunction with the experimental certificate or flight test.

Commenters also questioned the role of designees and delegation. FAA agrees that RA systems are not new or novel and approval of RA systems as compliant with this final rule is eligible for delegation if the designee or Organization Designation Authorization is authorized for that function.

G. Operating Limitations After the Initial Compliance Date

In the NPRM, FAA explained that ITM-compliant RA systems would be recognized as an alternative method of compliance (AMOC) with the existing

ADs related to interference from Lower C-band wireless. The JAC, in both group and separate comments, supported FAA's plan to recognize compliance with the RA performance requirements adopted by this rule as an AMOC with all existing Lower C-band ADs and any future relevant superseding ADs. The JAC also supported FAA's plan to authorize foreign air carriers to operate without additional related restrictions if the aircraft complies with this final rule. The JAC also agreed that current ADs must remain in full effect until the initial RA compliance deadline, and agreed with the need to supersede the current ADs after the initial RA compliance deadline to address operations by aircraft that have not yet been equipped with suitable RA systems, as well as the plan to remove ADs after the final RA compliance deadline when appropriate.

GAMA, Honeywell, Gulfstream, Lockheed Martin, and RAA stated that the NPRM was not clear about operational restrictions that are likely to be in any superseding ADs for aircraft not yet equipped with a suitable RA system after the initial compliance deadline but before the final compliance deadline. They recommended FAA clearly explain the anticipated impact to those operators, if there will be any additional operational limitations beyond those that are in the current ADs, and if operators will be allowed to choose to accept the additional safety risks, such as erroneous or no alerts from RA-dependent safety systems (e.g., TAWS or TCAS) due to nearby spectrum interference. Honeywell suggested that future operational limitations be aligned with the limitations in the current ADs. Lockheed Martin suggested FAA issue a superseding AD that expressly rescinds or amends the existing ADs upon compliance with the new ITM. RAA requested aircraft type-specific guidance on the nature of future AD restrictions well in advance of the initial RA compliance deadline. ATR and Bombardier Aerospace asked FAA to clarify how existing and potential superseding ADs, including operational limitations, will apply to compliance dates and actual RA replacement. ALPA recommended that the final rule preamble include a clear map of which ADs and policies will be superseded or canceled relative to RA compliance and the compliance deadlines in the final rule.

Virgin Atlantic noted that any ADs imposed would increase the risk of diversions and cancellations for aircraft that are not yet equipped with suitable RA systems, especially during low-

visibility procedures. Lufthansa expressed similar concerns, noting the large volume of part 129 flights that are at risk and the need for equitable treatment. It recommended adopting program gates to prevent disruptions as retrofits proceed. Many commenters stated concerns about the potential impact on low-visibility operations. JCAB suggested it may be necessary to prohibit operations requiring RA in U.S. airspace if completing the initial RA compliance deadline proves difficult.

CTIA agreed with FAA's plan for ADs and other policy and suggested that any burdens associated with missing applicable RA compliance deadlines should be borne solely by aviation operators without impacting wireless licensees. CTIA believed that is consistent with Congress's direction to auction the Upper C-band quickly and that flexibility for aircraft operators should not impact wireless services.

FAA confirms that it intends to use the transition activities as proposed in the NPRM. FAA will approve next-generation RA systems that meet the performance requirements in § 91.220 as an AMOC with current ADs³⁴ that were issued to assure safety in the presence of Lower C-band wireless signals for transport and commuter category airplanes. FAA will withdraw Policy Statement PS-AIR-600-39-01, Demonstration of Radio Altimeter Tolerant Aircraft,³⁵ when it is no longer required to support current ADs, as it will no longer be sufficient after the initial RA compliance deadline.

The voluntary commitments lapse on December 31, 2030 and FAA has already found that Lower C-band wireless signals cause unsafe conditions for certain aircraft. The addition of Upper C-band wireless base stations will further increase those risks. FAA plans to issue superseding ADs for transport and commuter category airplanes not otherwise shown to be compliant with

the ITM to prohibit operators from conducting low-visibility approach and landing operations after December 30, 2030 until the aircraft becomes ITM-compliant. This includes CAT II and III approaches, SA CAT I and II approaches, EFVS to touchdown, autoland, and use of a Head Up Display to touchdown. FAA does not expect much operational impact from these ADs, as there are currently only a few operators authorized for low-visibility approaches who are not subject to the first RA compliance deadline. The superseding ADs that address interference susceptibility would be in effect as described below. FAA does not plan to track or evaluate specific airports or locations for Upper C-band interference after December 31, 2030.

For aircraft operated by all other part 129 operators, who are not subject to FAA ADs because their aircraft are not U.S.-registered, any authorizations that allow operations with non-compliant RAs beyond the applicable RA compliance deadline will contain the same operating limitations that restrict low-visibility approach and landing operations as contained in the ADs. Authorization will be granted through the issuance of Operations Specifications or another applicable deviation authority, depending on the type of operator.

FAA also issued ADs applicable to helicopters,³⁶ where the interference from Lower C-band wireless services posed an unsafe condition. FAA plans to supersede the current helicopter AD for helicopters not equipped with RA systems that meet the new performance requirements in this final rule as of December 31, 2030. FAA evaluated the additional risk to helicopter operators from Upper C-band wireless services and determined that the limitations in the original helicopter AD would adequately address any unsafe condition until the final RA compliance deadline. Specifically, helicopters without an ITM-compliant RA system would be prohibited from performing takeoffs and landings in accordance with any procedure that requires the use of RA data (Category A, Category B, or by Performance Class in the Rotorcraft Flight Manual or Operations Specifications), engaging search and rescue autopilot modes, engaging hover

³⁴ Airworthiness Directives; Transport and Commuter Category Airplanes, 88 FR 34065 (May 26, 2023) available at <https://www.federalregister.gov/documents/2023/05/26/2023-11371/airworthiness-directives-transport-and-commuter-category-airplanes>. AD 2023-12-05 for Boeing 747-8 and 777 models, AD 2023-12-10 for Boeing 787 models, AD 2023-12-11 for newer Boeing 737 models, AD 2023-12-12 for Boeing 757 and 767 models, AD 2023-12-13 for older Boeing 737 models, AD 2023-12-14 for older Boeing 747 models, and AD 2023-12-15 for legacy McDonnell Douglas models. AD 2025-04-08 for MHI RJ regional jet models; AD 2023-14-01 for Bombardier Model BD-700-2A12 airplanes; AD 2023-13-15 for Bombardier Model BD-700-1A10 and -1A11 airplanes; AD 2023-06-13 for Bombardier Model BD-700-2A12 airplanes; and AD 2023-14-02 for Airbus Model BD-500-1A10 and -1A11 airplanes.

³⁵ Available at <https://drs.faa.gov/browse/excel/ExternalWindow/DRSDOCID108541392520230719162111.0001>.

³⁶ Airworthiness Directives; Various Helicopters (12/09/21), available at <https://www.federalregister.gov/documents/2021/12/09/2021-26779/airworthiness-directives-various-helicopters>, which was superseded by Airworthiness Directives; Various Helicopters, 88 FR 40685 (June 22, 2023) available at <https://www.federalregister.gov/documents/2023/06/22/2023-13319/airworthiness-directives-various-helicopters>.

autopilot modes, and performing certain procedures that require RA minima. As FAA does not intend to track the locations for Upper C-band wireless base stations, these restrictions would apply throughout the 48 contiguous United States and the District of Columbia. For NVG operations under § 91.205, an FAA exemption would be required for aircraft not equipped with RA systems that meet the new performance requirements.

ATR asked for clarification on the duration of exemptions mentioned in the NPRM, specifically concerning NVG operations requirements in § 91.205(h)(7). FAA notes it has granted several exemptions providing relief from the § 91.205(h)(7) requirement for RA to support NVG operations, which will continue to be necessary for aircraft not equipped with RA systems that meet the new performance requirements. Most of the exemptions issued to date are valid for two years after issuance. FAA will monitor the availability of RA retrofits within the helicopter NVG community when considering future petitions for exemption.

In addition, FAA plans to supersede the airplane-model specific ADs that impose additional restrictions to address unique safety issues for those airplanes.³⁷ The unsafe conditions addressed by these ADs would exist again for airplanes not equipped with RA systems that meet the new performance requirements. These unsafe conditions include erroneous activation of tail-strike prevention systems, which push the nose down if the RA indicates a tail-strike is imminent; erroneous flight director pitch guidance; erroneous activation or loss of automatic flare at low altitudes; and erroneous loss of automatic throttle low-speed protection at low altitudes. Some airplanes use RA data to verify that the airplane is on the ground, enabling automatic throttle power reduction and the safe deployment of thrust reversers and ground spoilers after landing or during an aborted takeoff, and preventing inadvertent deployment of those systems while in the air. RA data that erroneously show the airplane is above

the ground will increase the required stopping distance and increase the risk of overrunning the runway. In certain airplanes, accurate RA altitude data also prevents inadvertent inhibition of failure messages and alerts that require a timely crew response, such as when the RA altitude indication is erroneously lower than the actual aircraft altitude.

FAA recognizes that there is a temporary reduction in safety system performance for the remainder of the aircraft with an RA system that is not compliant with this final rule as of December 31, 2030. Operators that are not equipped may experience erroneous or no alerts from RA-dependent safety systems due to nearby spectrum interference. FAA has found that the time-limited reduction in performance of these safety systems (TCAS, TAWS, predictive windshear alerting) does not create an unsafe condition. Operators of these aircraft have been advised of the potential for interference and for erroneous RA height measurements since 2021, when FAA first issued SAFO 21007 to advise operators of the potential for erroneous or degraded RA output as it relates to those operations. This SAFO will remain in effect until October 31, 2034.

After October 31, 2034, FAA expects that the entire fleet will be equipped with an RA system that complies with the performance requirements in § 91.220 (b) of this final rule. In light of the comments received on the diversity of the aircraft fleet, FAA has introduced a mechanism to authorize unique aircraft configurations that are unable to complete the upgrade by the applicable compliance deadline. Applications for this authorization will be considered on a case-by-case basis and approved only for rare circumstances. FAA expects that authorization will be granted through the issuance of Operations Specifications, Management Specifications, Letters of Authorization, or another applicable deviation authority, depending on the type of operator. However, FAA does not intend to authorize the use of non-compliant RA systems for any aircraft operations that require an RA, including TAWS, TCAS (or ACAS), predictive windshear alerting systems, and use in NVG. After the final RA compliance deadline on October 31, 2034, FAA may elect to remove all ADs as they would be made obsolete by the RA requirements adopted by this final rule.

Cathay Pacific Airways suggested that aging aircraft flying in other regions of the world without flying to the 48 contiguous United States should be permitted a single flight, such as a ferry

flight, to return to the U.S. without meeting the RA performance requirements when those airframes are retired from service. FAA notes that special flight permits under § 21.197 and special flight authorizations under § 91.715 are generally applicable to aircraft that do not meet airworthiness requirements and do not authorize deviations from an operational regulation, such as the one adopted by this final rule. However, the mechanism introduced in this final rule to authorize operations without a compliant RA after an applicable compliance deadline could be used to address rare circumstances, such as the one raised by Cathay Pacific, through an Operations Specification or another applicable deviation authority. FAA further notes that minimum equipment list (MEL) allowances for RA systems are not affected by this final rule, as the rule does not require that the RA system be operable for a given flight.

H. Impacts on Small Operators

In the NPRM, FAA proposed a compliance deadline for part 129 operators of aircraft with less than 30 passenger seats and a payload capacity of 7,500 pounds or less, and for all other aircraft operating under 14 CFR part 91—including GA, rotorcraft, other commercial aircraft, and public aircraft—that was two years after the initial RA compliance date. Some of these operators currently have AD-mandated restrictions on their operations that depend on accurate RA data due to Lower C-band wireless services, which must continue until a retrofit is completed to address both Lower and Upper C-band compatibility. Many of these operators are accepting the risks associated with localized interference that could disrupt TAWS, TCAS, and other RA applications.

GAMA stated that many older and smaller aircraft have an RA solely for situational awareness, but regulations do not require an RA or an aircraft safety system dependent on it. It recommended that FAA consider and state the anticipated safety impact of removing the RA from these aircraft. Regarding these RAs that are used only for situational awareness, FAA expects an overall safety improvement for aircraft that remove an RA that does not meet the new performance requirements due to the increased risk of interference, hazardously misleading altitude information, and pilots' subsequent loss of trust in the reliability of their RA data.

The RAA noted that many regional aircraft have RAs that may not be addressed in early avionics standards

³⁷ AD 2023–12–05 for Boeing 747–8 and 777 models; AD 2023–12–10 for Boeing 787 models; AD 2023–12–11 for newer Boeing 737 models; AD 2023–12–12 for Boeing 757 and 767 models; AD 2023–12–13 for older Boeing 737 models; AD 2023–12–14 for older Boeing 747 models; and AD 2023–12–15 for legacy McDonnell Douglas models. AD 2025–04–08 for MHI RJ regional jet models; AD 2023–14–01 for Bombardier Model BD–700–2A12 airplanes; AD 2023–13–15 for Bombardier Model BD–700–1A10 and –1A11 airplanes; AD 2023–06–13 for Bombardier Model BD–700–2A12 airplanes; and AD 2023–14–02 for Airbus Model BD–500–1A10 and –1A11 airplanes.

development, and smaller operators have less leverage with OEMs, which could result in prioritization of larger aircraft and operators when manufacturing resources are constrained. It noted that large expenditures could impact the financial viability of some carriers and requested that FAA ensure regional airline operators are not deprioritized in production allocations. Lufthansa noted that foreign air carriers are a significant percentage of U.S. operations and requested that FAA mandate non-discrimination in vendor allocation and delivery of replacement systems to preserve neutrality. FAA disagrees with these requests, as preserving competitive neutrality between private companies concerning parts access and allocation is not within the scope of FAA authority.

The JAC agreed with the FAA NPRM assumption that it may be more costly and complex to upgrade RAs in older aircraft models due to reduced OEM support for out-of-production units and potential compatibility issues with older integrated systems, with development, installation design, and system integration work being performed by certificated repair stations and avionics engineering organizations rather than the original OEMs. It agreed that some of these operators may need to decide whether to upgrade to RA systems or retire those airplanes from service. The JAC encouraged FAA to maintain regulatory flexibility for these stakeholders due to the likely increase in time required to develop these solutions for specific aircraft or specific fleets. It further noted that similar issues will apply to many part 91 and part 135 operators who may have less support from the aircraft OEM, and many more impacted small operators.

To provide additional flexibility for these operators, this final rule provides four years between the initial and final RA compliance deadlines. Operators may also seek Administrator authorization to continue operating with non-compliant RAs beyond the applicable RA compliance deadline. FAA expects that such authorizations for part 129 operators would require the operator to operate in accordance with AD limitations applicable at that time and any other operational limitations the Administrator finds necessary to ensure the safety of the operation. Section IV.G discusses in greater detail current FAA expectations for operational limitations that may be imposed.

I. Impacts on State Aircraft

FAA proposed that these regulations would apply to public aircraft operations, including military aircraft that are equipped with RA when operating in the airspace of the 48 contiguous United States and the District of Columbia. Military aircraft have unique use cases for their RA systems, but the safety case described in this final rule is expected to be sufficient for their operations. Many military aircraft use RA technology that is different than the civil fleet and is more robust in the presence of interference.

Several companies commented concerning military aircraft and operations. Honeywell recognized that the same interference risk applies to military and civil aircraft and noted that military RA systems tend to be less standardized than the civilian fleet due to a broad array of platform and mission requirements. It suggested that these RA performance requirements apply to both military and civil aircraft, but that the compliance deadline for military aircraft should be set after the second RA compliance deadline. Boeing noted that the NPRM timeline did not address military aircraft, and the aviation industry is awaiting direction from the Department of War (DOW). Lockheed Martin provided estimated costs to equip Lockheed Martin military platforms, excluding UAS and classified platforms, which are discussed in section V.

The RA is important equipment for public aircraft operations for the same reasons as civil aircraft, and its functionality must be assured. Therefore, the RA performance requirements in this final rule apply to all aircraft, both civil and public, operating in the airspace of the 48 contiguous United States and the District of Columbia.

J. Other FAA Policy Considerations

In the NPRM, FAA stated it would evaluate if frequencies in the Lower and Upper C-band should be added to the Colo Void Policy³⁸ after the final RA compliance deadline. The Colo Void Policy identifies frequencies that do not need to provide notice to FAA for construction or alteration under part 77 because FAA has studied any potential impacts and found that the frequency is not a hazard to aviation safety. CTIA

³⁸ *Colo Void Clause Coalition; Antenna Systems Co-Location; Voluntary Best Practices*, 87 FR 39746 (July 5, 2022), available at <https://www.federalregister.gov/documents/2022/07/05/2022-14306/colo-void-clause-coalition-antenna-systems-co-location-voluntary-best-practices>.

recommended that FAA add C-band frequencies to the current Colo Void policy, which enables wireless providers to add new frequencies to existing structures without requiring FAA notification and safety review.

FAA will not consider adding Lower C-band frequencies to the list of exempted frequencies until after the initial RA compliance deadline on December 30, 2030. FAA will monitor operators' AMOCs with current and future ADs, as well as authorizations to operate beyond the initial compliance deadline, to determine when Lower C-band base station information is no longer required after that date. Lower C-band frequencies cannot be added to the list of exempted frequencies until wireless base station locations are no longer required to support aircraft-specific AMOCs.³⁹ Because Upper C-band frequencies should not be required to support AMOCs or airport-specific evaluation or tracking, FAA will consider adding Upper C-band frequencies to the list of exempted frequencies before the initial RA compliance deadline on December 30, 2030.

An FAA policy memo⁴⁰ that requires a Lower C-band assessment for specific new or amended CAT II/III and SA CAT I/II instrument approach procedures will also be canceled on or before December 30, 2030. This policy memo currently impacts the development of new procedures at airports that are not on the list of 188 C-band Mitigation Airports (CMA) at which Lower C-band licensees are limiting base station power, when necessary, at the request of FAA in accordance with the voluntary wireless commitments. These 188 CMAs are the airports that would be most impacted by AD prohibitions on specific operations due to a number of factors, such as passenger traffic, cargo volume, very low-visibility approach procedures, historic weather information, or a combination of these factors.

V. Regulatory Notices and Analyses

A. Regulatory Impact Analysis

E.O. 12866 ("Regulatory Planning and Review") and E.O. 13563 ("Improving

³⁹ Current AMOCs for airplane model-specific ADs require regular review and analysis of new Lower C-band wireless base station locations to ensure safe operations outside of the 188 C-band Mitigation Airports at which licensees are limiting base station power.

⁴⁰ Clarification to FAA Order 8400.13, Procedures for the Evaluation and Approval of Facilities for Special Authorization Category I Operations and All Category II and III Operations, available at https://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afx/afs/afs400/afs420/order_ac_memo/Clarification_Order_8400.13_5G-C-Band.pdf.

Regulation and Regulatory Review”) require agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose the least burden on society.” The Office of Management and Budget has determined this rulemaking is a significant regulatory action as defined in Section 3(f)(1) of E.O. 12866.

1. Response to Public Comments on the RIA

FAA received 50 comments on the NPRM, of which 14 concerned some aspects of the economic analysis.

There were nine comments regarding the initial FAA cost estimates of \$80,000 for each airplane RA replacement and the resulting total cost to the civil fleet. Emirates Airlines commented that it expected compliance costs to be similar to the costs of meeting the Lower C-band ADs. ATR and Lufthansa commented that the cost was likely higher than the FAA estimate. Lufthansa claimed the cost could potentially be four to five times higher but did not provide exact estimates in its response. The Air Transport Services Group (ATSG) commented that it expects the cost of a compliant RA unit to be closer to \$96,950. Deep Blue Avionics commented that it had a cost of \$100,000 per aircraft for private customers and \$5 million for air transport customers to meet the Lower C-band ADs and expected similar costs under the proposed rule. The JAC suggested that the cost for commercial RA replacement could range up to \$120,000. This estimate was also cited in comments made by A4A, the Cargo Airline Association, and the RAA. An individual commenter further supported this figure by providing FAA with confidential pricing information that showed current RA units costing more than \$100,000 when including tariffs and other surcharges.

Based on the received pricing data and comments, FAA agrees that some RA units may be purchased at a higher price point than the \$80,000 estimated in the NPRM and has incorporated the \$120,000 estimate into its final analysis to represent the high end of the range, while retaining the \$80,000 estimate as the low end.

Lockheed Martin suggested that retrofits with an external bandpass filter may be more expensive in the long-term than RA replacement if there is a need for additional recertification, aircraft alteration, and aircraft downtime. It noted that a replacement RA would include integrated filtering, monitoring,

and digital signal-processing units and would not require additional hardware, brackets, and cabling.

FAA agrees that an interim solution, such as an external bypass filter, would likely be more expensive for the listed reasons. FAA’s analysis assumes operators would do a more cost-effective “one and done” RA replacement by swapping the unit during regular maintenance.

The RAA requested FAA develop refined, aircraft type-specific cost estimates in collaboration with operators and manufacturers and update the final RIA with these values.

FAA agrees that aircraft and RA unit-specific cost estimates would improve the accuracy of its cost estimates. However, FAA only received public comments consisting of cost estimates up to \$120,000 and no submissions from operators or RA unit manufacturers on potential variance across aircraft types. As a result, FAA uses the cost estimates provided in public comments for the final analysis but acknowledges that there will likely be a variance within the cost range across aircraft in the fleet.

Lockheed Martin commented that the cost estimates should cover additional categories of affected aircraft, including UAS, aircraft owned by the military, and Federal, State, and local fleets used for public safety operations such as law enforcement, wildland firefighting, and medivac helicopters. It estimated the cost to replace radio altimeters for non-UAS military aircraft it manufactures to be around \$2.77 billion at an average of \$100,000 per aircraft.

FAA agrees that costs to the military and Federal law enforcement are important to assess the total impact of the rule. DOW has provided a preliminary estimate of \$3 to \$4 billion to retrofit its tactical fleet to FAA to include in the final RIA, which is similar to the Lockheed Martin estimate. Civil UAS are not included in the analysis as they operate under part 107 or will operate under the proposed part 108 and are therefore not subject to this rule. FAA notes that Federal civil registered, State, and local government aircraft are present in the MITRE dataset used to estimate the affected fleet.

A4A and ATSG suggested FAA include the cost of additional RA units that operators will maintain as spares in its analysis. A4A also commented that it believed part 121 operators would need roughly 1,500 spare RA units to accomplish the fleet-wide upgrade.

While FAA acknowledges that operators will naturally incur costs when replacing existing spare inventory with newer, compliant RA units, these expenses are not attributable to the

regulatory impact of this final rule. FAA regulations do not mandate the procurement or maintenance of spare RA units; rather, the decision to carry back-up inventory is an elective practice by operators to mitigate potential operational delays and to return aircraft to service more promptly in cases of equipment failure. Because the choice to hold spares remains a discretionary operator decision to ensure a timely return to service, rather than a direct compliance requirement, the associated costs of purchasing or replacing spare RA units fall outside the scope of the rule’s economic burden and are therefore not included in the analysis. While not accounted for under the rule, FAA expects that operators will have time prior to the compliance deadline to draw down their current inventory of spare RA units through normal replacements or sales to operators that do not operate in the 48 contiguous states.

Lockheed Martin commented that FAA should incorporate additional factors into the RIA for a more holistic understanding of the economic impact, including the safety benefits of RA-dependent systems using the Value of a Statistical Life (VSL) methodology, compliance costs, indirect costs, and environmental analysis. The RAA also commented that FAA’s analysis does not adequately account for the indirect costs of operational restrictions during the transition period, including revenue losses from cancellations, diversions, and schedule disruptions attributable to RA limitations.

FAA agrees that a safety benefits analysis can be useful for stakeholders by comparing the cost of the rule against the safety outcomes resulting from preventing accidents by ensuring accurate RA information in the Upper C-band spectrum environment, and thus has added a threshold analysis to the final analysis. In terms of the various additional costs Lockheed Martin cited, FAA does not agree that the other listed costs should be included in the analysis, for the following reasons. Regarding Lockheed Martin’s assertion that compliance costs would arise from a mixed-fleet environment due to potential supply chain constraints or operator delays, FAA believes the RA operating rules and ADs are clear, are understood by the aviation industry, and will not disrupt the safety environment or air traffic management before total fleet replacement is achieved. While FAA agrees with Lockheed Martin and the RAA that the potential for operational disruptions for aircraft that do not equip by the initial compliance deadline may be significant,

as detailed in the regulatory alternatives section of this analysis, FAA expects that operators will complete the retrofit by the required date and preclude any such disruptions. As the timing of individual operator compliance and the severity of supply chain issues are highly variable and uncertain, the resulting extent of these disruptions and their associated costs remain too speculative for quantification within the RIA.

On the indirect component, FAA does not agree that costs such as additional downtime during C-checks or for software updates to integrated systems are likely to be notable enough to include in its analysis. As the upgrade is expected to replace the transceiver unit for most aircraft, retrofits would be “plug-and-play” type replacements, completable during overnight checks and without disruption to the service schedule. It is possible that some older out-of-production aircraft may require additional time to replace the RA, but FAA is not able to estimate which models would be affected or the additional time it would take. Regarding the costs for potential loss of resale value or the early retirement of airframes due to this rule, such impacts are too speculative and driven by private business decisions involving a multitude of market variables beyond RA replacement to be included in the analysis. Finally, FAA maintains that the environmental costs cited, including material consumption, hazardous-substance handling, and disposal, are not significant enough to warrant incorporation in the RIA. The replacements required by this rule involve standard aviation components that are managed through existing, well-established industry disposal and recycling protocols, and the incremental increase in the waste stream resulting from these retrofits does not reach a threshold of material significance that would necessitate a formal environmental cost-benefit analysis.

The RAA and an individual commenter expressed concerns about the impact of the rule on small operators or entities. RAA noted the impact on smaller operators or businesses is outsized, as they typically operate with lower revenue per aircraft than larger carriers or operators, but must comply with the same equipment requirements. The individual commenter also expressed concern about the fairness of the distributional impact on small entities and requested further options for reducing their burden.

FAA agrees that smaller operators are likely to face a higher proportional impact to comply with the rule. As

discussed in the initial regulatory flexibility analysis in the NPRM, FAA acknowledges that an operator's total cost is related to the size of its fleet and the resulting number of RA units that must be replaced, but smaller entities often have less working capital and lower revenue streams and therefore face a higher relative burden to replace their RAs. With the establishment of the FCC RA retrofit rebate program, FAA expects the burden on these entities to be minimized. They will still have to make a payment up front for RA replacement but will receive a lump-sum payment rebate to defray their cost. FAA is not currently aware of any less expensive alternative for small commercial entities that meet the safety requirements of this rule.

A4A commented on the alternative scenario where no FAA action is taken as discussed in the NPRM. It stated that if, in that scenario, aircraft cannot operate under ADs due to unresolved interference issues, it would create substantial economic costs. Operators would face immediate revenue losses from grounded flights while continuing to incur significant fixed costs, such as ownership and lease payments, wages, airport fees, corporate overhead, and compliance expenses. It also highlighted the negative cascading effects on other industries due to the critical role of reliable air transportation to move high-value and time-sensitive goods, as well as impacts on professional services and local economies that rely on passenger and cargo transportation. The RAA also commented that disruptions to air operations under ADs would have significant impacts for the flying public if interference-tolerant RAs are not available or upgraded in a timely manner, because regional airlines service the majority of airports in the country.

FAA agrees that the economic burdens associated with operational disruptions would impose significant costs on the aviation industry and broader U.S. economy and discusses this further in the regulatory alternatives section.

Some commenters, including the RAA, the Cargo Airline Association, and an individual commenter, stressed that meeting these RA performance requirements is an uncompensated cost to the aviation industry to solve an interference issue created by spectrum reallocation that provides benefits to the wireless industry. They recommended exploring ways for aviation operators to offset this burden, preventing aviation from bearing the burden of another industry's beneficial expansion. The individual commenter also requested

publicly describing the coordination between FAA and FCC on potential rebate programs to alleviate this burden.

Further comments regarding rebates included a comment from the Cargo Airline Association strongly supporting any incentive or compensation program, who suggested that rebates reflecting the full costs borne by aviation stakeholders is necessary to meet the compressed timeline. A4A provided the comments it submitted to the FCC NPRM, suggesting rebates to operators for the cost of RA upgrade and acceleration payments as an incentive to upgrade more quickly and potentially accelerate part 121 operators to complete replacement by 2030, with a reimbursement deadline of 6 years. ATSG asked FAA and FCC to develop incentives or rebates to offset retrofit costs and facilitate timely implementation. KLM, Lufthansa, and Virgin Atlantic requested that any financial incentives also be available to part 129 foreign air carriers. Bombardier Aerospace suggested that it will be difficult for incentive payments to motivate operators to upgrade to new RA systems earlier unless RA manufacturers can increase their production and delivery rates of suitable RA systems. An individual commenter also requested FAA clearly describe its burden-sharing approaches, such as incentives, rebates, or auction-related funding programs, as they could help reduce any disproportionate impacts on small aviation entities.

FAA agrees that the spectrum auction generates an externality for the aviation industry and discusses this concept in the need for regulation section of both the initial and final RIA. FAA agrees that rebate payments will likely aid domestic operators in meeting the timeline and alleviate some of the concerns about the disproportionate impact on smaller entities. The existence of such payments should significantly reduce capital allocation concerns for domestic operators, improving the ability of smaller entities to afford RA replacement and the aviation industry as a whole to increase the pace of RA replacement, as they will not have to spread the financial burden over a longer period. The JAC supplemental comment to the FCC docket indicated that with this reimbursement, aviation stakeholders (including RA manufacturers) believe the retrofits of RA systems on the vast majority of the in-service mainline fleet and a significant portion of the regional fleet could be accelerated and completed ahead of the 2030

compliance deadline.⁴¹ For additional details on the RA retrofit rebate program to offset the previously uncompensated costs, FAA points to the FCC R&O.

One commenter asked FAA to clarify the presentation of two baseline cost estimates (*i.e.*, a “pre-C-band utilization” baseline and a “no-action” baseline).

FAA presented two baselines to demonstrate the scope of the potential impacts of the rule on operators and the flying public. The “no-action” baseline in the NPRM reflected FAA’s understanding of how the world would exist in the absence of the proposed rule. This approach compares the cost of the RA retrofits mandated by this rule with the cost under current and potential future ADs to address risks from wireless use of the Upper C-band spectrum. As noted in the proposed rule’s analysis and further discussed in the comment by A4A, it is likely that the cost of disruptions under ADSs would be extremely high but difficult to measure, as the total extent of the impact is dependent on many variables. For commercial operators, the recurring cost of disruptions due to restrictions to operations under ADs would likely exceed the cost of RA retrofits within a short period. Therefore, FAA assumed for the proposed rule that operators would choose to replace their RA units, which would result in cost savings relative to the expenses they would incur without the proposed rule. Without the ability to predict the total extent or cost of the disruptions, FAA is unable to quantify the exact level of cost savings for operators.

However, since simply treating the net effect of the rule as an unknown total of cost savings would not help operators or the flying public to understand the cost and burden for retrofitting, FAA also presented the “pre-C-band utilization baseline” in the proposed rule. This baseline assumes part 121 and 129 operators achieve full fleet retrofit of RA systems before any action by FCC to change the spectrum environment, negating the need for operational limitations, so the cost of RA retrofit can be presented standalone. FAA notes the need for this rule is urgent under both baselines presented in the proposed rule, with the “no-action” covering the total impact of the rule, and the “pre-C-band utilization” baseline isolating the cost of retrofitting RA units to help operators and the public understand that burden.

For this final rule RIA, the underlying assumptions of the baseline have

changed, resulting in a single baseline being used (see V.A.5), as FCC and FAA have agreed to the implementation schedule, technical requirements, and the establishment of the rebate program, linking the two rules as a joint effort to achieve the goals of the spectrum auction while maintaining aviation safety. As a result, the “no-action” baseline has been adjusted to reflect how the world would exist in the absence of the FAA final rule, in which FCC completes the auction as required by Public Law 119–21, but is unable to realize any value because FAA has taken no action to require all RAs to meet specific minimum performance requirements. Without these requirements, potential auction bidders would face uncertainty as to when, or even if, they will be able to safely utilize their purchased spectrum, which would affect their willingness to commit capital to the auction if they are not able to get a return on their investment. Given the resiliency provided in the new RA systems under the FAA rule’s requirements, this rule will help the FCC auction meet its full, expected value by ensuring Upper C-band spectrum can be utilized. Further, given the FCC RA retrofit rebate program further incentivizing replacement and reducing costs for domestic operators, FAA now expects the likelihood of the high costs of disruptions under the ADs to be low. With this updated understanding, FAA has made related changes to the “no-action baseline” and removed the “pre-C-band utilization” baseline from the final RIA to streamline the presentation of the analysis.

2. Changes From the NPRM RIA to the Final RIA

In response to comments on the estimated cost of RA replacement, FAA has updated the analysis to account for a potential cost range for airplanes from the \$80,000 estimate in the NPRM up to the \$120,000 per unit (inclusive of labor) cited by some commenters. The rotorcraft replacement costs remain at \$40,000 per unit, as FAA did not receive any comments or new data to make an update. FAA updated part 91 totals to include foreign-registered aircraft that do not operate under part 129, and segmented them to distinguish those costs from the costs to U.S. operators eligible for the FCC RA retrofit rebate program. Estimated current base fleet, RA, and operator totals for all operational parts were updated to only include aircraft that have operated in the airspace of the 48 contiguous United States and the District of Columbia. FAA also updated the estimates for the number of RA units to include aircraft

manufactured after the effective date of this rule and before the latest estimated completion of aircraft certification applicable to each RA compliance deadline. Aviation industry comments to the FCC NPRM estimated that this aircraft certification would be completed by January 1, 2030 for aircraft that must meet the initial RA compliance deadline, and the JAC comments to the FAA NPRM estimated a July 1, 2031 date for all other aircraft. Aircraft manufactured and certified after those dates are assumed to be equipped with compliant RA systems that would not require an upgrade, while some aircraft manufactured and certified before those dates may be required to replace their RA units. FAA updated the baseline section and added a transfer section in response to the establishment of the FCC RA retrofit rebate program for domestic aviation operators. In response to public comments, a threshold analysis was also added to the final RIA.

3. Need for the Regulation

FCC is required by Public Law 119–21 to complete an auction of at least 100 MHz in the Upper C-band, and FAA has found that FCC’s subsequent authorization for wireless operators to use the auctioned spectrum would cause existing RAs to experience interference and cause unsafe conditions. The upcoming auction would create an externality, defined as a market failure in OMB Circular A–4, occurring when one party’s actions impose uncompensated benefits or costs on another party.⁴² The utilization of Upper C-band spectrum directly imposes uncompensated safety costs (increased risk of accidents) to aircraft operators and the flying public. To maintain safety and regularity of flight, operators must incur costs to replace the RAs in their aircraft with new equipment that can tolerate the wireless signals, with the FCC RA retrofit rebate program minimizing the burden for domestic operators by transferring these costs to the spectrum auction winners.

4. Summary of the Final Rule

To address the safety risks associated with radio signal interference and ensure that RA units continue to provide accurate altitude readings, FAA is requiring all existing RA systems to meet the new interference tolerance performance standards for aircraft operating under part 91 in the airspace of the 48 contiguous United States and

⁴¹ <https://www.fcc.gov/ecfs/search/search-filings/filing/10326310057272>.

⁴² OMB Circular A–4 can be found at <https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf>.

the District of Columbia. FAA is adopting RA performance requirements that reflect the best achievable interference rejection without compromising RA system performance. These requirements are effective on December 30, 2030 for all aircraft with an RA operating under part 121 and all aircraft with an RA operating under part 129 with 30 or more passenger seats or a payload capacity of more than 7,500 pounds, which have the highest expected level of safety and are the most critical to the national economy. All other aircraft operations subject to part 91 in the airspace of the 48 contiguous United States and the District of Columbia, and equipped with RAs, have until October 31, 2034 to replace any RAs with units that meet the new performance requirements.

5. Baseline for Analysis

To properly evaluate regulations, agencies must weigh the costs and benefits against a baseline. OMB Circular A–4 defines the “no-action” baseline as “the best assessment of the way the world would look absent the proposed action.” It also specifies that the baseline “should incorporate the agency’s best forecast of how the world will change in the future,” absent the regulation. In this world, FAA’s final rule and FCC’s final rule and Upper C-band auction are inextricably intertwined. For the U.S. to reap the benefits of expanded wireless services as a result of FCC’s auction, FAA must first mandate RA system improvements. If FAA foregoes this rule, equipage would be voluntary and a significant number of aircraft owners could choose not to equip, or equip on a different schedule. Voluntary equipage would create significant uncertainty for the wireless industry due to the likelihood that the wireless companies would be

forced to implement mitigation measures to limit interference with RAs. Given the events after the 2020 Lower C-band auction, FAA expects that the value of the spectrum licenses would decrease significantly because auction winners would have little confidence that they could initiate new wireless services on the dates designated by the FCC R&O, resulting in a significant decrease in the value of the spectrum licenses. After the 2020 auction, new wireless services planned for January 2022 were delayed to minimize aviation operational restrictions and to provide operators time to upgrade to RAs with improved interference tolerance. From early 2022 to July 2023, new wireless services began at reduced power levels that reduced coverage areas or were delayed by more than a year at locations where the maximum power required to protect aviation operations was too low to justify new spectrum activation. The current wireless voluntary commitments also added new requirements in addition to FCC technical requirements.

Taking this into account prior to FCC’s Upper C-band auction, wireless stakeholders would consider the risk of service delays and the required overhead cost for new Upper C-band license holders to fund the RA retrofit rebate program, as well as relocation and incentive payments for current Upper C-band license holders, in addition to the separate cost of the auction bid. Without FAA’s RA mandate, wireless companies would have little confidence that they would have unrestricted use of the Upper C band to cover the overhead cost of funding RA system rebates and license bids. Therefore, FAA considers the baseline for this final rule to be a world where the Upper C-band auction occurs but fails to garner bids, the interference environment does not change, and no

regulatory action (including new ADs) by FAA is warranted. In this world, the potential for interference from the Lower C-band would persist, so FAA assumes the wireless voluntary commitments would need to be extended indefinitely, and operating restrictions in the current ADs would remain in effect indefinitely.

RAs are carried on nearly all commercial and many non-commercial aircraft due to the vital role they play in the safety of aircraft operations by providing critical information directly to pilots and for mandated safety systems such as TCAS, TAWS, and other functions like autoland. Some aircraft may only need one RA unit, but given how vital the information is to safe operation, many commercial aircraft use two or more RA units to ensure accurate data. Using April 2025 data from MITRE,⁴³ FAA estimates that there are roughly 58,514 RA units across 40,730 aircraft in the current operating civilian fleet (including State-owned aircraft). Although the proposed performance requirements would apply to all aircraft equipped with an RA operating in the airspace of the 48 contiguous United States and the District of Columbia, military aircraft are not included in the estimates as FAA lacks public data on RA-equipped aircraft totals and the costs to purchase and replace military RA units. The DOW did provide an initial estimate of total costs to retrofit its fleet, which can be found in section V.A.7.

The 2025 breakout of RAs by 14 CFR Part operation and aircraft type can be found in Table 3:

⁴³ The MITRE Corporation (MITRE) is a private, not-for-profit company that provides research and development services, primarily to the federal government. The data provided by MITRE consists of FAA fleet data combined with RA equipage specifications and number of aircraft operations.

Table 3: Number of Aircraft and RA Units by CFR Operation

CFR Operational Part	Aircraft Type	Count of Aircraft	Count of RA Units
Part 91 ^A	Airplane	16,635	18,428
	Rotorcraft	2,816	2,818
Part 121	Airplane	7,977	16,967
	Rotorcraft	-	-
Part 129 ^B	Airplane	5,013	11,044
	Rotorcraft	18	27
Part 135	Airplane	6,196	6,962
	Rotorcraft	1,923	1,964
Total	Airplane	35,973	53,705
	Rotorcraft	4,757	4,809
	Total	40,730	58,514
A. Part 91 totals include foreign-registered airplanes			
B. Part 129 totals only include aircraft that had at least one U.S. operation in the 17-month period from 04/01/2024 to 09/01/2025			

From the same MITRE data, Table 4 below shows the estimated number of operators of affected RA-equipped

aircraft operating under the rules of each CFR Part.

Table 4: Operators of RA Equipped Aircraft

CFR Operational Part	Number of Operators
91	12,331
91 (Foreign)	118
121	58
129	330
135	1,120
Total	13,857

The fleet estimates are adjusted by FAA's projection of fleet changes, so that the part 121 and part 129 fleets reflect the forecast in 2030 and the part 91 and part 135 fleets reflect the forecast in 2031, since aircraft manufactured and

certified after those dates are assumed to be equipped with compliant RA systems that would not require replacement.⁴⁴ See Table 5. Based on comments the JAC submitted to the FAA and FCC NPRMs, this reflects the dates that type

design approvals will be completed for RA systems with suitable performance and interference-tolerance. After that date, newly built aircraft are assumed to be equipped with an RA system that meets these performance requirements.

⁴⁴ FAA assumes the 2025 ratio of count of RA units to count of aircraft to estimate the count of

RA units for the first and second compliance deadlines.

Table 5: Forecast of Count of RA Units for the First and Second Compliance Deadlines

CFR Operational Part	Aircraft Type	2025	2025	Avg. Annual Fleet Growth ^A	First compliance Deadline ^B		Second compliance Deadline ^C	
		Count of Aircraft	Count of RA Units		Count of Aircraft	Count of RA Units	Count of Aircraft	Count of RA Units
Part 91 (domestic)	Airplane	16,635	18,428	1.0%	n.a. ^D	n.a.	17,658	19,562
	Rotorcraft	2,816	2,818	1.0%	n.a.	n.a.	2,989	2,991
Part 91 (foreign)	Airplane	152	304	1.0%	n.a.	n.a.	161	323
	Rotorcraft	-	-	-	n.a.	n.a.	-	-
Part 121	Airplane	7,977	16,967	1.7%	8,662	18,423	n.a.	n.a.
	Rotorcraft	-	-	-	-	-	n.a.	n.a.
Part 129 (over 30 seats)	Airplane	4,480	10,255	1.7%	4,864	11,135	n.a.	n.a.
	Rotorcraft	-	-	-	-	-	n.a.	n.a.
Part 129 (under 30 seats)	Airplane	533	789	1.7%	n.a.	n.a.	588	871
	Rotorcraft	18	27	1.0%	n.a.	n.a.	20	30
Part 135	Airplane	6,196	6,962	1.0%	n.a.	n.a.	6,577	7,390
	Rotorcraft	1,923	1,964	1.0%	n.a.	n.a.	2,041	2,085
Total	Airplane	35,973	53,705	-	13,526	29,558	24,985	28,146
	Rotorcraft	4,757	4,809		-	-	5,051	5,106

A. Source: FAA Aerospace Forecast Fiscal Years 2025–2045

B. FAA assumes a 2030 fleet size subject to the first compliance deadline.

C. FAA assumes a 2031 fleet size subject to the second compliance deadline.

D. n.a. = not applicable.

6. Benefits

The benefits of this final rule stem from maintaining the safety benefits of RAs and resolving the remaining operational restrictions due to Lower C-band interference. Installing RA systems that meet the requirements of this rule would limit the risk of inaccurate or missing height above terrain data, allowing air transportation operations to continue at their current tempo and safety environment. At the immediate safety level, having accurate data provided by the RA is essential information for pilots, especially in low-visibility airport operations that can affect, on average, 135,600 takeoffs and landings each year.⁴⁵

Beyond data provided directly to pilots, RA information is used by several mandated systems whose safety benefits this final rule aims to preserve. Systems such as TCAS and TAWS, which rely on accurate RA altitude data, provide pilots with vital safety enhancements for collision avoidance. Since implementation, these systems have played a large role in significantly

reducing mid-air collisions and CFIT accidents on equipped aircraft in the United States.⁴⁶ Additional aircraft systems that rely on RA information, such as autoflight functions, windshear protection, and other aircraft-specific features, provide further unquantified safety benefits by aiding pilots in operating the aircraft and avoiding unsafe conditions.

CTIA suggested that the new RA performance requirements will deliver direct benefits to the aviation industry unrelated to safe coexistence with wireless transmissions in adjacent spectrum bands, such as coexistence with Wireless Avionics Intra-Communication Systems (WAICS), better test procedures, and added cybersecurity. FAA received no other comments about benefits for operators beyond restoring the full benefits of existing safety systems, and these suggestions do not provide a quantifiable benefit for operators. A threshold analysis of those safety benefits is provided in section V.A.9.

⁴⁶Nicholas A. Sabatini, Speech: “Downward Pressure on the Accident Rate”, International Society of Air Safety Investigators, May 12, 2006, retrieved September 2025 from China Aviation Daily, available at <http://www.chinaaviationdaily.com/news/0/456.html>.

7. Costs

Under the final rule, airlines and other operators would incur costs to retrofit their RA-equipped aircraft with systems meeting the proposed RA interference tolerance standards. When issuing ADs in 2023 for transport and commuter category airplanes and for rotorcraft to mitigate interference from Lower C-band wireless services, FAA estimated that replacement of the RA transceiver unit for a civil aircraft would cost up to \$80,000 for an airplane⁴⁷ and \$40,000 for a rotorcraft,⁴⁸ inclusive of parts and labor. Based on public comments on the NPRM that the cost could be as high as \$120,000 for an airplane, FAA now estimates the airplane RA replacement cost can range up to that value and acknowledges there may be further variation depending on

⁴⁷Transport and commuter category airplane costs are found in the associated final rule for Airworthiness Directive; Transport and Commuter Category Airplanes (05/26/2023), available at <https://www.federalregister.gov/documents/2023/05/26/2023-11371/airworthiness-directives-transport-and-commuter-category-airplanes>.

⁴⁸Rotorcraft costs are found in the associated final rule for Airworthiness Directives; Various Helicopters (12/09/21), available at <https://www.federalregister.gov/documents/2021/12/09/2021-26779/airworthiness-directives-various-helicopters>.

⁴⁵Based on average hours of CAT II/III conditions against number of operations at towered airports, see the regulatory alternatives section for more detail

the model of airplane having its RA replaced. These costs assume replacement of just the RA transceiver unit, which for most aircraft is expected to be a “plug-and-play” operation requiring minimal labor hours, aircraft downtime or time out of service, and can be completed during regular maintenance. Retrofitting just the transceiver unit is expected to resolve the spectrum interference issue and would not require replacing the RA antenna or wiring, which would greatly increase completion time and costs. Once installed, there are no expected notable operational differences between the current RAs and the new units, so there are no estimated recurring costs associated with the new units after replacement. In addition, there is no estimated price difference for new RAs and therefore costs for aircraft manufactured after next-generation RA systems are available and integrated into the aircraft design are not applicable to the final rule.

For the first tranche, all aircraft with RAs operating under part 121 or under part 129 with 30 or more passenger seats or a payload capacity of more than 7,500 pounds would have to retrofit with RA systems meeting the new performance requirements by the initial RA compliance deadline on December 30, 2030. Based on the 2025 fleet data from MITRE and assuming an annual growth rate of 1.7 percent,⁴⁹ FAA estimates there are roughly 18,423 RA systems utilized in part 121 airplanes and 11,135 RA systems used by foreign part 129 operators. FAA applies the \$80,000 to \$120,000 airplane cost to these 29,558 RAs, yielding a total replacement expense of \$2.37 billion to \$3.55 billion.⁵⁰

The second tranche includes any other aircraft operating under part 129, part 135, or under part 91 in the airspace of the 48 contiguous United States and the District of Columbia and equipped with an RA.⁵¹ These operators would have until October 31, 2034 to

complete the retrofit. FAA estimates that there would be 33,252 RA units across these categories in 2031, covering both airplanes and rotorcraft.⁵² FAA estimates costs for these operators of \$2.46 billion to \$3.58 billion, based on 28,146 airplane RAs and 5,106 rotorcraft RAs in this group.

Combining the estimates from both groups, the expected undiscounted total cost of replacing RAs for civil fleet ranges from \$4.82 billion to \$7.13 billion. Table 6 shows the total and annualized costs, broken out by type of CFR operation and discount rate. FAA notes these costs assume replacement of RAs across the full fleet. Part 129 operators may choose to segregate their international operation fleets, only replacing RAs in the aircraft they designate for operations in U.S. airspace; to the extent they do so would reduce the costs incurred by those operators pursuant to this final rule.

Table 6: Cost for RA Replacement (millions of 2025\$)

CFR Operational Part	Undiscounted Total		Annualized Costs ^A			
			3% Discount Rate		7% Discount Rate	
	\$80k per Airplane	\$120k per Airplane	\$80k per Airplane	\$120k per Airplane	\$80k per Airplane	\$120k per Airplane
Part 91	\$1,685	\$2,467	\$98	\$143	\$113	\$166
Part 91F ^B	\$26	\$39	\$1	\$2	\$2	\$3
Part 121	\$1,474	\$2,211	\$88	\$132	\$106	\$159
Part 129	\$962	\$1,442	\$57	\$86	\$69	\$103
Part 135	\$675	\$970	\$39	\$56	\$45	\$65
Total	\$4,821	\$7,129	\$284	\$419	\$336	\$496
Notes: Rotorcraft RA replacement remains at \$40k in both scenarios Columns may not sum due to rounding A. Costs are annualized over a 20-year period, estimated to be the average remaining service life for current fleet aircraft. B. Consists of foreign operated part 91 aircraft						

FAA also received a preliminary cost estimate of \$3 billion to \$4 billion from the DOW to replace RA units in military aircraft. At a seven percent discount rate, this annualizes to \$283 million to

\$378 million over the same 20-year period estimated for the civil fleet. DOW estimates it will take them eight years after receiving related appropriations to complete the RA replacement across its

fleet. FAA will work with the DOW to address any aircraft that are not equipped by the October 31, 2034 compliance deadline using the Administrator's authorization that has

⁴⁹ FAA Aerospace Forecast Fiscal Years 2025–2045 (2025), available at https://www.faa.gov/data-research/aviation/aerospace_forecasts/FY-2025-2045-Full-Forecast-Document-and-Tables.pdf, page 105.

⁵⁰ The 11,135 RA units for aircraft operating under part 129 excludes units that are covered

under the second compliance deadline (868 airplane and 30 rotorcraft RAs).

⁵¹ For further clarification of what operational areas are applicable under this group, please see section IV.D of the preamble

⁵² This group includes the 161 aircraft under part 91 (foreign operators), and the 20 rotorcraft and 586 airplanes with less than 30 passenger seats or 7,500 lbs. cargo capacity under part 129.

been added by this final rule in § 91.220(a). DOW preliminary estimates are included in the cost section as DOW

is not eligible for rebate payments related to the spectrum auction. Table 7 shows the total and annualized costs for

DOW, broken out by annualized discount rate.

Table 7: Department of War RA Replacement Costs (millions of 2025\$)

Category	Undiscounted Total		Annualized Costs ^A			
			3% Discount Rate		7% Discount Rate	
	Low End	High End	Low End	High End	Low End	High End
Military	\$3,000	\$4,000	\$202	\$269	\$283	\$378
A. Costs are annualized over a 20-year period in line with estimates for the civil fleet						

8. Transfers

OMB Circular A–4, the guiding document for economic regulatory analysis, states “Transfers occur when wealth or income is redistributed without any direct change in aggregate social welfare.” In this case, FCC requiring wireless licensees to fund RA replacements constitutes a transfer between the wireless entities licensed in Upper C-band allocation and aircraft operators, who would then need to replace their RA units to operate in the new spectrum environment.

The total value of this transfer to spectrum auction winners is dependent on the cost of RA replacement for domestic aviation operators. Under the first equipage deadline, there would be roughly 18,423 RA units used by domestic part 121 operators based on the base-year MITRE data and assuming an annual growth rate of 1.7 percent.⁵³ Applying the \$80,000 to \$120,000 airplane cost (inclusive of labor) to the RA totals yields a total retrofit expense of \$1.47 billion to \$2.21 billion for part 121 operators. For the domestic part 91 and 135 operators who must comply with the second deadline, FAA estimates that there would be 32,028 RA units across this category in 2031, covering both airplanes and rotorcraft. Applying the respective cost for airplanes and rotorcraft to the populations, FAA estimates an undiscounted cost of \$2.36 billion to \$3.44 billion to retrofit the remaining RA units in the second group.

Combining the estimates from both groups, the expected transfer to cover the undiscounted total cost of replacing RAs across the domestic civil fleet is \$3.83 billion to \$5.65 billion. Table 8 shows the total and annualized costs, broken out by type of CFR operation and annualized discount rate.

Table 8: Transfers from FCC/Wireless Bidders to Domestic Operators for RA

Replacement (millions of 2025\$)

CFR Operational Part	Undiscounted Total		Annualized Transfers ^A			
			3% Discount Rate		7% Discount Rate	
	Range: \$80k to \$120 per RA		Low - High		Low - High	
Part 91	\$1,685	\$2,467	\$98	\$143	\$113	\$166
Part 121	\$1,474	\$2,211	\$88	\$132	\$106	\$159
Part 135	\$675	\$970	\$39	\$56	\$45	\$65
Total	\$3,833	\$5,648	\$225	\$331	\$265	\$391
Notes: Columns may not sum due to rounding						
Rotorcraft RA replacement remains at \$40k in both scenarios						
A. Transfers are annualized over a 20-year period, estimated to be the average remaining service life for current fleet aircraft.						

9. Threshold Analysis

Lockheed Martin commented that a safety analysis using VSL methodology for preventing CFIT incidents would improve the holistic understanding of the rule’s impact. FAA agrees, as OMB Circular A–4 notes, “it will not always be possible to express in monetary units all of the important benefits and costs

⁵³ FAA Aerospace Forecast Fiscal Years 2025–2045 (2025), available at https://www.faa.gov/data_research/aviation/aerospace_forecasts/FY-2025-2045-Full-Forecast-Documents-and-Tables.pdf, page 105.

. . . If the non-quantified benefits and costs are likely to be important, you should carry out a ‘threshold’ analysis to evaluate their significance.” In this case, the continued realization of the safety benefits of RAs and systems that use their data is important as the driver of this rule, but it is extremely difficult to quantify their direct cumulative effects. Total societal resource costs are directly quantifiable; the replacement of all RAs in the civilian fleet with new interference-tolerant units to maintain the qualitative safety benefits of accurate RA data has an undiscounted net cost estimate of \$4.82 billion to \$7.13 billion. The 2025 DOT guidance on the Value of a Statistical Life (VSL) is \$14.2 million.⁵⁴ Therefore, by enabling continued use of RAs and their dependent safety systems, the final rule’s threshold analysis where safety benefits exceed the costs occurs if the new RA units prevent 339 to 502 fatalities in totality after installation, or the equivalent of preventing a CFIT accident involving one large passenger airliner.⁵⁵

10. Regulatory Alternatives

Scenario 1: AD Operational Restrictions With No RA Performance Requirement

This scenario assumes the Upper C-band auction is successful and will lead to wireless services in the Upper C-band, but there is no accompanying FAA equipage rule in place. Instead of a regulation requiring new interference-tolerant RAs, FAA would address unsafe conditions arising after December 30, 2030 by superseding the current ADs applicable to aircraft certificated in the U.S. while also imposing restrictions on foreign operators. These actions would be the same as those described in section IV.G and would limit the kinds of operations that can be performed without an upgrade. FAA anticipates that in this scenario, the limitations in the ADs would affect a greater number of aircraft due to the equipage being voluntary.⁵⁶

The FCC rebate program would still be available in this scenario, and FAA

anticipates that many part 121 operators would elect to equip prior to December 31, 2030 to claim the rebate and avoid incurring the operational restrictions in the ADs. Many foreign operators would also likely elect to equip to avoid operational restrictions. For the airplane model-specific ADs where the effect of interference results in grounding the aircraft unless utilizing an interference-tolerant RA, the restriction alone is likely sufficient to result in complete voluntary equipage prior to December 31, 2030. However, for low visibility and other operations, it is likely that some operators would not equip by the initial RA compliance deadline discussed in section IV.E.

Operators who do not voluntarily equip would be subject to operational restrictions in low visibility CAT II or III conditions. In 2019, these conditions ranged from zero to 1.14 percent of hours at the core 30 airports,⁵⁷ overall averaging 0.24 percent.⁵⁸ With over 56.5 million operations at towered airports in 2024,⁵⁹ limitations on flying in CAT II/III conditions would disrupt an average of 135,600 takeoffs and landings per year, inducing recurring delay, diversion, and cancellation costs to aircraft operators and the flying public until emission interference mitigation of the Upper C-band is achieved. The costs of the actual delays, diversions, and cancellations would be proportional to the fleet that elected not to equip by December 31, 2030. Operators and aircraft owners who do not conduct low-visibility approaches may choose to accept these restrictions and not voluntarily replace their RA. While the rebate program would defray the RA replacement cost, there is no economic motivation for these operators to replace their RA, as they would not experience any direct costs of retaining their existing RA system under the AD operating limitations. However, AD operating limitations do not address all potential issues for the RA and interconnected safety systems due to spectrum interference,⁶⁰ so the full safety benefits of ensuring the RA operates normally would not be

realized, and several safety systems that are dependent on the RA would remain compromised (see section V.A.6).

Beyond operators, the costs to the overall U.S. economy from any resulting effective reduction in NAS capacity due to delays and cancellations from aircraft model and low-visibility weather ADs can be significant. For example, regarding similar limitations due to air traffic controller staffing constraints when FAA issued Emergency Order Establishing Operating Limitations on the Use of Navigable Airspace (90 FR 50884, November 12, 2025),⁶¹ A4A stated, “When the FAA flight-reduction order reaches 10% on Nov. 14, A4A estimates a daily average U.S. economic impact of \$285 [million]–\$580 [million], depending on the degree to which airlines can reaccommodate cancellation-disrupted passengers on the remaining flights.”⁶² For the broader economic effect, a 2010 FAA-commissioned study found the total delay impact of flight delays in 2007 cost the U.S. \$32.9 billion between airline operators, passengers, and general economic welfare losses.⁶³ Adjusted forward using the Bureau of Labor Statistics (BLS) Consumer Price Index for All Urban Consumers (CPI-U), this equates to \$51.2 billion in 2025 dollars.⁶⁴ The resulting economic consequences of shutting down portions of major domestic and international air carrier operations due to operational restrictions would likely exceed the cost of the rule well within the compliance period and incur additional recurring costs until the interference issue is addressed.

Scenario 2: No AD Operational Restrictions or Retrofit Requirement

Another option for FAA without this final rule would be to not supersede the current ADs, even after a successful spectrum auction. Under this scenario, if new interference-tolerant RA units are not developed or available and the current ADs are withdrawn, FAA would be maintaining the current tempo of air operations but would be accepting the risk of C-band interference on the RA and all dependent aircraft safety

⁵⁴ The DOT guidance on VSL can be found at <https://www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-in-economic-analysis>.

⁵⁵ Some examples of the aircraft with these passenger capacities can be found at <https://aviex.goflexair.com/flight-school-training-faq/how-many-passengers-can-a-commercial-plane-carry>.

⁵⁶ FAA recognizes that this scenario has elements of both an alternative baseline (since it assumes successful FCC auctions even in the absence of an equipage requirement) and a regulatory alternative (to the extent that new superseding ADs would be a substitute action by FAA), but has categorized it only as the latter for simplicity in presentation.

⁵⁷ The core 30 airports are the busiest 30 U.S. commercial airports by passenger enplanements, the list of which can be found at https://www.aspm.faa.gov/aspmhelp/index/Core_30.html.

⁵⁸ The Aerology analysis of 2019 METAR data from the core 30 airports can be found at <https://aerology.substack.com/p/what-does-low-visibility-mean>.

⁵⁹ Data on operations is sourced from the FAA Operations Network (OPSNET), with the 2024 data provided in the most recent FAA Air Traffic by the Numbers found at https://www.faa.gov/air_traffic/by_the_numbers.

⁶⁰ ADs only specify actions to address safety issues that cause an unsafe condition.

⁶¹ The airspace limitation order can be found at <https://www.federalregister.gov/documents/2025/11/12/2025-19850/emergency-order-establishing-operating-limitations-on-the-use-of-navigable-airspace>.

⁶² The A4A cost estimate can be found in their November 10, 2025, press release at <https://www.airlines.org/news-update/new-data-shows-huge-impact-of-the-government-shutdown-on-airlines-and-our-customers/>.

⁶³ The 2010 Total Delay Impact Study can be found at <https://rosap.ntl.bts.gov/view/dot/6234>.

⁶⁴ The BLS CPI-U values can be found at <https://data.bls.gov/timeseries/CUUR0000SA0>.

systems. The most recent FAA risk assessments rated these risks from minor to catastrophic, with the most significant risks to operations in very low visibility (*e.g.*, CAT II/III, use of EFVS to touchdown, Autoland). In addition, aircraft with dependent safety systems may react incorrectly and catastrophically at low altitude due to erroneous or missing RA data. Training, SBs, and guidance alone would not be sufficient to overcome the high likelihood of hazardous misleading or missing RA information impacting multiple aircraft safety systems, some of which are required by legislation and regulations based on previous fatal accidents. FAA has determined that there is an unacceptable risk of catastrophic or fatal accidents, which is the basis for the current ADs. In comparison to the no-action baseline, this scenario would retain economic benefits from maintaining the pace of air operations but is considered unacceptable, as FAA has a statutory responsibility to protect the safety of the NAS from the high level of risk this option creates.

11. Summary

This final rule aims to address a critical safety issue in the NAS, with the upcoming auction and proposed reallocation of the Upper C-band spectrum for next-generation wireless

services posing a serious risk to the accuracy and usability of RAs. RAs provide height above terrain information, and the accuracy of its data is critical for low visibility operations and use in numerous mandated automatic safety systems. Without the ability to filter out neighboring C-band signals and prevent inaccurate or missing RA data, and absent the extension or modification of voluntary agreements from Lower C-band licensees, FAA would have to issue ADs prohibiting the operation of certain aircraft and prohibiting specific operations in low visibility conditions to maintain the safety of the NAS.

To prevent this disruption to air operations and maintain high levels of aviation safety, FAA is mandating all RA systems meet specific minimum performance requirements on aircraft operating in the airspace of the 48 contiguous United States and the District of Columbia by an initial RA compliance deadline of December 30, 2030 for all aircraft operating under 14 CFR part 121 and aircraft operating under part 129 with 30 or more passenger seats or a payload capacity of more than 7,500 pounds. All other aircraft operating in the airspace of the 48 contiguous United States and the District of Columbia subject to part 91 and equipped with an RA will have until October 31, 2034 to upgrade to an

RA system that meets the performance standard. These new RA systems must be resilient to interference from signals in neighboring spectrum bands and continue to provide accurate altitude readings to pilots and integrated aircraft safety systems. Given the resiliency provided in the new RA systems, this rule supports the FCC auction of the Upper C-band by providing certainty to the wireless industry that they will have confidence in the safe and timely utilization of their purchased spectrum.

FAA estimates the undiscounted total cost to retrofit all RAs in the civil fleet is \$4.82 billion to \$7.13 billion, or \$336 million to \$496 million annualized at a seven percent discount rate over a 20-year average remaining aircraft service life. Domestic operators will be able to minimize their burden under a transfer of costs to wireless spectrum auction bidders via the FCC RA retrofit rebate program. Foreign operators of RA-equipped aircraft would incur the full costs to retrofit to units that meet the new interference tolerance standards and not be subject to the recurring and more expensive operating restrictions. As the estimated cost exceeds the threshold for an economically significant rule under Section 3(f)(1) of E.O. 12866, FAA prepared the required OMB Circular A-4 accounting statements below.

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Table 9 - OMB Circular A-4 Accounting Statement, U.S. Parties (millions of
2025\$)

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	• Use of interference-tolerant units allows operators to keep the safety benefits of RAs and their dependent systems. • Permits airlines to keep the current tempo of operations. • Maintains the safety benefits of RA systems once the fleet has fully equipped.		Preamble, RIA Section A.6
COSTS			
Annualized Monetized \$millions/ year	\$427 - \$600	\$548 - \$769	Preamble RIA Section A.7
Annualized Quantified	N/A	N/A	N/A
Qualitative	N/A		N/A
TRANSFERS			
From whom to whom?	From FCC/Wireless Bidders To Domestic Operators		Preamble, RIA Section A.8
Annualized Monetized \$millions/ year	\$225 - \$331	\$265 - \$391	N/A
Annualized Quantified	N/A	N/A	N/A
Qualitative	• A transfer from the wireless carriers to the domestic aviation operators via the FCC RA retrofit rebate program. • Details on the program, amount, and timing of the rebates can be found in the FCC R&O.		Preamble, RIA Section A.8

State, Local, and/or Tribal Government	Any state, local, or tribal governments that utilize aircraft with an RA onboard, such as police or search and rescue rotorcraft, will be eligible under the FCC RA retrofit rebate program unless they are prohibited from receiving that rebate by law.	Preamble, RIA Section A.4
Small Business	Small businesses will incur \$40-\$120k in costs per RA unit in each aircraft in their fleet to refit with an RA that meets the new performance standards. The total cost per entity is dependent on the size of their fleet. Domestic operators are eligible under the FCC RA retrofit rebate program.	Final Regulatory Flexibility Analysis
Wages	N/A	N/A
Growth	N/A	N/A

Table 10 - OMB Circular A-4 Accounting Statement, Non-U.S. Parties (millions of 2025\$)

Category	3-Percent Discount Rate	7-Percent Discount Rate	Source Citation (RIA, Preamble, etc.)
<i>BENEFITS</i>			
Annualized Monetized \$millions/year	N/A	N/A	N/A
Annualized Quantified	N/A	N/A	N/A
Qualitative	• Use of interference-tolerant units allows operators to keep the safety benefits of RAs and their dependent systems. • Permits airlines to keep current tempo of operations. • Allows FAA to remove costly limitations associated with RA interference once the fleet has fully equipped.		Preamble, RIA Section A.6
<i>COSTS</i>			
Annualized Monetized \$millions/year	\$59 - \$88	\$71 - \$106	Preamble RIA Section A.7
Annualized Quantified	N/A	N/A	N/A
Qualitative	N/A		N/A
<i>TRANSFERS</i>			
Annualized Monetized \$millions/year	N/A	N/A	N/A
Annualized Quantified	N/A	N/A	N/A
Qualitative	N/A		N/A
State, Local, and/or Tribal Government	N/A		N/A
Small Business	Small businesses will incur \$40-\$120k in costs per RA unit per aircraft in their fleet to refit with an RA that meets the new performance standards. The total cost per entity is dependent on the size of their fleet.		Final Regulatory Flexibility Analysis
Wages	N/A		N/A
Growth	N/A		N/A

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B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, Pub. L. 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, March 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111-240, 124 Stat. 2504 September 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.

FAA published an Initial Regulatory Flexibility Analysis (IRFA) in the proposed rule to aid the public in commenting on the potential impacts to small entities. FAA considered the public comments in developing the final rule and this Final Regulatory Flexibility Analysis (FRFA). A FRFA must contain the following:

(1) A statement of the need for, and objectives of, the rule;

(2) A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the agency’s assessment of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

(3) The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;

(4) A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

(5) A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(6) A description of the steps the agency has taken to minimize the

significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

1. Need for and Objectives of the Rule

To address the safety issue from wireless interference from expanded Upper C-band spectrum use following the FCC auction, this rule mandates that all RA units on aircraft operating under part 91 in the airspace of the 48 contiguous United States and the District of Columbia must be replaced by new RA systems that meet the updated interference tolerance requirements. RA systems that meet the new requirements will continue to function properly when the Lower and Upper C-band wireless services become active following FCC auction and expiration of the voluntary Lower C-band wireless agreements. Installing these interference-tolerant RAs in the fleet allows air operations to continue at their current tempo and preserve safety levels provided by the benefits of accurate RA data and its use in numerous dependent safety systems. In the absence of requiring interference-tolerant RAs, FAA would issue ADs to maintain the safety environment, which would cost operators more over time due to groundings, delays, and cancellations of aircraft operations.

2. Significant Issues Raised in Public Comments

The RAA and an individual commenter raised concerns about the impact of the rule on small aviation entities. The RAA commented that regional airlines are smaller entities and may not have the capital flow to absorb the costs of replacement the same way larger airlines could. The individual commenter further noted that the distributional impact on small entities would be high, and FAA should prepare a more robust IRFA to consider regulatory alternatives or other methods to reduce the effective burden.

FAA agrees that the relative burden is higher for small commercial entities, as they must use the same commercial RA units as larger airlines or operators who

would have more cash flow to cover the replacement expense. There are no alternatives to lessen this burden; commercial operations have an extremely high expected level of safety and operational efficiency, and FAA can neither extend the compliance deadline for these entities beyond activation of the Upper C-band nor allow a less robust RA that may not fully handle the new spectrum environment. Smaller non-commercial operators in part 91 also face this high burden but have more options to potentially deal with the cost, including using lower-cost non-commercial RA units. Smaller non-commercial operators who are not required by regulation to have an RA, either directly or as an integral component of a mandated safety system, may remove the RA entirely and fly without one. However, with the FCC RA retrofit rebate program now transferring the replacement cost burden from the aviation operators to the spectrum auction winners, FAA believes this issue to be resolved.

3. Response to SBA Comments

There were no comments from the SBA on the IRFA.

4. Small Entities to Which the Rule Will Apply

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 SBA to define “small business” by issuing regulations.

SBA has established size standards for various types of economic activities, or industries, under the North American Industry Classification System (NAICS).⁶⁵ These size standards generally define small businesses based on the number of employees or annual receipts. Table 11 shows the SBA size standards for airlines as an example. Note that the SBA definition of a small business applies to the parent company and all affiliates as a single entity.

⁶⁵ Information on NAICS can be found at <https://www.census.gov/naics/>.

Table 11. Small Business Size Standards: Air Transportation

NAICS Code	Description	Size Standard
481111	Scheduled Passenger Air Transportation	1,500 employees
481112	Scheduled Freight Air Transportation	1,500 employees
481211	Nonscheduled Chartered Passenger Air Transportation	1,500 employees
481212	Nonscheduled Chartered Freight Air Transportation	1,500 employees
481219	Other Nonscheduled Air Transportation	\$25.0 million
Source: SBA (2023) NAICS = North American Industrial Classification System SBA = Small Business Administration		

To identify small entities, FAA first identified the primary NAICS of the airline or parent company and then used data from different sources (*e.g.*,

company annual reports, FAA operator data, Bureau of Transportation Statistics, D&B Hoovers) to determine whether the airline meets the applicable

size standard. Table 12 provides a summary of the results.

Table 12. Estimated Number of Small Entities

CFR Operational Part	Number of Entities	Number Small Entities	Percent Small Entities
Part 91 ¹	12,331	11,340	91.95%
Part 121	58	33	56.9%
Part 135	1,120	1,103	98.5%
Total	13,509	12,476	92.4%
1. The percent of Part 91 small entities, and resulting total number of small entities, is based on a random sample of 373 operators. This estimate is likely an overcount as FAA is unable to remove private/GA aircraft owners from its dataset.			

In general, entities classified as scheduled air transportation (NAICS 481111 and 481112) operate under part 121, and entities engaged in nonscheduled air transportation (NAICS 481211 and 481212) operate under part 135. Part 91 operations include entities under NAICS 481219, such as air clubs and sightseeing operations, as well as entities in any other non-air transportation NAICS code that own and operate aircraft for private use or internal company transportation.

5. Projected Reporting, Recordkeeping, and Other Compliance Requirements

FAA assumes the cost to retrofit an RA in accordance with this rule is \$80,000 to \$120,000 for an airplane and \$40,000 for a rotorcraft, based on public comments on the NPRM and the 2023 ADs concerning Lower C-band interference mitigation.⁶⁶ Therefore, the cost to each entity is based on how many RAs are equipped on each aircraft and how many aircraft are in their fleet, which induces higher costs to larger operators that have larger fleets. However, since operations and resulting

revenue scale with fleet size as well, larger firms are likely better able to absorb those increased costs compared to small entities. By applying these equipment costs to the average number of aircraft for a small entity based on its size category, FAA estimates the average one-time RA replacement cost per small entity. These costs are then weighed against the average annual revenue per small entity data from the 2022 U.S. Census Statistics of U.S. Businesses (SUSB),⁶⁷ displayed in Table 13 for part 121 operators and Table 14 for part 135 operators.

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⁶⁶ Transport and commuter category airplane costs are found in the associated final rule for Airworthiness Directive; Transport and Commuter Category Airplanes (05/26/2023), available at [https://www.federalregister.gov/documents/2023/05/26/2023-11371/airworthiness-directives-](https://www.federalregister.gov/documents/2023/05/26/2023-11371/airworthiness-directives-transport-and-commuter-category-airplane)

[transport-and-commuter-category-airplane](https://www.federalregister.gov/documents/2021/12/09/transport-and-commuter-category-airplane) and rotorcraft costs are found in the associated final rule for Airworthiness Directives; Various Helicopters (12/09/21) available at <https://www.federalregister.gov/documents/2021/12/09/>

[2021-26779/airworthiness-directives-various-helicopters](https://www.federalregister.gov/documents/2021/12/09/2021-26779/airworthiness-directives-various-helicopters).

⁶⁷ The 2022 U.S. SUSB files can be found at <https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.html>.

Table 13. Part 121 Cost of Compliance (thousands of 2025\$)

Number of Employees	Number of Small Entities	Average Number of Aircraft	Average One-Time RA Cost per Entity ¹	Average Annual Revenues per Entity ²	Average Cost/Annual Revenue
20-99 employees	8	5	\$390 - \$585	\$69,356	0.6% - 0.8%
100-499 employees	17	13	\$1,031 - \$1,547	\$246,082	0.4% - 0.6%
500+ employees	8	29	\$2,310 - \$3,465	\$5,075,566	0.0% - 0.1%
Notes: Rows may not sum due to rounding 1. Based on a unit and labor cost of \$80,000 to \$120,000 for a new RA 2. FAA estimates receipts per entity using 2022 SUSB data on NAICS 48111 firm counts and receipts. Receipts are adjusted to 2025 dollars using the BLS Consumer Price Index for all Urban Consumers (Series ID: CUUR0000SA0).					

Table 14. Part 135 Cost of Compliance (thousands of 2025\$)

Number of Employees	Number of Small Entities	Average Number of Aircraft	Average one-time RA cost per entity ¹	Average annual revenues per entity ²	Average Cost/Annual Revenue
1-19 employees	630	2	\$155 - \$222	\$2,906	6.8% - 7.7%
20-99 employees	375	7	\$469 - \$673	\$21,400	2.8% - 3.1%
100-499 employees	76	20	\$1,402 - \$2,011	\$84,939	2.1% - 2.4%
500+ employees	22	75	\$5,301 - \$7,604	\$250,641	2.7% - 3.0%
Notes: Rows may not sum due to rounding 1. Based on RA unit and labor cost of \$80,000 to \$120,000 for aircraft and \$40,000 rotorcraft, applied by the ratio of each type within part 135. 2. FAA estimates receipts per entity using 2022 SUSB data on NAICS 48112 firm counts and receipts. Receipts are adjusted to 2025 dollars using the BLS Consumer Price Index for all Urban Consumers (Series ID: CUUR0000SA0).					

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FAA does not estimate the per-entity costs for part 91 operators, as companies operating under this section are generally not engaged in commercial air transportation services. Though there are some operators for sightseeing services or aviation club activities under NAICS 481219, the vast majority of these aircraft are used by private operators or entities for personal transportation across many different industries (*i.e.*, corporate jets). This is

reflected in the fleet data FAA used, as roughly 90 percent of operators under part 91 only have one aircraft, and another eight percent operate just two. Depending on whether the RA unit is used in automated aircraft safety systems, some GA part 91 operators have the choice to simply remove their RA after the final rule takes effect to avoid the replacement cost, though they would not retain the safety benefits RAs provide as discussed in section V.A.6. Entities that choose to replace the RA

may also have access to noncommercial use units at lower cost than the estimated \$80,000–\$120,000, although FAA lacks data to estimate and did not receive public comment on what these units would cost. Without information on what models manufacturers will provide in the future, FAA is unable to determine the reduction in burden.

6. Significant Alternatives Considered

As discussed in section V.A.10, the alternative to not requiring the use of

interference-tolerant RAs would be for FAA to supersede the current ADs to re-impose operating limitations curtailing operations where inaccurate RA data poses a catastrophic risk to air safety. These ADs would cover commuter and transport category airplanes, rotorcraft, and some specific airplane models, with potential for FAA to issue additional ADs or other restrictions as needed based on changes in the C-band spectrum environment. The cost of complying with these ADs for commercial operators is likely to outweigh the cost of retrofitting with an interference-tolerant RA, including expenses incurred from resulting groundings, cancellations, and delays. The option of not controlling the risk of spectrum interference with ADs or requiring interference-tolerant RAs is not considered acceptable, as FAA has a statutory responsibility to protect the safety of the NAS.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

FAA has assessed the effect of this final rule and determined that it ensures the safety of the American public by mandating the use of RAs that can maintain accurate altitude readings in the changed spectrum environment. The proper functioning of RAs is integral to supporting a variety of operations, including those that require altitude information to perform procedures in low visibility conditions. If this final rule were not implemented, there would be no cost savings and no significant differences in the potential impacts to foreign commerce. In the absence of new regulations, FAA will have to issue new or amended ADs to address U.S.-registered aircraft, as well as other necessary policy changes directly relevant to foreign air carriers to prevent catastrophic risk to aviation safety due

to future changes in the spectrum environment. The cost of complying with the ADs would likely exceed the cost of complying with the final rule, as a lack of RA retrofit compliance would result in significant impacts on domestic and foreign air carrier capacity, efficiency, and schedule reliability. FAA acknowledges that foreign operators are generally not eligible for the FCC RA retrofit rebate program and may therefore bear a larger financial burden than domestic operators. However, this is due to the structure of the FCC RA retrofit rebate program and not as a result of FAA safety requirements, which are uniformly applicable to all operators in the affected U.S. airspace. As a result, FAA does not consider this final rule as creating an unnecessary obstacle to foreign commerce.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. With the FCC RA rebate program covering the costs of replacement for domestic operators, FAA determined the rule will not result in the expenditure of \$193,000,000 or more (\$100,000,000 adjusted for inflation using the most current Implicit Price Deflator for the Gross Domestic Product) by State, local, or Tribal governments, in the aggregate, or the private sector, in any one year. For analysis of these costs and transfers, please refer to the RIA above.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires FAA to consider the impact of paperwork and other information collection burdens imposed on the public. FAA has determined there is no new requirement for information collection associated with this final rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. FAA has determined there are no ICAO Standards and Recommended Practices that correspond to these regulations. ICAO is planning updates to Annex 10,

Volume V intended to help protect RAs from potentially harmful in-band and adjacent-band interference caused by non-aeronautical systems operating in adjacent frequency bands. FAA will continue to work with the international community to promote the spectrum compatibility achieved by the proposed next-generation RA system requirements.

G. Environmental Analysis

The Department has analyzed the environmental impacts of this final rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FAA has determined that this rule is categorically excluded pursuant to Paragraph B–2.6(d) of Appendix B to FAA Order 1050.1G, FAA National Environmental Policy Act Implementing Procedures (90 FR 29615, July 3, 2025). Categorical exclusions are categories of actions that the agency has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See DOT Order 5610.1D § 9. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. Id. § 9(b). This rulemaking, which requires all RAs to meet specific minimum performance requirements to support resilience to interference from wireless signals in neighboring spectrum bands, is categorically excluded pursuant to Paragraph B–2.6(d) of FAA Order 1050.1G: “Issuance of regulatory documents (e.g., Notices of Proposed Rulemaking and issuance of Final Rules) covering administrative or procedural requirements. (Does not include air traffic procedures; specific air traffic procedures that are categorically excluded are identified under Appendix B, Paragraph B–2.5 of this Order).” FAA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

H. Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying 14 CFR regulations in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory

distinctions. Because this final rule will apply to aircraft that operate regularly between Alaska and the 48 contiguous United States, it could affect intrastate aviation in Alaska once adopted, to the extent that those aircraft are also used for intrastate operations.

FAA expects reduced impact because this final rule would not apply to aircraft equipped with RA that only conduct intrastate operations in Alaska. However, this final rule could affect aviation operations in Alaska because it applies to aircraft equipped with RA based in Alaska that operate regularly to the 48 contiguous United States, or aircraft based in the 48 contiguous United States that operate regularly to and from Alaska. FCC's R&O preserves the status quo regarding its current licenses outside of the contiguous United States, which are permitted to continue in the entire 3.7–4.2 GHz band. FCC's R&O will only reallocate spectrum within the contiguous U.S., continuing the ongoing provision of current C-band services necessary to protect life and property outside the contiguous U.S.—including telehealth, E911, and education services—for which C-band service may be the only option available, such as in remote areas of Alaska.

VI. E.O. Determinations

A. E.O. 13132, *Federalism*

FAA has analyzed this final rule under the principles and criteria of E.O. 13132, *Federalism*. FAA has determined this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, will not have federalism implications.

B. E.O. 13175, *Consultation and Coordination With Indian Tribal Governments*

Consistent with E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*,⁶⁸ and FAA Order 1210.20, *American Indian and Alaska Native Tribal Consultation Policy and Procedures*,⁶⁹ FAA ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to have substantial direct effects on one or more Tribes, on the relationship between the Federal

Government and Tribes, or on the distribution of power and responsibilities between the Federal Government and Tribes; or to affect uniquely or significantly their respective Tribes. At this point, FAA has not identified any unique or significant effects, environmental or otherwise, on Tribes resulting from this final rule.

C. E.O. 13211, *Regulations That Significantly Affect Energy Supply, Distribution, or Use*

FAA analyzed this final rule under E.O. 13211, *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (May 18, 2001). FAA has determined it is not a “significant energy action” under the E.O. and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. E.O. 13609, *Promoting International Regulatory Cooperation*

E.O. 13609, *Promoting International Regulatory Cooperation*, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and reduce, eliminate, or prevent unnecessary differences in regulatory requirements. FAA has analyzed this action under the policy and agency responsibilities of E.O. 13609. FAA has determined this action will help prevent future differences between U.S. aviation standards and those of other CAAs by being the first nation to adopt and require these new RA system performance standards, to set a standard for future harmonization with other CAAs, and inform future wireless standards for the spectrum authorities of other nations who are considering similar spectrum reallocation near the RA band.

E. E.O. 14192, *Unleashing Prosperity Through Deregulation*

Executive Order 14192 (*Unleashing Prosperity Through Deregulation*) requires that, for each new regulatory rule, an agency must identify 10 prior regulations for elimination. This final rule responds to statutory requirements of section 40002 of the One Big Beautiful Bill Act, which re-institutes FCC's general auction authority and specifically directs the Commission to complete a system of competitive bidding for not less than 100 MHz in the Upper C-band. To ensure safe, efficient, and reliable aviation operations in the presence of wireless signals in the Upper C-band, FAA is mandating regulations that would require all RAs

to meet specific minimum performance requirements. This rule is an E.O. 14192 deregulatory action, because it enables safe wireless access to the Upper C-band.

VII. Additional Information

A. *Electronic Access and Filing*

A copy of the NPRM, all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the docket number listed above. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at www.federalregister.gov and the Government Publishing Office's website at www.govinfo.gov. A copy may also be found at FAA's Regulations and Policies website at www.faa.gov/regulations_policies.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Requestors must identify the docket or notice number of this rulemaking.

All documents FAA considered in developing this final rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

B. *Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects

14 CFR Part 91

Air carriers, Air taxis, Aircraft, Aviation safety.

14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Safety.

⁶⁸ 65 FR 67249 (Nov. 6, 2000).

⁶⁹ FAA Order No. 1210.20 (Jan. 28, 2004), available at www.faa.gov/documentLibrary/media/1210.pdf.

14 CFR Part 129

Air carriers, Aircraft, Aviation safety.

For the reasons discussed in the preamble, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

- 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534; Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); Sec. 828 of Pub. L. 118–63, 138 Stat. 1330 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

- 2. Add § 91.220 to read as follows:

§ 91.220 Radio Altimeter Systems

(a) After October 31, 2034, unless otherwise authorized by the Administrator, no person may operate an aircraft in the airspace of the 48 contiguous United States and the District of Columbia with a radio altimeter unless the radio altimeter system meets the performance requirements of paragraph (b) of this section.

(b) The radio altimeter system must operate at an altitude of 0–500 feet above ground level in the interference environment defined in table 1 of this paragraph:

TABLE 1 TO PARAGRAPH (b)

Frequency range (MHz)	Power flux-density, single polarization, root mean square (dBW/m ² /MHz)
3000 ≤ f < 4000	9.5
4000 ≤ f < 4100	9.5
4100 ≤ f < 4150	9.5
4150 ≤ f < 4160	6.5
4160 ≤ f < 4170	–1
4170 ≤ f < 4180	–7
4180 ≤ f < 4190	–17
4190 ≤ f < 4200	–34
4200 ≤ f ≤ 4400	–82
4400 < f ≤ 4410	–33
4410 < f ≤ 4430	–21
4430 < f ≤ 4440	–8
4440 < f ≤ 4450	–1
4450 < f ≤ 4460	6.5
4460 < f ≤ 4500	9.5
4500 < f ≤ 4600	9.5
4600 < f ≤ 5600	9.5

PART 121—GENERAL OPERATING AND FLIGHT RULES

- 3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat. 62 (49 U.S.C. 44732 note); Pub. L. 115–254, 132 Stat. 3186 (49 U.S.C. 44701 note).

- 4. Add § 121.326 to read as follows:

§ 121.326 Radio Altimeter Systems

After December 30, 2030, unless otherwise authorized by the Administrator, no person may operate an aircraft under this part in the airspace of the 48 contiguous United States and the District of Columbia with

a radio altimeter unless the radio altimeter system meets the performance requirements of § 91.220(b) of this chapter.

PART 129—GENERAL OPERATING AND FLIGHT RULES

- 5. The authority citation for part 129 continues to read as follows:

Authority: 49 U.S.C. 1372, 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901–44904, 44906, 44912, 46105, Pub. L. 107–71 sec. 104.

- 6. Add § 129.16 to read as follows:

§ 129.16 Radio Altimeter Systems

(a) After December 30, 2030, unless otherwise authorized by the Administrator, no person may operate an aircraft with 30 or more passenger seats or a payload capacity of more than 7,500 pounds under this part in the airspace of the 48 contiguous United States and the District of Columbia with a radio altimeter unless the radio altimeter system meets the performance requirements of § 91.220(b) of this chapter.

(b) After October 31, 2034, unless otherwise authorized by the Administrator, no person may operate an aircraft under this part in the airspace of the 48 contiguous United States and the District of Columbia with a radio altimeter unless the radio altimeter system meets the performance requirements of § 91.220(b) of this chapter.

Issued under authority provided by 49 U.S.C. 106(f) and 44701(a), in Washington, DC.

Bryan K. Bedford,

Administrator, Federal Aviation Administration.

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Part V

Federal Communications Commission

47 CFR Parts 1, 25, and 27

Upper C-Band (3.98–4.2 GHz); Expanding Flexible Use of the 3.7 to 4.2 GHz Band Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 25, and 27

[GN Docket Nos. 18–122 and 25–59; FCC 26–46; FR ID 359523]

Upper C-Band (3.98–4.2 GHz); Expanding Flexible Use of the 3.7 to 4.2 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopted a Report and Order, Order of Proposed Modification, and Order on Reconsideration (*Order*), that expands the ecosystem for next-generation wireless services in the 3.7–4.2 GHz band (C-band) by making 160 megahertz of the 3.98–4.2 GHz band (Upper C-band) available for terrestrial wireless flexible use. This action is pursuant to Congress' direction in the One Big Beautiful Bill Act to complete a system of competitive bidding by July 4, 2027, for at least 100 megahertz of spectrum in the 3.98–4.2 GHz band. The *Order* creates a single 3.7 GHz Service that spans 3.7–4.14 GHz and adopts competitive bidding procedures for an auction. The *Order* largely applies the current Lower C-band licensing and operating rules to the Upper C-band, but it imposes more forward-leaning performance requirements. The Commission also generally adopts the Lower C-band technical rules for the Upper C-band, with certain modifications designed to reinforce a successful coexistence environment with adjacent band radio altimeters. The *Order* requires new licensees in the Upper C-band, as a condition of their licenses, to reimburse defined incumbent Fixed Satellite Service (FSS) licensees for reasonable and necessary costs associated with migrating FSS operations out of the reconfigured portion of the Upper C-band, consistent with the Commission's *Emerging Technologies* precedent. The *Order* also provides incentives to eligible space station operators that meet their clearing obligations by specified transition deadlines. Finally, new Upper C-band licensees must provide rebates for defined classes of eligible aircraft owners and operators to facilitate compliance with the FAA's radio altimeter retrofit requirements, which are designed to promote successful coexistence between Upper C-band licensees and radio altimeters in the 4.2–4.4 GHz band.

DATES: The rules are effective September 29, 2026, except for instruction 7 (§§ 25.138(a) and (b)); instruction 8 (§ 25.147); instruction 17 § (27.14(x)(3)); instruction 26 (§ 27.1412(b), (c), (e), and (g)); instruction 28 (§ 27.1413(a)(3), (c)(1), (c)(9), (e) and (f)); instruction 30 (§ 27.1414(e)); instruction 31 (§ 27.1415); instruction 32 (§ 27.1416); instruction 33 (§ 27.1417); instruction 35 (§ 27.1419); instruction 37 (§ 27.1421); instruction 39 (§ 27.1422(c)); and instruction 41 § 27.1424 of the Commission's rules, which contain new or modified information collection requirements that require review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and will not become effective until the effective date for those information collections is announced in a document published in the **Federal Register** after the Commission receives OMB approval. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of these rule sections.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Andrew McArdell of the Wireless Telecommunications Bureau, at Andrew.McArdell@fcc.gov or 202–418–1576.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, Order of Proposed Modification, and Order on Reconsideration (*Order*) in GN Docket Nos. 18–122 and 25–59, FCC 26–46, adopted on July 22, 2026 and released on July 24, 2026. The full text of this document is available for public inspection and can be downloaded at <https://docs.fcc.gov/public/attachments/FCC-26-46A1.pdf>.

Synopsis

I. Background

A. Current Allocation and Use of the Upper C-Band and Adjacent Bands

1. *Upper C-band.* The 4.0–4.2 GHz portion of the Upper C-band is currently allocated for non-Federal use on a primary basis for FSS and Fixed Service (FS) links throughout the United States, but FS operations were sunset in the contiguous United States across the entire C-band as part of the Lower C-band transition. Space station operators use 4.0–4.2 GHz nationwide to provide space-to-Earth (*i.e.*, downlink) signals of various bandwidths to licensed transmit-receive, registered receive-only, and unregistered receive-only

earth stations nationwide. These signals primarily deliver programming content to television and radio broadcasters throughout the country, as well as telephone, data, and satellite communications services to customers, including federal users, on a contractual basis. FS links only remain in use in 4.0–4.2 GHz outside of the contiguous United States.

2. The 3.98–4.0 GHz portion of the Upper C-band was reallocated as part of the Lower C-band transition in the contiguous United States, and it is reserved as a guard band to protect adjacent incumbent operations in the remainder of the Upper C-band from potential harmful interference. Outside of the contiguous United States, 3.98–4.0 GHz is allocated for and used by FSS and FS services.

3. *Lower C-band.* The adjacent Lower C-band (3.7–3.98 GHz) is allocated on a primary basis for non-Federal Fixed and Mobile, except aeronautical mobile, services in addition to FS service within the contiguous United States, although as a practical matter only flexible-use terrestrial wireless operations remain, given the earlier sunset of FS uses. Outside of the contiguous United States, the Lower C-band remains allocated for and used by FSS and FS.

4. *4.2–4.4 GHz.* The adjacent 4.2–4.4 GHz band is allocated in the United States on a primary basis for Federal and non-Federal Aeronautical Radionavigation Services for radio altimeters, which are aeronautical safety systems primarily used at altitudes under 2500 feet above ground level to measure aircraft height above terrain and obstacles in all phases of flight. The band is also allocated worldwide on a co-primary basis for wireless avionics intra-communications systems. These systems provide communications over short distances between points on a single aircraft and are not intended to provide air-to-ground communications or communications between two or more aircraft.

B. Procedural History

1. Lower C-Band

5. In the *2020 C-band R&O*, the Commission authorized flexible use terrestrial operations in the newly established 3.7 GHz Service in 3.7–3.98 GHz, reserved 3.98–4.0 GHz as a guard band, and migrated incumbent FSS operations into 4.0–4.2 GHz throughout the contiguous United States. To effectuate this transition and clear incumbent operations in the lower portion of the band, the Commission modified the licenses and market access authorizations of incumbent FSS

operators, transmit-receive earth station licensees, and FS licensees. The Commission also assigned overlay licenses for the 3.7 GHz Service through an auction, and adopted service rules requiring those licensees to comply with certain part 27 licensing, operating, and technical rules to encourage efficient use of the spectrum and protect incumbent users both in-band and in adjacent bands.

6. The *2020 C-band R&O* required Lower C-band licensees to reimburse the reasonable relocation costs of eligible FSS space station operators, incumbent FSS earth station operators, and incumbent FS licensees, with a third-party Relocation Payment Clearinghouse (Clearinghouse) overseeing the cost-related aspects of the transition. The practical aspects of the FSS transition were managed by the eligible space station operators that were required to submit public transition plans and work with a Relocation Coordinator to ensure a timely and orderly process. The Commission established an ultimate deadline of December 5, 2025, by which the eligible space station operators were to have completed transitioning FSS operations to the upper portion of the band, and also provided incentives for an accelerated clearing process by allowing eligible space station operators to voluntarily commit to relocate on a two-phased accelerated schedule, with a Phase I deadline of December 5, 2021, and a Phase II deadline of December 5, 2023.

7. All five eligible space station operators elected accelerated relocation, subsequently met the respective Phase I and II deadlines, and became eligible for the designated accelerated relocation payments. As a result, the practical work of the transition was completed in 2023 and, subject to temporary, voluntary commitments on certain technical parameters that support the coexistence environment with adjacent band radio altimeters, Lower C-band licensees are now providing 5G service using these frequencies in markets throughout the contiguous United States. Residual cost-related aspects of the transition were effectively completed by June 2025, and the relocation cost reimbursement program officially ended as of August 21, 2025.

2. 2025 Upper C-Band Notice of Inquiry

8. In February 2025, the Commission issued the *Upper C-band NOI*, which outlined the successful lower band transition, the current state of allocations and services across the C-band, and the Commission's interest in exploring the potential for new services in the Upper C-band. The Commission

solicited feedback on the appropriate parameters for additional opportunities for robust connectivity in the Upper C-band and asked commenters to identify how much spectrum in the Upper C-band could be repurposed for new uses. The Commission also sought comment on whether and how to amend the U.S. Table of Frequency Allocations to facilitate new opportunities in the band, either by aligning the Upper C-band's allocations with those in the Lower C-band or by taking a different approach. The *Upper C-band NOI* asked questions about the structure and mechanics of a potential transition to new operations in the Upper C-band, including whether to utilize some or all of the aspects of the Lower C-band transition, as a means to manage the practical and financial aspects of any new transition effort. The Commission also sought input on the appropriate service and technical rules for any new operations in the Upper C-band.

9. The *Upper C-band NOI* asked Upper C-band incumbents—including FSS space and earth station operators, content providers, and other contractual customers (including federal users) that rely on FSS services—about how the introduction of new services might affect their current and future operations in the band. The *Upper C-band NOI* also noted the proximity and sensitivity of the radio altimeter operations in 4.2–4.4 GHz, the steps that were taken to protect those operations in the *2020 C-band R&O*, and the technical work that has been undertaken in the years since that action. Recognizing the successful coexistence environment that has been fostered between the 3.7 GHz Service and radio altimeters at 4.2–4.4 GHz, the Commission requested further information regarding advancements in radio altimeter resiliency and sought comment on appropriate technical and service rules that would further promote coexistence in light of potential new operations in the Upper C-band. The Commission also sought comment on steps it could consider to promote connectivity in historically underserved areas, such as through a Tribal licensing window. The *Upper C-band NOI* generated a wide array of responsive comments from incumbent FSS operators, terrestrial wireless licensees in the Lower C-band, other wireless providers, content providers and other FSS customers, and aviation interests with adjacent band equities.

3. The One Big Beautiful Bill Act

10. Subsequent to the record closing in the *Upper C-band NOI* in July 2025, as part of the OBBB Act, Congress

reinstated the Commission's general authority to grant licenses through systems of competitive bidding through September 2034 and established a path forward for the eventual repurposing of 800 megahertz to be licensed through competitive bidding, including at least 500 megahertz for full-power commercial licensed use cases. The OBBB Act also specifically directed the Commission to “grant licenses through systems of competitive bidding, before the expiration of the general auction authority[.] . . . for not less than 300 megahertz, including by completing a system of competitive bidding not later than 2 years after the date of enactment of this Act for not less than 100 megahertz in the band between 3.98 gigahertz and 4.2 gigahertz.”

4. The Upper C-Band Notice of Proposed Rulemaking

11. In November 2025, the Commission issued the *Upper C-band NPRM*, 90 FR 56076, to fulfill the directive in the OBBB Act to auction licenses for terrestrial wireless flexible use of not less than 100 megahertz of the Upper C-band. Specifically, the Commission sought comment on options for reconfiguring some portion of the Upper C-band in the contiguous United States, ranging from 180 megahertz (3.98–4.16 GHz) to the congressionally mandated minimum of 100 megahertz (3.98–4.08 GHz) for terrestrial wireless use.

12. In doing so, the Commission noted that the maximum amount of spectrum to be reconfigured will depend on a number of factors, including how much Upper C-band spectrum could be repurposed by incumbent FSS space station operators; the economic benefits and costs of repurposing spectrum for terrestrial wireless; how that value could be affected by the amount of spectrum that is ultimately repurposed; the spectrum clearing timeline; and the capabilities of adjacent band radio altimeters that are expected to undergo upgrades to further enhance their signal rejection capabilities and bolster the existing successful spectral co-existence environment.

13. The *Upper C-band NPRM* indicated that, under any of the reconfiguration options, the baseline proposition is that the Commission would apply the existing Lower C-band rules to any newly authorized terrestrial wireless operations in Upper C-band. Any other rules and requirements, including those relating to the Upper C-band transition process, would be modeled to the greatest extent possible on those that applied to the Lower C-band transition. The Commission

recognized, however, that certain modifications may be necessary in light of our experiences with the Lower C-band transition, along with the unique parameters of the Upper C-band and the band reconfiguration option that is ultimately adopted. The Commission sought comment on reconfiguration options generally, and specifically on a range of issues associated with repurposing some portion of the Upper C-band, including: (1) reallocation of the 4.0–4.2 GHz band; (2) competitive bidding procedures for an eventual auction; (3) licensing, operating, and technical rules for any new terrestrial wireless services; (4) the mechanism and process for transitioning incumbent FSS operations, including the use of an independent, third-party clearinghouse and a Relocation Coordinator; and (5) promoting co-existence with adjacent band radio altimeters. The Commission also sought comment on the feasibility of conducting a pre-auction or concurrent Tribal licensing window while satisfying our legal requirement under the OBBB Act to assign licenses in the Upper C-band through a system of competitive bidding by July 4, 2027.

14. In response to the *Upper C-band NPRM*, the Commission received 58 comments and 48 reply comments. As issues raised in responsive filings to the *Upper C-band NPRM* also implicated certain pending petitions for reconsideration of the *2020 C-band R&O*, the Wireless Telecommunications Bureau (WTB) subsequently sought to refresh the record for those petitions in light of the related Upper C-band submissions. Seven comments were received in response to the *Record Refresh PN*.

II. Report and Order and Order of Proposed Modification

15. We conclude that auctioning licenses for 160 megahertz of the Upper C-band in 3.98–4.14 GHz for terrestrial wireless use in the contiguous United States best serves our congressional mandate under the OBBB Act, the public interest, and our policy goals. The OBBB Act reflects Congress' intent that we repurpose and clear "not less" than a minimum of 100 megahertz while potentially repurposing and clearing more. The record in this proceeding establishes that: (1) mid-band spectrum can help meet increasing demand for wireless data as well as support U.S. leadership in wireless connectivity; and, (2) as discussed in detail *infra*, incumbent FSS operators can clear more than 100 megahertz of the Upper C-band as part of an appropriately structured transition while maintaining substantially the same service. We

agree. Given our continued belief that licensing C-band spectrum for terrestrial flexible use will lead to substantial economic gains, we will auction licenses for 160 megahertz in the Upper C-band, exceeding the OBBB Act's required minimum.

16. To introduce terrestrial wireless use in the Upper C-band, we add a primary non-Federal mobile, except aeronautical mobile, allocation to the 4.0–4.16 GHz band nationwide and remove the band's FSS allocation within the contiguous United States. We also adopt appropriate licensing and technical rules to govern these new terrestrial wireless operations, which will generally align the Lower and Upper C-bands and fold them into a single 3.7 GHz Service. Additionally, we establish a framework to relocate impacted incumbent FSS operations within the contiguous United States and, similar to the *2020 C-band R&O*, rely on the Commission's *Emerging Technologies* framework to require that Upper C-band licensees reimburse eligible FSS incumbents' reasonable and necessary transition costs and incentivize a timely FSS-operator led transition that corresponds with adjacent band radio altimeter retrofits required by FAA. Finally, in furtherance of FAA's radio altimeter retrofit requirement, and to ensure that new Upper C-band licensees may deploy on a predictable timeline, we establish rebates to support defined classes of eligible aircraft owners and operators with retrofitting their existing radio altimeters.

A. Reconfiguration and Allocation of the Upper C-Band

17. In the *Upper C-band NPRM*, the Commission sought comment on a range of options for reconfiguring a portion of the Upper C-band for terrestrial wireless services in the contiguous United States pursuant to our statutory remit under the OBBB Act. Those options ranged from the congressionally mandated minimum of 100 megahertz up to 180 megahertz, inclusive of all amounts in between. Some commenters ask specifically that we reconfigure 180 megahertz of spectrum; others encourage us to reconfigure as much as is technologically feasible. The incumbent space station operators that represent the vast majority of existing FSS C-band operations endorse the feasibility of reconfiguring 160 megahertz. Specifically, SES contends that reconfiguring no more than 160 megahertz is in the public interest by simplifying the transition, reducing the number of satellites required and services that need to be relocated, and

enabling continued support for some C-band satellite downlink services. Eutelsat similarly notes it can support more fulsome repurposing options and still meet the needs of its customers. Others argue that we should reconfigure substantially less spectrum, in some cases asking that we auction licenses for no more than the statutory minimum of 100 megahertz, in deference to ongoing use of the Upper C-band by FSS customers, particularly for video content distribution.

18. Upon review of the record, we find that reconfiguring 160 megahertz of Upper C-band spectrum for terrestrial wireless uses in 3.98–4.14 GHz, plus a 20-megahertz guard band in 4.14–4.16 GHz, best serves our congressional mandate, the public interest, and our policy goals. Specifically, we find that reconfiguring this amount of spectrum strikes an effective balance between Congress' mandate that we auction licenses for no less than 100 megahertz of the Upper C-band with requests that we reserve sufficient C-band spectrum for incumbent FSS operations. As noted above, SES submits that reserving at least 40 megahertz in the Upper C-band for FSS downlink operations will serve the public interest by ensuring that meaningful C-band satellite services can continue to be provided, and Eutelsat believes that it can repurpose a similar amount of spectrum while continuing to meet its customers' needs. We discuss in greater detail *infra* the anticipated impacts that this reconfiguration will have on incumbent FSS C-band services and how, pursuant to our *Emerging Technologies* framework, we establish a transition process that will enable the continued provision of "substantially the same service" whether those services are further repacked within the Upper C-band or, as the largest eligible space station operators have proposed, certain services or links are migrated in whole or in part to other spectrum, such as the Ku-band. The Ku-band, also known as the "conventional" Ku-band, refers to the 11.7–12.2 GHz (space-to-Earth) and 14.0–14.5 GHz (Earth-to-space) bands. The extended Ku-band refers to the 10.95–11.2 GHz (space-to-Earth), 11.45–11.7 GHz (space-to-Earth), and 13.75–14.0 GHz (Earth-to-space) bands. Our reconfiguration approach is also sensitive to the importance of coexistence between advanced wireless services in the Upper C-band and nearby radio altimeters operating in the 4.2–4.4 GHz band by providing meaningful spectral separation between those operations. We therefore find that maintaining 60 megahertz of separation between new terrestrial wireless

operations and the radio altimeter band will promote the efficient and predictable use of spectrum by supporting coexistence after the radio altimeter retrofit process is complete. This approach—along with other technical measures we adopt herein—will thus enable the rapid deployment of terrestrial wireless services in the Upper C-band. In this context we emphasize that making more mid-band spectrum available for advanced wireless services serves the public interest, all things being equal. Given our statutory mandate under the OBBB Act to make no less than 300 megahertz of non-federal spectrum available through competitive bidding by July 2034, we must be as aggressive as possible to meet that goal in a timely manner. We also recognize the synergistic value of aligning the Lower and Upper C-bands into a larger 3.7 GHz Service, which through channel aggregation will further amplify the value of every megahertz that we repurpose. In sum, we find that making an additional 160 megahertz of Upper C-band spectrum available for terrestrial wireless use in the contiguous United States will satisfy our congressional mandate, uphold the public interest, and meet our policy goals for the efficient use of spectrum.

19. Some commenters ask that we also reconfigure and auction Upper C-band spectrum outside of the contiguous United States. We decline to do so at this time, for reasons similar to those offered by commenting parties that oppose such expansion. Namely, as the Commission observed in the Lower C-band proceeding, “[l]ocations outside of the contiguous United States have a greater need for C-band services, particularly for the provision of services necessary for the protection of life and property—including telehealth, E911, and education services.” In light of the record, we find that this earlier determination remains true. We nonetheless recognize the disparity in mid-band spectrum available for terrestrial wireless services in the contiguous United States and outside of the contiguous United States, and we will continue to assess opportunities to address this gap after the Upper C-band auction.

20. Due to the complexity of the Upper C-band transition, at this time we defer consideration of proposals to add further advanced satellite operations to the C-band. We find that deferring consideration is prudent, in the public interest, and best serves our objective to swiftly enable a stable ecosystem of advanced wireless services across a wider swath of the C-band.

21. To implement our planned reconfiguration of the Upper C-band, we adopt rules that will enable terrestrial wireless operations in the contiguous United States throughout 3.98–4.14 GHz. Specifically, we add a primary non-Federal mobile, except aeronautical mobile, allocation to the 4.0–4.16 GHz band nationwide and remove the FSS allocation within the contiguous United States. We designate a 20-megahertz guard band at 4.14–4.16 GHz to foster coexistence with FSS operations that are repacked and remain in 4.16–4.2 GHz; this is in lieu of the guard band that previously occupied 3.98–4.0 GHz. While 4.14–4.16 GHz is now allocated to mobile services, except aeronautical, for flexible use, we decline to establish service rules in favor of its function as a guard band. We also decline to add a mobile allocation to the 4.16–4.2 GHz band reserved for primary FSS use at this time. The rules that we adopt today preserve the status quo outside of the contiguous United States. Figures 1 and 2 below demonstrate the post-transition allocations throughout the entire C-band in the contiguous United States and the rest of the United States, respectively.

Figure 1: Post-Transition 3.7–4.2 GHz Band Allocations in the Contiguous United States

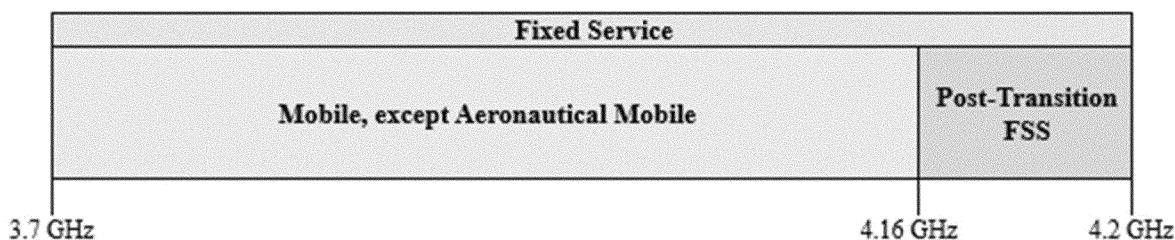
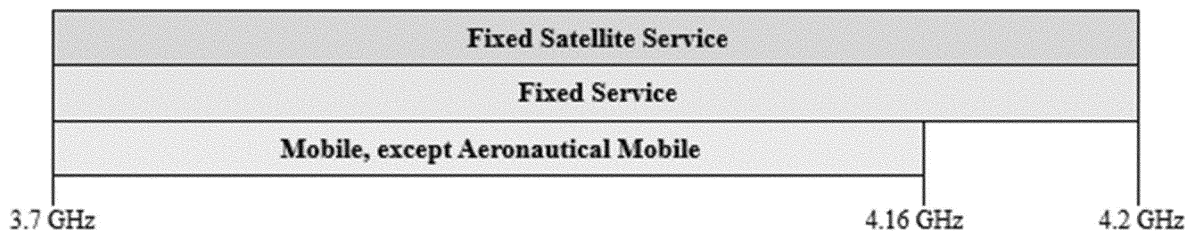


Figure 2: Post-Transition 3.7–4.2 GHz Band Allocations Outside the Contiguous United States



keep it consistent with our new band plan. NG457A will now limit the band where ESVs may be coordinated for up to 180 days to 4.16–4.2 GHz, rather than 4.0–4.2 GHz, because FSS will no longer have primary status below 4.16 GHz. As

before, the addition of mobile services to and the deletion of FSS from 4.0–4.16 GHz in the contiguous United States make this update necessary.

B. Auction of Upper C-Band Spectrum for Flexible Use

23. Similar to the *2020 C-band R&O*, we will hold an auction of licenses for 160 megahertz of the Upper C-band. Given the OBBB Act's requirement that we complete competitive bidding to grant licenses for spectrum in the Upper C-band by July 4, 2027, we find it appropriate to rely on established Commission auction rules and mechanisms to assign mid-band spectrum to the applicant that values it most highly to encourage the highest-value use of the spectrum, pursuant to statutory criteria that promote competition and other public interest goals.

1. Competitive Bidding Procedures

24. The Communications Act of 1934, as amended (Act) requires that we resolve any mutually exclusive applications for new flexible-use licenses in the Upper C-band through a system of competitive bidding. Given our experience successfully conducting auctions pursuant to the general competitive bidding rules set forth in part 1, subpart Q, of the Commission's rules, the *Upper C-band NPRM* proposed to conduct an auction for licenses in this band in conformity with those rules. The commenters that address this issue generally support the proposal, and we adopt it now. Specifically, we will use the part 1 rules governing competitive bidding design, designated entity preferences, unjust enrichment, application and certification procedures, payment procedures, reporting requirements, and the prohibition on certain communications between auction applicants. These rules provide a framework for the auction process and allow for the subsequent determination of specific auction procedures in the pre-auction process. Should the Commission subsequently modify its part 1 general competitive bidding rules, the modifications would apply here as well.

25. *Designated Entity Provisions.* In the *Upper C-band NPRM*, the Commission sought comment on whether to offer bidding credits to designated entities (DEs)—i.e., small businesses and rural service providers—in any auction of licenses in the Upper C-band. Congress mandated that the Commission consider a number of objectives when adopting competitive bidding rules and ensure that DEs have the opportunity to participate in the provision of spectrum-based services, in part by considering the use of bidding preferences, such as bidding credits.

Based on the Commission's prior experience using bidding credits in spectrum license auctions, we find that they are an effective tool to further this statutory objective.

26. We are not persuaded by arguments made by some commenters that the Commission's use of bidding credits in previous spectrum license auctions has been ineffective in achieving this mandate. Publicly available auction results from the past 10 years demonstrate that the Commission's DE rules offer *bona fide* DEs opportunities to participate in auctions, and therefore provide the opportunity for such entities to provide spectrum-based services. Specifically, in every spectrum license auction conducted since the Commission modified its generally applicable part 1 competitive bidding rules in 2015, the percentage of applicants qualifying to bid that were DEs has approached or exceeded 50%. The same is true for the percentage of winning bidders that were DEs. Notably, in three of those auctions, Auctions 1002, 105, and 108, the percentage of DEs among winning bidders approached 80%. These data demonstrate that, consistent with the Commission's statutory mandate, the Commission's use of bidding credits effectively ensures that small businesses and rural service providers are given the opportunity to participate in the provision of spectrum-based services. The opportunity these levels of participation demonstrate is not refuted by the number or price of the licenses won by small businesses and rural service providers. The bidding credit program seeks to ensure that the Commission promotes opportunities for such applicants, not to guarantee auction results for them.

27. *Small Businesses.* In the *Competitive Bidding Second Memorandum Opinion and Order*, the Commission stated that it would define eligibility requirements for small businesses on a service-specific basis, taking into account the capital requirements and other characteristics of each particular service in establishing the appropriate threshold. The Commission later reaffirmed this approach in the *Part 1 Third Report and Order* and again in the *Updating Part 1 Report and Order*.

28. Consistent with the decision to consolidate the Upper and Lower C-bands into a single 3.7 GHz Service, we will apply § 27.1402(a) of the Commission's rules to any auction of Upper C-band licenses and use the same small business size standards and bidding credit percentages adopted for the Lower C-band. As such, for purposes

of bidding credit eligibility in an auction of Upper C-band licenses: (1) a small business is defined as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$55 million for the preceding five years; and (2) a very small business is defined as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$20 million for the preceding five years.

29. Two commenters urge the Commission to adjust the gross revenue thresholds to account for inflation since their adoption in 2015. Those commenters do not provide a data-driven justification for why auctions of licenses for Upper C-band spectrum should be treated differently from other auctions for licenses likely to be used to provide 5G services. Based on the Commission's prior experience with bidding credits in spectrum auctions and the lack of sufficient justification in the record for using any proposed alternative approach, we are not persuaded that we should adopt small business size standards for Upper C-band spectrum that differ from those used in auctions for other 5G-ready services.

30. We will similarly apply the same bidding credit amounts that were used for the Lower C-band, providing qualifying "small businesses" with a bidding credit of 15% and qualifying "very small businesses" with a bidding credit of 25%, consistent with the standardized schedule in part 1 of our rules. This proposal, supported by RWA and WISPA, was modeled on the small business size standards and associated bidding credits that the Commission adopted for the Lower C-band and a range of other services. We believe that this two-tiered approach, which has been successful in the past, will provide small businesses with a simple, consistent, and predictable avenue for facilitating access to capital, thereby increasing participation and competition in an Upper C-band auction. Furthermore, this approach is consistent with our decision to align the Upper and Lower C-bands and consolidate them within a single, cohesive 3.7 GHz Service.

31. Finally, we decline to include the 35% bidding credit from our part 1 standardized schedule of bidding credits for entities with not more than \$4 million in average annual gross revenues for the preceding five years. When determining the amount of bidding credits and who should be

eligible for them, we take care to avoid “expanding the scope of DE benefits to a level that may incentivize gamesmanship.” The Commission’s consistent use of the two largest DE business size standards and associated bidding credits outlined in its part 1 rules has facilitated the successful participation of many eligible small businesses in Commission auctions over the last decade, and has provided uniformity and predictability for DEs and other bidders as well. We are not persuaded by the limited record before us that Upper C-band spectrum is different in a way that warrants deviating from the rule frameworks that have governed previous auctions.

32. In all auctions of licenses likely to be used to provide 5G services in a variety of bands since the part 1 schedule of bidding credits was updated in 2015, the Commission has consistently used the small business size standards that we adopt today. The results from these auctions demonstrate that using the two larger size standards to assign bidding credits has provided a real opportunity for bidders claiming eligibility as small businesses to win licenses at auction to provide spectrum-based services. By adopting average annual gross revenue thresholds that are not too high, and thus not overly inclusive, we preserve the effectiveness of DE benefits for the *bona fide* small businesses that are intended to benefit from our DE rules.

33. *Rural Service Providers.* In the *Upper C-band NPRM*, the Commission also sought comment on a proposal to offer a bidding credit for rural service providers. The rural service provider bidding credit awards a 15% bidding credit to those that service predominantly rural areas and that have fewer than 250,000 combined wireless, wireline, broadband and cable subscribers.

34. Consistent with the Commission’s findings in the *Updating Part 1 Report and Order* and its approach in the Lower C-band and other bands where spectrum is likely to be used to provide 5G services, we adopt our proposal to offer a 15% bidding credit to a rural service provider, as defined in § 1.2110(f)(4)(i) of the Commission’s rules and subject to the bidding credit cap defined in § 1.2110(f)(4)(ii) of the Commission’s rules. Those commenters that addressed this proposal generally supported extending bidding credits to rural service providers in an auction for licenses in the Upper C-band. Permitting bidders to claim a rural service provider bidding credit in an auction in this band will allow a wide range of service providers to compete

more effectively for spectrum licenses in rural areas, and in doing so, will potentially increase the availability of 5G service in rural areas. Moreover, by offering a rural service provider bidding credit in the Upper C-band auction, we ensure that bidders across the entire 3.7 GHz Service are treated consistently, promoting equitable participation opportunities throughout both the Upper and Lower C-bands.

35. Some commenters propose increasing the bidding credit percentage for rural service providers, with one proponent specifically suggesting a 50% bidding credit. Another commenter proposes that instead of relying solely on bidding credits, the Commission should conduct a “reserve auction” for rural counties, either contemporaneously with the auction of 160 megahertz of repurposed spectrum or as a separate and distinct auction in late 2027. These commenters assert that recent Commission auctions have failed to assign spectrum licenses to rural service providers in a manner that satisfies the Commission’s statutory mandate, and they argue that a 15% bidding credit does not provide rural service providers a meaningful opportunity to compete against nationwide wireless carriers with greater financial resources for high value mid-band spectrum.

36. We are not persuaded by these arguments. The Commission consistently has determined that § 309(j) of the Act does not require it to provide entities with generalized economic assistance or a path to assured success, but rather with the responsibility and the discretion to provide opportunities for small businesses and rural service providers, while preventing the unjust enrichment of ineligible entities. Accordingly, we find that the data provided by some commenters concerning the number of licenses rural service providers won in prior auctions is not indicative of whether the Commission is providing DEs with genuine opportunities to provide spectrum-based services. The statutory goal that requires the Commission to promote economic opportunity and competition by a wide dissemination of licenses cited by some commenters is “subject to a variety of reasonable interpretations,” and must be balanced against a number of competing statutory objectives, including the efficient and intensive use of spectrum. In striking that balance, the Commission must decide how much weight to grant particular policies when several are implicated in a single decision.

37. Following adoption of the rural service provider bidding credit in 2015,

the Commission has uniformly offered it in all auctions of spectrum licenses likely to be used to provide 5G services. Significantly, the results from these auctions indicate that the bidding credit helps give rural service providers opportunities to participate in the provision of spectrum-based services. Moreover, the commenters advocating for an increase in the bidding credit percentage for rural service providers fail to demonstrate that the specific circumstances and characteristics of licenses in the Upper C-band warrant increasing the 15% bidding credit. Therefore, we are not persuaded by the sparse data in the record that Upper C-band services warrant a larger rural service provider bidding credit.

38. For the same reasons, we similarly decline to conduct CRWC’s proposed rural “reserve auction” in lieu of just offering bidding credits. As discussed above, the Commission’s experience demonstrates that offering the rural service provider bidding credit is a proven and efficient means of promoting rural participation in spectrum license auctions and enabling genuine competition while maintaining the integrity of the auction process. In contrast, CRWC’s proposed “reserve auction” would introduce significant complexity and risk delay in the assignment of valuable mid-band spectrum. Moreover, offering a bidding credit enables rural service providers to compete fairly with all other participants, fostering competition in the auction and ensuring that spectrum is awarded to those who value it most, rather than conferring an exclusive advantage or guaranteed outcome to any class of bidder. Additionally, conducting a rural “reserve auction” would reduce the efficiency of the auction and could lead to fragmented, non-contiguous license areas that would complicate network deployment, increase coordination costs, and may conflict with the Commission’s band plan and technical rules for the expanded 3.7 GHz Service. We are not persuaded by the record that conducting a “reserve auction” would benefit the public interest in any way that merits assuming the foregoing associated risks, especially given historical data demonstrating that the bidding credit enables rural service providers to effectively compete for spectrum licenses. Thus, we will apply the part 1 rural service provider bidding credit standard for the auction of licenses of Upper C-band spectrum as proposed in the *Upper C-band NPRM*.

39. *Tribal Licensing Window.* Recognizing our legislative remit under the OBBB Act to assign licenses in the

Upper C-band through a system of competitive bidding by July 2027, and mindful of our baseline proposition to mirror the Lower C-band transition to the greatest extent possible, we nonetheless sought comment on the viability of a pre-auction or concurrent Tribal licensing window in the *Upper C-band NPRM*. In so doing, we specifically noted key differences between the Upper C-band context and that in the 2.5 GHz band, where an earlier Tribal licensing window was held. For example, in the 2.5 GHz proceeding there was unassigned spectrum available in Alaska and Hawaii, and a pre-existing, mature equipment ecosystem to facilitate Tribal licensee deployments and use of that spectrum in the near term, neither of which exists in the Upper C-band.

40. In response, comments by the Navajo Nation and later filings by Tribal and other non-profit groups point to the 2.5 GHz band as a model for how a Tribal licensing window could be conducted concurrently with an auction and suggest that it would minimally affect an Upper C-band auction while at the same time allowing Tribes to deploy quickly. While we remain committed to exploring opportunities that promote connectivity in historically unserved or underserved areas including Tribal lands, we ultimately do not find that a Tribal licensing window is viable in the instant context as it differs from the 2.5 GHz band in several key respects.

41. First, in the 2.5 GHz proceeding there was no statutory mandate requiring the issuance of licenses through a system of competitive bidding, nor was there a set deadline for completing an auction. This flexibility afforded substantial time—specifically, 14 months—to prepare for and fully complete a Tribal licensing window pre-auction in the 2.5 GHz band, which was essential to finalize the scope of inventory available for competitive bidding and identify any potential encumbrances for potential bidders. In contrast, the OBBB Act requires us to issue licenses in the Upper C-band through a competitive bidding process, which a Tribal licensing window would largely not entail. Further, based on the Commission's experience in the 2.5 GHz proceeding, sufficient time does not exist here to enable completion of both a pre-auction Tribal licensing window and a system of competitive bidding by the July 4, 2027, statutory deadline, neither of which can commence until the instant rulemaking process is concluded. We also note that, because available spectrum inventory and potential encumbrances must be clearly established pre-auction to provide

bidders with notice, and cannot fluctuate while the auction is underway, a Tribal licensing window that runs concurrently with a system of competitive bidding is not achievable in any context.

42. Another critical distinction between the 2.5 GHz and Upper C-band contexts involves our use here of the *Emerging Technologies* framework to facilitate the transition of incumbent FSS operations. This framework is predicated on incoming licensees paying for the reasonable and necessary transition costs of the incumbent services required to clear the relevant spectrum band, a requirement that we imposed in the Lower C-band transition as license conditions on new terrestrial wireless licensees based on each licensee's *pro rata* share of gross winning bids in the underlying auction. Modernization of the 2.5 GHz band did not require a similar clearing or cost allocation—the incumbents retained their existing licenses and the only spectrum available for the rural Tribal licensing window and eventual auction was that which was unassigned at the time. As set forth *infra*, pursuant to the *Emerging Technologies* framework and our prior Lower C-band transition precedent, we are once again requiring new Upper C-band terrestrial wireless licensees to cover their *pro rata* share of in-band transition costs, including on a PEA basis for incumbent earth stations. Were we to also adopt a Tribal licensing window for the Upper C-band, we note that it would present novel and complex questions on how to equitably allocate incumbent transition costs for PEAs where some or all of the service area was licensed to an entity that did not participate in the forthcoming auction. Those issues would be further compounded by the radio altimeter retrofit rebates that we also adopt *infra* in connection with the Upper C-band transition.

43. In addition to facing these challenges, the potential benefits of a Tribal licensing window in the Upper C-band would also differ significantly from, and be more modest than, the 2.5 GHz band. As noted in the *Upper C-band NPRM*, due to the importance of continued FSS satellite operations in Alaska and Hawaii, the exclusion of those areas from our Upper C-band reconfiguration to terrestrial wireless services would mean that unassigned spectrum over Tribal lands in those states would not be part of any Tribal licensing window, as was the case in the 2.5 GHz band. The exclusion of these areas—particularly Alaska, where nearly 50% of federally recognized Tribes are located—would greatly reduce the

scope, scale, and number of potential participants in any such opportunity in the Upper C-band. While we acknowledge some potential benefit in a Tribal licensing window to Tribes in the contiguous United States, that benefit would be meaningfully diminished given the likelihood of deployment and operational challenges for both auction winners and potential Tribal licensees. While Public Knowledge suggests that Tribal lands would represent a small amount of the PEAs to be ultimately auctioned, we note that federally recognized Tribes have approximately 326 reservations across 25 states in the contiguous United States, in addition to numerous trust lands, many of which involve checkerboard and other non-contiguous land areas that can vary greatly in size. Excluding those land areas from the PEAs available at auction would create significant operational complications and potential encumbrances for both Tribal licensees and auction winners in terms of coordinating their operations. In states with significant Tribal land areas, such as Oklahoma, it could potentially exclude large portions of the state and certain PEAs from the auction in their entirety. In contrast, the 2.5 GHz band was already highly fragmented due to historic licensing policies and incumbencies, making a pre-auction Tribal licensing window less impactful for the overlay licenses available in Auction 108 which were already significantly encumbered.

44. We similarly recognize that an important consideration in favor of a Tribal licensing window in the 2.5 GHz band was the existence of a pre-existing, mature equipment ecosystem that eased the cost and difficulty of Tribal licensee deployments and enabled their use of the spectrum in the near term. That type of equipment ecosystem does not exist in the Upper C-band.

45. In sum, while the 2.5 GHz band Tribal licensing window reflected a novel approach to further expand Tribal access to licensed wireless spectrum, it was largely predicated on the unique circumstances present in that band at the time. In light of these distinguishing factors, as well as the statutory deadline and licensing requirements in the OBBB Act, we thus decline to adopt a Tribal licensing window in the Upper C-band. We nonetheless remain committed to exploring options and alternatives for increasing connectivity to Tribal and other unserved or underserved lands.

2. Licensing and Operating Rules

46. As proposed in the *Upper C-band NPRM*, we adopt licensing and operating rules that largely align new

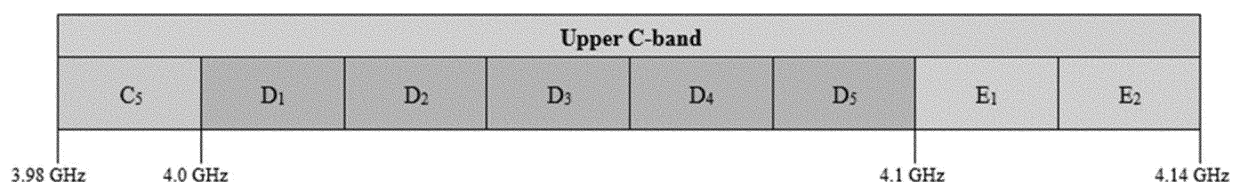
licenses in the Upper C-band with existing ones in the Lower C-band, which are already governed by part 27 of the Commission's rules. We find that this approach will harmonize terrestrial wireless operations across the entire C-band to create a single 3.7 GHz Service and help to facilitate rapid deployment of advanced wireless services nationwide. Commenters generally support this approach. As discussed *infra*, we generally extend rules that are applicable to part 27 services to the Upper C-band, including those relating to the assignment of licenses by competitive bidding, flexible use, regulatory status, foreign ownership reporting, compliance with construction notification requirements, renewal

criteria, permanent discontinuance of operations, partitioning and disaggregation, and spectrum leasing. We likewise generally extend service-specific rules that already apply to terrestrial wireless operations in the Lower C-band, including eligibility, license term, and other licensing and operating rules, to the Upper C-band. With respect to performance requirements, we adopt a more forward-leaning approach in keeping with the accelerated timelines for all stakeholders involved in the Upper C-band transition.

a. Band Plan

47. *Block Size*. Consistent with our proposal in the *Upper C-band NPRM*,

we adopt a block size of 20 megahertz. The record reflects broad support for 20-megahertz blocks. In particular, commenters note that a block size of 20 megahertz will match the Lower C-band's block size, thereby enhancing licensees' flexibility to tailor deployments across the entire C-band and supporting the broader equipment ecosystem. We agree and therefore decline to adopt a mix of block sizes, as some commenters propose. Accordingly, we will license eight 20-megahertz blocks—for a total of 160 megahertz—in 3.98–4.14 GHz based on the following channel plan:



48. *Spectrum Block Configuration*. We adopt our proposal for an unpaired spectrum block configuration based on record support as it will ensure continuity, spectral efficiency, and maximum flexibility for licensees across the entire C-band. It also is technology-neutral, enabling Time-Division Duplex (TDD) operations that have become increasingly prevalent in deployments of digital broadband networks. We therefore will auction licenses for the Upper C-band spectrum as unpaired 20-megahertz blocks, consistent with the band plan *supra*.

49. *Use of Geographic Licensing*. As we have previously stated, geographic-area licensing provides flexibility to licensees, promotes efficient spectrum use, and facilitates the rapid assignment of licenses, utilizing competitive bidding when necessary. Many commenters expressly support the use of exclusive, geographic-area licensing in the instant context. Others broadly support harmonizing the licensing approach across the entire C-band, which by extension would include the use of exclusive, geographic-area licensing. We therefore will auction licenses for the Upper C-band spectrum using exclusive, geographic-area licenses.

50. *Geographic License Area*. Consistent with our proposal in the *Upper C-band NPRM*, we adopt Partial Economic Areas (PEAs) as the geographic license area for new Upper C-band licenses and will issue such

licenses in the contiguous United States and District of Columbia. Many commenters agree that licensing by PEA will increase spectrum aggregation opportunities for advanced wireless services through a harmonized approach across the entire C-band. We agree, and decline to adopt smaller geographic license areas for the Upper C-band (or portions thereof) suggested by some commenters. Instead, consistent with the *2020 C-band R&O*, we continue to find that PEAs appropriately balance licensees' ability to provide service on a smaller, more localized basis or on a much larger geographic scale. The record supports this finding. Finally, while some commenters support licensing the Upper C-band in areas outside of the contiguous United States and District of Columbia, for the reasons explained *supra*, we decline to issue licenses outside of the contiguous United States. Therefore, we will license the Upper C-band only within the contiguous United States and the District of Columbia, consistent with our approach in the Lower C-band.

b. Application Requirements and Eligibility

51. Licensees in the Upper C-band must comply with the Commission's general application requirements. As proposed in the *Upper C-band NPRM*, we also adopt an open eligibility standard for licenses in the Upper C-band. CTIA contends that this approach will help "encourage auction

participation to support 5G and beyond." We agree, and find—as in the Lower C-band and other services—that open eligibility appropriately relies on market forces and will help to ensure efficient use of this spectrum. The open eligibility standard that we adopt does not affect citizenship, character, or other generally applicable qualifications that, under our rules, may apply to licenses for flexible use of the Upper C-band. Further, any person who has been, for reasons of national security, barred by any agency of the federal government from bidding on a contract, participating in an auction, or receiving a grant is ineligible to hold a license in the Upper C-band.

c. Mobile Spectrum Holdings

52. Consistent with our proposal in the *Upper C-band NPRM*, we will incorporate the 160 megahertz of spectrum that we make available in the 3.98–4.14 GHz range into our spectrum screen for case-by-case review of spectrum aggregation in secondary market transactions and post-auction license applications. We will add this 160 megahertz of spectrum to the screen once the Upper C-band auction closes.

53. In making this determination, we find that this spectrum is both suitable and available in the near term for mobile services. As discussed above, we are modifying the U.S. Table of Frequency Allocations so that mobile services will be permitted throughout this spectrum, and we find that this

spectrum will be critical for the deployment of mobile and other advanced services. With respect to availability in the near term, while we acknowledge that licensees must clear incumbents from the band following the auction, we find it is “fairly certain” that the spectrum “will meet the criteria for suitable spectrum in the near term” once the auction closes given our transition schedule.

54. We decline to adopt a pre-auction spectrum aggregation limit for this band. Although OTI, Public Knowledge, and WISPA advocate for the adoption of such a limit based on prior Commission action in the 3.45 GHz band and the CBRS band, as well as general competitive concerns, we find, similar to the Commission’s approach in the *2020 C-band R&O*, that, “[g]enerally, bright-line, pre-auction limits may restrict unnecessarily the ability of entities to participate in and acquire spectrum in an auction, and we are not inclined to adopt such limits on auction participation absent a clear indication that they are necessary to address a specific competitive concern.” OTI, Public Knowledge, and WISPA have not adequately raised a specific competitive concern to justify the imposition of pre-auction limits for this band. We agree with commenters that a post-auction, case-by-case approach will allow the Commission to review any spectrum aggregation concerns without unnecessarily restricting entities from acquiring spectrum to deploy advanced wireless services. Indeed, this case-by-case approach will allow the Commission to evaluate competitive effects based on actual auction outcomes rather than speculative assumptions. The Commission will conduct this case-by-case post-auction review to capture lessons learned from this auction and ensure that our auction policy decisions enhance market competition. We also agree with commenters that harmonizing the regulatory framework for the entire C-band may facilitate the rapid commercialization and deployment of this spectrum.

55. We will perform case-by-case review of the long form applications of the Upper C-band spectrum following the auction. We will use the same case-by-case review as we do for secondary market transactions, updated to account for the additional Upper C-band spectrum. We find that this review will create sufficient bidder certainty for the auction, consistent with section 309(j)(3)(E) of the Act.

d. License Term

56. As proposed in the *Upper C-band NPRM*, we adopt a 15-year license term from the date of issuance or renewal. Commenters that addressed this proposal support it, noting that a 15-year license term would promote consistency between the Lower and Upper C-band. We agree and, consistent with the *2020 C-band R&O* and *Upper C-band NPRM*, find that a 15-year license term will promote investment in the Upper C-band, given the clearing and relocation that must occur before terrestrial wireless operations can commence.

e. Performance Requirements; Renewal

57. Performance requirements play a critical role in ensuring that licensed spectrum does not lie fallow, and they are required for licenses that are issued through competitive bidding. The performance requirements that we adopt for the Upper C-band, as described *infra*, align with the overall rapid transition process we establish herein for this band and will ensure that licensees begin providing service to consumers in a timely manner. Given mid-band spectrum’s critical role in today’s spectral environment, we find that our approach will promote the public interest through an efficient deployment of new terrestrial wireless services in the Upper C-band.

58. *Performance Requirements.* We conclude that Upper C-band licensees must provide reliable signal coverage and offer service to at least: (1) 45% of the population in each license area no later than two years after the relevant Transition Deadline; and (2) 80% of the population in each license area no later than six years after the relevant Transition Deadline. These population-based coverage metrics match the Lower C-band’s requirements for mobile and point-to-multipoint services. While the performance deadlines we adopt herein to meet these coverage metrics differ from those adopted for the Lower C-band and proposed in the *Upper C-band NPRM*, the Lower C-band performance deadlines ran from license grant and were designed to anticipate a lengthy transition to clear incumbent FSS operations before terrestrial wireless operations could commence. We observe that in practice the rapid speed of Lower C-band deployments reflects that a different, more forward-leaning approach is merited here. As proposed by wireless industry commenters, for Upper C-band the relevant performance timeframe will start at the relevant Transition Deadline, which is when Upper C-band licensees are able to

access the reconfigured and cleared spectrum in that PEA. In light of the transition timeline prior to those dates, there is no need for a lengthy lead time prior to the interim performance deadline, particularly as many new Upper C-band licensees are likely to have existing Lower C-band deployments which can be leveraged in this context. Given the expected desirability of Upper C-band spectrum, we anticipate that new Upper C-band licensees will begin deploying facilities and constructing their networks in advance during the transition process, as was the case during the Lower C-band transition, so that they can commence operations as soon as possible after the relevant Transition Deadline.

59. We expect robust and meaningful utilization of the Upper C-band that is commensurate with significant efforts by the U.S. government, aviation industry, and FSS stakeholders to repurpose the spectrum, and consistent with the Commission’s ongoing efforts to ensure that spectrum is deployed promptly for the benefit of American consumers. In the Lower C-band context, carrier deployments have largely focused on the provision of 5G and other advanced mobile broadband services to consumers and enterprises. For these reasons, for the Upper C-band we decline to adopt alternative performance requirements for Internet of Things or fixed point-to-point operations, nor will we consider private internal operations in demonstrating buildout compliance. Under our flexible-use policies, licensees may still conduct these types of operations in the Upper C-band, but they will not be options for meeting a licensee’s performance requirements as they were in the *2020 C-band R&O*. We find that the performance requirements we adopt herein will provide certainty for licensees, ensure investment, and encourage timely deployment of services that best serve the public interest, in furtherance of the United States’ wireless policy goals.

60. *Penalty for Failure to Meet Performance Requirements.* We adopt meaningful, enforceable penalties for licensees that fail to meet the performance requirements. Specifically, if a licensee fails to meet the first performance benchmark (*i.e.*, providing reliable signal coverage and offering service to at least 45% of the population in the license area no later than one year after the relevant Transition Deadline), it will accelerate its second performance benchmark by one year. If a licensee fails to meet the second performance benchmark (*i.e.*, providing reliable

signal coverage and offering service to at least 80% of the population in the license area no later than five years after the relevant Transition Deadline) in any license area, its authorization for that particular license area will terminate automatically without Commission action. Although the penalty for missing the first performance benchmark differs from what the Commission adopted in the *2020 C-band R&O* and proposed in the *Upper C-band NPRM*, we reiterate that the performance requirement deadlines are tied to the relevant Transition Deadline, as wireless interests request. We therefore expect that Upper C-band licensees will work and plan in advance to commence their operations as soon as possible after the transition, and the penalties that we adopt reflect that expectation.

61. *Compliance Procedures.* For both performance benchmarks, we will require all Upper C-band licensees to follow the compliance procedures applicable to all part 27 licensees, including the filing of electronic coverage maps and supporting documents. As part of these requirements, we adopt our proposals that electronic coverage maps must accurately depict: (1) the boundaries of each license area and the coverage boundaries of the actual areas to which the licensee provides service; and (2) if a licensee does not provide reliable signal coverage to its entire license area, the boundaries of the area(s) within each license area not being served. Supporting documentation must include the assumptions used to create the coverage maps, including the propagation model and signal strength necessary to provide reliable coverage and offer service with the licensee's technology. No commenters opposed these requirements, and we find that these compliance procedures will encourage timely, robust deployment of Upper C-band spectrum, consistent with our goals in this proceeding.

62. *License Renewal.* As proposed, and with record support, we will apply the general renewal requirements applicable to all Wireless Radio Services (WRS) licensees to Upper C-band licensees. We find that applying these requirements will promote consistency across the Upper and Lower C-band as well as other WRS.

63. *Renewal Term Construction Obligation.* In applying our general WRS renewal requirements, each Upper C-band licensee will be required to comply with § 1.949 of our rules by demonstrating that, over the course of its license term, it provided and continues to provide service to the public. Licensees can demonstrate

compliance either through the renewal showing in § 1.949(f) or the relevant safe harbor in § 1.949(e)(2). Absent record feedback to the contrary, we find that applying these requirements to the Upper C-band will help promote the continued deployment of next-generation wireless technologies.

3. Technical Rules

64. We find that the technical rules we adopt herein will encourage maximum potential use of the Upper C-band for next-generation wireless technologies, encourage efficient use of spectrum resources, and promote investment in the Upper C-band while protecting any residual incumbent users in the band and promoting coexistence with operations in adjacent bands. Consistent with our proposals in the *Upper C-band NPRM*, the technical rules are generally aligned with the rules applicable to the Lower C-band with a view towards the creation of a single 3.7 GHz Service, although we make certain modifications herein that are applicable across the entire C-band to reinforce a successful co-existence environment with adjacent band radio altimeters. We believe that this approach will produce significant economies of scale, improve affordability for consumers, encourage rapid operational expansion, and facilitate deployment of high-powered terrestrial wireless networks in the band. As described in greater detail below, we deviate from this approach only with regard to antenna height limits due to specific technical and operational considerations unique to the Upper C-band.

a. Power Levels

65. *Power Limits for Fixed and Base Stations.* As proposed in the *Upper C-band NPRM*, we will allow fixed or base stations in non-rural areas to operate at power levels up to 1640 watts per megahertz EIRP and base stations in rural areas to operate at power levels up to 3280 watts per megahertz EIRP. We therefore apply §§ 27.50(j)(1)–(2) and (4)–(5) of the Commission's rules to both fixed and base stations operating in the Upper C-band. This approach is consistent with the power limits adopted by the Commission for the Lower C-band and other broadband mobile services in nearby bands (3.45 GHz, AWS–1, AWS–3, AWS–4, and PCS). The record supports our proposed approach for this reason and also reflects that these power limits will align with adjacent band radio altimeter operations. We agree and find that these power limits will: (1) provide licensees with the ability to optimize their system

designs to provide wide area coverage without sacrificing the flexibility needed to address coexistence issues with FSS operations; and (2) promote investment in the Upper C-band, thereby facilitating the rapid and robust deployment of next-generation wireless networks, including 5G. Finally, because advanced antenna systems often have multiple radiating elements in the same sector, we clarify that the power limits we adopt apply to the aggregate power of all antenna elements in any given sector of a fixed or base station.

66. *Power Limits for Mobile and Portable Devices.* While the *Upper C-band NPRM* proposed a power limit of 1 Watt EIRP for all mobile devices, commenters note that a 4 Watt power limit will improve user equipment (UE) coverage and throughput for fixed wireless services (e.g., in-home broadband). Additional comments in response to the *Record Refresh PN* reinforce this support, suggesting that a modest increase in UE power levels to 4 Watt EIRP across the entire C-band will expand competitive fixed wireless offerings and align C-band UE devices with other existing in-home UEs. These comments note that handsets would not be impacted, as all C-band mobile and portable devices “must employ a means for limiting power to the minimum necessary for successful communications” and must independently comply with the Commission's radiofrequency (RF) exposure limits. Cable and other fixed wireless providers using spectrum below the 3.7 GHz band edge have recently expressed inchoate concerns about the potential for interference to Citizens Broadband Radio Service (CBRS) client devices near the band edge from higher-powered UE in the Lower C-band. In response, CTIA disputes any potential degradation to CBRS and notes that the operational parameters of existing CBRS indoor base stations permit equivalent transmit power to the 4 Watt mobile EIRP. Also, CTIA provides that extension of the existing OOB limit applicable to the C-band effectively negates any potential for interference.

67. We find that an increased power limit for mobiles and portables across the C-band would facilitate more innovative, efficient uses of valuable mid-band spectrum and align C-band UE devices with other existing in-home UEs that operate within similar parameters, given the shifts in consumer uses and technology advancements since adoption of the *2020 C-band R&O*. The detailed record in the instant proceeding reflects a shift both in

expanded consumer use of, and need for, more extensive fixed wireless uses, as well as a disparity between the operational parameters of existing C-band UEs and other types of in-home UE devices, such as Wi-Fi routers. We reiterate that, as a practical matter, this will not impact the existing operation of handsets, which like all C-band mobile and portable devices must limit power to the minimum level necessary for successful communications and adhere to our radiofrequency exposure limits. While cable and other CBRS stakeholders have been active participants in this proceeding since the initial comment stage, to date they have not outlined detailed concerns with, or presented any specific analysis of, the potential impacts on CBRS operations of an increased power limit for UEs in the adjacent Lower C-band. To the extent that their recent advocacy has focused on CBRS operational issues, it explores pre-existing uplink performance issues without any causal linkage to Lower C-band UE devices (*i.e.*, that could be caused by other factors, including in-band interference from 3.5 GHz Service PAL licensees given the use of non-3GPP compliant devices by CBRS operators). Nonetheless, out of an abundance of caution, we will proceed with a more incremental increase in the power limit for mobile and portable devices in the Upper C Band—from 1 Watt EIRP to 2 Watt EIRP—to support these specific types of in-home UE. To create consistency between the Upper and Lower C-band, as indicated in the *Record Refresh PN*, we will apply the same power limits throughout the 3.7–4.14 GHz band. For the reasons explained *infra*, we also retain the applicable OOB limit governing all mobile and portable devices.

b. Out-of-Band Emissions

68. *Fixed and Base Station Out-of-Band Emissions.* Based on the totality of the record before us, we adopt fixed and base station out-of-band emission (OOBE) requirements for the Upper and Lower C-band that differ from those previously adopted in the *2020 C-band R&O*. We observe that the record in response to the *Upper C-band NPRM* and the *Record Refresh PN* reflects a variety of views on whether OOB limits throughout the C-band should be set using an equivalent isotropically radiated power (EIRP)-based standard or a conducted power limit, as was previously adopted for the Lower C-band. Further, since 2023 wireless licensees in the Lower C-band have voluntarily adhered to a conducted limit on spurious emissions into 4.2–4.4 GHz of –48 dBm/MHz. Subsequent to the

Record Refresh PN, CTIA proposed a compromise OOB limit into the 4.2–4.4 GHz band of either an EIRP level of –28.4 dBm/MHz, or a conducted power level of –46 dBm/MHz applicable to both Lower and Upper C-band wireless operations.

69. We adopt the option-driven approach advocated by CTIA to OOB compliance for emissions into the adjacent 4.2–4.4 GHz band, which we will harmonize for both Upper and Lower C-band terrestrial wireless operations. Wireless licensees in both the Lower and Upper C-band may comply with an OOB limit into the 4.2–4.4 GHz band of either an EIRP level of –28.4 dBm/MHz, or a conducted power level of –46 dBm/MHz. Given that existing Lower C-band deployments have voluntarily complied with a –48 dBm/MHz conducted limit since 2023, we anticipate that application of this new rule will have no practical impact on such deployments, effectively grandfathering them. As with our technical rules generally, this “either or” framework for OOB compliance reflects close coordination with complementary decisions adopted by FAA, and aligns with assumptions made in the FAA’s safety analysis for adjacent band radio altimeter operations. The relevant OOB limit into other spectrum bands will remain at a conducted power level of –13 dBm/MHz. We find that adoption of these alternative OOB requirements across the C-band will promote ongoing coexistence with post-retrofit radio altimeters without any additional measures in place.

70. *Mobile and Portable Out-of-Band Emissions.* As proposed in the *Upper C-band NPRM*, we adopt a mobile and portable OOB limit that is consistent with the service rules adopted for the Lower C-band. Commenters that addressed this proposal generally support its extension to new operations in the Upper C-band. As noted by CTIA, this is a well-established limit that we have previously found to be “widely accepted as being adequate for reducing unwanted emissions into adjacent bands.” Specifically, we will require mobile and portable units to suppress their conducted emissions to no more than –13 dBm/MHz outside their authorized frequency band, *i.e.*, at the authorized channel edge as measured at the antenna terminals. We also adopt the same measurement procedure as we adopted for the Lower C-band where a narrower resolution bandwidth can be used to measure the OOB limits in the spectrum immediately adjacent to the channel edge. For emissions within 1 megahertz from the channel edge, the minimum resolution bandwidth would

be either one percent of the emission bandwidth of the fundamental emission of the transmitter or 350 kilohertz. In the bands between one and five megahertz removed from the licensee’s authorized frequency block, the minimum resolution bandwidth would be 500 kilohertz. We find that this approach will promote consistency between mobile 5G deployments in C-band as well as various other bands and will not increase the potential for OOB to cause harmful interference.

71. *Other OOB Limit Issues.* We adopt our proposal to otherwise model our approach to OOB issues based on that used in the Lower C-band transition, subject to the OOB emissions limits adopted herein. No commenting party opposes this approach. In specific, we extend § 27.53(i) to the Upper C-band, which provides that the Commission may, in its discretion, require greater attenuation than specified in the rules if an emission outside of the authorized bandwidth causes harmful interference. We find that this approach will further harmonize wireless operations across the entire C-band.

c. Antenna Height Limits

72. Based on the record received in response to the *Upper C-band NPRM*, we adopt an antenna height limit for 3.98–4.14 GHz wireless operations of no greater than 450 feet above ground level. In order to foster coexistence between radio altimeters operating at 4.2–4.4 GHz and terrestrial wireless operations in the Upper C-band, aviation and wireless industry stakeholders submitted a number of filings to the record explaining that they have reached a cross-industry consensus on this antenna height limit for such wireless operations. No commenting party opposes this consensus limit. We therefore depart from the Commission’s proposal not to impose restrictions on antenna heights for Upper C-band operations. Rather, we find that an antenna height limit of 450 feet above ground level for Upper C-band wireless operations is reasonable, supported by the record before us, and in the public interest.

d. Service Area Boundary Limit

73. As proposed in the *Upper C-band NPRM*, we adopt the –76 dBm/m²/MHz power flux density (PFD) limit at a height of 1.5 meters above ground at the border of the licensees’ service area boundaries. We also permit licensees operating in adjacent geographic areas to voluntarily agree to higher levels at their common boundaries. Commenters that addressed these proposals,

including AT&T, CTIA, Ericsson, and Verizon, support the -76 dBm/m²/MHz PFD limit in this context given that it currently applies to operations in both the Lower C-band and Upper Microwave Flexible Use Service bands. Commenters further indicate that it is sufficient to protect geographically adjacent licensees from co-channel interference in the Upper C-band as well. We agree and also note that this metric is straightforward to calculate or measure and also scales with channel bandwidth to provide licensees flexibility for demonstrating compliance.

e. International Boundary Requirements

74. We adopt our proposal to apply § 27.57(c) of our rules, which requires all part 27 operations—including those in the Lower C-band—to comply with international agreements for operations near the Mexican and Canadian borders. Commenters that specifically address this proposal support its extension to new operations in the Upper C-band. We concur, recognizing that under this provision, new operations in the Upper C-band must not cause harmful interference across the border, consistent with the terms of the agreements currently in force. We note that modification of the existing rules might be necessary in order to comply with any future agreements with Canada and Mexico regarding the use of any subject bands.

f. Other Part 27 Rules

75. As proposed in the *Upper C-band NPRM*, we will apply several additional technical rules that are currently applicable to all part 27 services, including § 27.51 (Equipment authorization) and part 1, subpart BB of the Commission's rules (Disturbance of AM Broadcast Station Antenna Patterns), for new terrestrial wireless operations in the Upper C-band. We find that these rules implement important safeguards for all wireless services to ensure that devices meet RF safety limits, minimize the potential for causing harmful interference to other operations, and create consistency with the Lower C-band. Commenters that addressed this issue support this approach.

76. As the Commission has done for other part 27 services since 2014, we also require that new client devices be capable of operating across the entire C-band. Specifically, we extend § 27.75 to include 3.98–4.14 GHz, which requires mobile and portable stations operating in certain AWS–3 bands, the 600 MHz band, the Lower C-band, and 3.45 GHz band to be capable of operating across

each relevant band using the same air interfaces that the equipment uses on any frequency in the relevant band. This requirement does not require licensees to use any particular industry standard. The record in response to the *Upper C-band NPRM* supports this approach, with the proviso that Lower C-band mobile and portable stations that cannot be upgraded to operate in the 3.98–4.14 GHz band are grandfathered. We agree that this requirement will be prospective in nature, and that Lower C-band mobile and portable stations that have received equipment authorization prior to December 31, 2030, but that cannot be upgraded to operate in the 3.98–4.14 GHz band will be permitted to remain in service for the remainder of their useful life without a requirement to operate in the 3.98–4.14 GHz band. Thus, starting December 31, 2030, all new mobile and portable stations (other than pre-December 31, 2030, devices that cannot be upgraded) must be interoperable across the entire band. Although the deadline is December 31, 2030, interoperable equipment will be eligible for equipment authorization as of the effective date of these rules.

g. Protection of Incumbent FSS Earth Stations

77. As proposed in the *Upper C-band NPRM*, for post-transition FSS operations that remain in 4.16–4.2 GHz, we will incorporate and extend the incumbent protection measures that govern terrestrial wireless operations in the Lower C-band to new terrestrial wireless operations in the Upper C-band. Commenters that address this proposal support it. Therefore, to protect incumbent earth stations from out-of-band emissions, we require that all emissions from fixed stations, base stations, and mobile and portable stations operating in the C-band comply with a PFD limit of -124 dBW/m²/MHz in 4.16–4.2 GHz, as measured at the incumbent earth station antenna. In order to protect incumbent earth stations from receiver blocking, we will also extend the PFD limit of -16 dBW/m²/MHz to emissions within 3.98–4.14 GHz, as measured at the incumbent earth station antenna. Once the instant transition is complete, all remaining incumbent earth stations will operate above 4.16 GHz, and we will allow full band/full arc use of their authorized band of operation.

h. Protection of TT&C Earth Stations

78. Based on the record received in response to the *Upper C-band NPRM*, we adopt our proposals to maintain and apply existing co-channel and adjacent channel protection measures to

safeguard existing Telemetry, Tracking, and Command (TT&C) operations throughout the C-band. During the Lower C-band transition, incumbent space station operators were required to identify and consolidate their TT&C operations within the contiguous United States by December 5, 2021, and the Commission determined that it would not authorize any new TT&C operations elsewhere in the contiguous United States, except to facilitate that consolidation. TT&C operations are protected at the consolidated locations until December 5, 2030; after that date TT&C operations may continue in the C-band on an unprotected basis until the satellites they are communicating with cease operation. The Commission also authorized negotiated agreements for longer operation and private negotiation of TT&C sites between TT&C station operators and new terrestrial wireless licensees, either to permit early entry of wireless operations or to prolong TT&C operations in instances where these operations are designed to coexist. Earth stations located at the consolidated TT&C sites are also allowed to use the 3.7–4.0 GHz band for international gateway and other purposes on an unprotected basis until 2030, or longer if agreements can be negotiated with terrestrial wireless operators, so long as they do not cause harmful interference to terrestrial deployments in the band.

79. The record received in response to the *Upper C-band NPRM* reflects ongoing support for the existing TT&C protection measures at the consolidated locations until December 5, 2030, which will remain in place until that time, and does not identify any additional TT&C sites that are active in the Upper C-band. Several parties nonetheless advocate for the Commission to adopt new safeguards for unprotected fixed earth stations at the designated TT&C locations, non-TT&C gateways, and teleports in other locations, or to extend TT&C protections beyond 2030. Based on the record before us, we see no reason to modify the Commission's earlier decisions with respect to unprotected gateway and other fixed earth stations at the consolidated TT&C sites, particularly given their remote locations, or to extend the TT&C protection timeline, and accordingly we find once again that coordination and negotiation between the relevant FSS operators and wireless licensees on this issue best serves the public interest for potential operations beyond the 2030 timeframe. We also decline to adopt new protections for teleport or gateway sites in locations apart from the consolidated TT&C locations, which

would disrupt existing and future wireless deployments and run counter to the Commission's earlier decision to consolidate TT&C sites and limit protections to those necessary to facilitate the Lower C-band transition.

80. *Co-channel Protection Criteria.* As proposed in the *Upper C-band NPRM*, we will maintain and apply the existing co-channel protection criteria to protect TT&C sites throughout the C-band. Commenters who address this proposal generally support it. Co-channel operations are defined as when any of the terrestrial licensee's authorized frequencies are separated from the center frequency of the TT&C earth stations by less than 150% of the maximum emission bandwidth in use by the TT&C operation. In the *2020 C-band R&O*, the Commission required that new terrestrial wireless licensees ensure that the aggregated power from their operations met an interference to noise ratio (I/N) of -6 dB as received by the TT&C earth station. The Commission also required new terrestrial wireless licensees to coordinate their co-channel operations with incumbent TT&C earth stations within a 70 km radius. Terrestrial wireless licensees with base stations located within the coordination distance must provide upon request an engineering analysis to the TT&C operator to demonstrate their ability to comply with the I/N requirement. The protection criteria only apply to the frequencies, bandwidths, and look angles in use at each TT&C site, not full band or full arc.

81. *Adjacent Channel Protection Criteria.* Consistent with the proposals in the *Upper C-band NPRM*, we will also extend in this context the existing criteria to protect TT&C sites from adjacent channel interference due to out-of-band emissions. Specifically, aggregated power from adjacent terrestrial wireless operations must meet a -6 dB I/N ratio, and the limit will apply to all emissions removed from the TT&C earth station's center frequency by more than 150% of the TT&C's necessary emission bandwidth. In addition, while new terrestrial wireless licensees and TT&C earth station operators need not engage in prior coordination, they are expected to cooperate in good faith and make reasonable efforts to anticipate and resolve technical problems that may inhibit effective and efficient use of the spectrum. TT&C earth station operators are also expected to make available pertinent technical information about their systems upon request by new terrestrial wireless licensees, and licensees of stations suffering or causing

harmful interference are expected to cooperate and resolve the problem by mutually satisfactory arrangements.

82. In addition, as proposed in the *Upper C-band NPRM*, we require a PFD limit of -16 dBW/m²/MHz, as measured at the TT&C earth station antenna, to protect against potential receiver overload. This blocking limit applies to all emissions within the new terrestrial wireless licensee's authorized band of operation. All TT&C earth stations will be protected based on the assumption that robust filters have been installed at the facilities, like other incumbent FSS earth stations. TT&C filter quality must provide a minimum of 60 dB of rejection, and the frequency at which the filter must meet this 60 dB of rejection will vary with the bandwidth. TT&C filters must meet 60 dB of rejection for all frequencies removed from the center frequency by more than 150% of the TT&C's emission bandwidth, both above and below the channel, and the filter must provide 70 dB of rejection for all frequencies removed from the TT&C's center frequency by more than 250% of the TT&C's emission bandwidth, both above and below the channel. In the event of a claim of harmful interference, the earth station operator must demonstrate that they have installed a filter that complies with the mask described above, and if they have not installed such a filter or are unable to make such a demonstration, and the new terrestrial wireless licensee can confirm it meets the PFD, the TT&C operator would have to accept the interference.

i. Other Matters

83. In the *Upper C-band NPRM*, we noted earlier comments filed by NTIA detailing radio astronomy sites that conduct observations in the C-band. These radio astronomy sites carry out their observations on an opportunistic basis (*i.e.*, with no primary allocation); they therefore enjoy no protection from harmful interference. We nevertheless observe that certain coordination processes do presently apply to new or modified fixed stations within the National Radio Quiet Zone, which is home to some radio astronomy operations. Several commenters characterize other radio astronomy sites as small in number and situated in remote locations where their isolation mitigates interference. As such, we decline to adopt formal protections or coordination procedures designed to protect radio astronomy service operations.

C. The Transition of FSS Operations

84. Consistent with our long-standing precedent, and as proposed in the *Upper C-band NPRM*, we will again use our *Emerging Technologies* framework to facilitate the swift transition of an additional 160 megahertz of spectrum for terrestrial wireless use in the contiguous United States in furtherance of the OBBB Act's mandate. While we broadly model the forthcoming transition of incumbent FSS operations in 4.0–4.16 GHz on the framework used in the *2020 C-band R&O*, we also refine and tailor our approach based on input from stakeholders that were involved in the Lower C-band transition, as well as the specific Upper C-band transition proposals advanced in the instant record.

1. Definition of Incumbent FSS Operations

85. In order to promote a timely and efficient transition process, we adopt our proposals in the *Upper C-band NPRM* to employ the same definitions used in the *2020 C-band R&O* to establish the scope of incumbent FSS space station and earth station operations for the Upper C-band transition. The relevant classes of incumbents will be eligible for reimbursement of their reasonable and necessary FSS C-band transition costs consistent with our *Emerging Technologies* precedent, as well as interference protection for those incumbent earth stations that remain in the Upper C-band. Identification of these incumbent FSS operations is once again intended to provide clarity about the transition process and inform auction bidders about the costs they will incur as a condition of their license. While we recognize that certain commenters seek a broader interpretation of incumbency, we find such an expansion to be unnecessary given we are mirroring the Lower C-band transition, in which eligible space station operators led the process, and the result was an efficient and effective transition.

86. *Incumbent Space Station Operators.* As a general matter, for purposes of the Upper C-band transition, we proposed to use the same baseline definition of incumbent space station operators as for the Lower C-band, while accounting for any changes in the legal or operational status of those entities in the intervening time period. The Commission determined in the Lower C-band context that "incumbent space station operators" whose authorizations would be impacted generally include all space station

operators authorized to provide C-band service to any part of the contiguous United States pursuant to a Commission-issued license or grant of market access as of June 21, 2018. That was the date on which certain new space station applications in the C-band were frozen to preserve the landscape of authorized operations in the 3.7–4.2 GHz band. Today, the remaining entities that qualify under this definition are: Empresa, Eutelsat, Hispasat, SES, and Telesat.

87. More specifically for transition cost reimbursement purposes, the *Upper C-band NPRM* sought comment on repurposing the Lower C-band definition of an “eligible space station operator” as an incumbent space station operator that has demonstrated as of February 1, 2020, that it has an existing relationship to provide service via C-band satellite transmission to one or more incumbent earth stations in the contiguous United States. Today, the remaining entities that qualify under this definition and continue to provide service to one or more incumbent earth stations within the contiguous United States are: Eutelsat, SES, and Telesat. In light of record support, we adopt our proposed repurposing of the Lower C-band definitions for incumbent and eligible space station operators in the instant context.

88. *Incumbent Earth Stations.* The *Upper C-band NPRM* also sought to employ the earlier Lower C-band definition of incumbent earth stations, using the most recently released incumbent earth station list from the Lower C-band transition as the baseline going forward. The Commission previously defined “incumbent earth stations” in the Lower C-band context to include fixed and temporary fixed earth stations that were operational as of April 19, 2018, and that: (1) continue to be operational; (2) were licensed or registered in the IBFS (now ICFS) database on November 7, 2018; and (3) timely certified the accuracy of the information on file with the Commission by May 28, 2019. As with space stations, a freeze on the filing of new or modified earth station applications throughout the entire C-band was issued on April 19, 2018—the qualifying date for incumbency—and the freeze remains in place. During and subsequent to the Lower C-band transition, Commission staff periodically updated its list of incumbent earth stations found to qualify under these criteria, the most recent of which was issued on November 19, 2025.

89. Although the vast majority of earth station operators successfully

registered with the Commission and satisfied our requirements to qualify as eligible incumbents for purposes of the Lower C-band transition, some earth station operators, whose C-band earth stations are unregistered or were otherwise previously found ineligible as incumbents for Lower C-band purposes, seek a lift of the freeze or other relief to qualify those facilities as incumbents for the Upper C-band transition. In addition, other earth station operators seek incumbent status for earth stations that have been expanded or relocated since the Lower C-band transition. On balance, however, we find that the public interest benefits of continuity and administrative efficiency that result from restarting where the Lower C-band transition left off in terms of the relevant scope of incumbent earth stations outweighs any potential change in course at this point in time. Both before and after the Lower C-band proceeding, the Commission’s process for establishing incumbency and determining the list of incumbent earth stations—including providing notice to interested parties, establishing (and later, extending) the filing window to register, providing opportunity to review and correct the preliminary list with more than 17,000 entries, and resolving waiver requests—was a lengthy process that involved significant Commission resources. We find that reopening the list of eligible earth stations is inconsistent with our statutory requirement to complete an Upper C-band auction less than a year from today and the myriad procedural steps that will be needed to give potential bidders in the forthcoming auction short-term clarity about the costs they will incur as a condition of their licenses pursuant to our *Emerging Technologies* precedent. In a similar vein, we also recognize that the three eligible space station operators involved in the Upper C-transition need to quickly ascertain the scale and scope of any required work in order to finalize their Transition Plans. This certainty can be most rapidly achieved by repurposing the Lower C-band definitional standard and incumbent earth station list for Upper C-band purposes, as any reopening of incumbent earth station eligibility would take time to adjudicate, and thus inject uncertainty into the auction and transition planning process.

90. With this goal in mind, we reiterate our earlier finding in the *2020 C-band R&O* that “[e]arth station operators [were] provided ample opportunity to register their earth stations with the Commission.”

Ineligible earth station operators that filed petitions for reconsideration and/or sought waivers in light of their specific circumstances had those matters addressed on the merits during the Lower C-band transition. Further, with a freeze continuously in place since 2018 on the filing of new or modified earth station applications, any operators opting to deploy new C-band earth stations since that time were on notice of: (1) the evolving environment in the band; and (2) that any deployments at that time came with risk and no present ability to register their facilities with the Commission, which in turn meant no expectation of incumbent rights. In the *Upper C-band NPRM*, Commission specifically noted the freeze remains in place, reemphasizing an intent to preserve the stability of the spectral environment. Reopening these issues years later would unsettle longstanding expectations and introduce cost and schedule uncertainty to the detriment of prospective bidders. We therefore adopt our proposal to utilize the Lower C-band incumbent earth station operator definition in the Upper C-band transition, with the most recently released incumbent earth station list from the Lower C-band transition serving as the baseline going forward. We will also maintain the earth station application freeze throughout the Upper C-band transition in order to maintain a stable spectrum environment.

2. Clearing FSS Operations in the Upper C-band

91. At the outset, we reiterate that the OBBB Act directs the Commission to grant licenses through a system of competitive bidding for “at least” 100 megahertz of the Upper C-band, which requires repurposing and clearing that baseline amount, at a minimum. The statutory language also reflects Congress’ intent for the Commission to explore transitioning spectrum above and beyond that floor. And by requiring an auction of the Upper C-band, in full awareness of the record-breaking Lower C-band auction that occurred years earlier, congressional action is best understood as ratifying the nature and types of regulatory mechanisms the Commission employed to clear the band and remunerate affected parties following the Lower C-band auction. As detailed *supra*, we find that repurposing 160 megahertz for terrestrial wireless use, plus a 20 megahertz guard band, best serves our Congressional mandate, the public interest, and our policy goals. Consistent with the *Upper C-band NPRM*, the *2020 C-band R&O*, and transition proposals advanced by

incumbent space station operators representing the vast majority of existing FSS C-band operations, we therefore exercise our authority under section 316 of the Act to propose to modify, as needed, the existing licenses, market access authorizations, and registrations currently held by FSS C-band incumbents to clear 4.0–4.16 GHz. Below we detail our exercise of this authority, and address arguments relevant to existing FSS C-band incumbents' continued ability to provide substantially the same service during and after the transition.

a. Clearing Space Station Operations

92. Pursuant to our authority under section 316 of the Act, we hereby modify the authorizations of all C-band incumbent space station operators to limit FSS operations to 4.16–4.2 GHz in the contiguous United States. This includes the authorizations of all FSS C-band incumbent space station operators as defined *supra*, including but not limited to the eligible space station operators. Section 316 vests the Commission with broad authority to modify licenses “if in the judgement of the Commission such action will promote the public interest, convenience, and necessity.” We find that modifying the authorizations of all C-band incumbent space station operators to clear 4.0–4.16 GHz and confining any remaining FSS C-band operations to 4.16–4.2 GHz within the contiguous United States is within the Commission's statutory authority, is consistent with prior Commission practice, and will promote the public interest, convenience, and necessity. As in the Lower C-band context, we recognize that space-to-Earth transmissions from space station operators directed to locations outside of the contiguous United States and other countries may incidentally transmit to earth stations in the contiguous United States. These incidental transmissions will be allowed as they present no risk of harmful interference to terrestrial wireless operations.

93. As noted in the *2020 C-band R&O*, the Commission has long relied on section 316 to change or reduce the frequencies used by a licensed service where it has found that doing so would be in the public interest. The Commission has also relied on its section 316 authority to “rearrang[e] licenses within a spectrum band.” And as part of the *Spectrum Frontiers* incentive auction, the Commission modified the authorizations of incumbent licensees by altering their assigned frequencies and, in many

cases, their geographic service areas, in a way that ensured that the spectrum usage rights under the modified licenses were comparable to those under originally configured licenses.

94. Further, the Commission's modification authority under section 316 does not require the consent of licensees. As the United States Court of Appeals for the District of Columbia Circuit has stressed, “if modification of licenses were entirely dependent upon the wishes of existing licensees, a large part of the regulatory power of the Commission would be nullified.” Indeed, that court has reiterated that Congress broadened the Commission discretion by adding section 316, which “provides the FCC with the authority to modify licenses without the approval of their holders.” Rather, the Commission need only find, as we do here, that the modification “serves the public interest, convenience, and necessity.” Further, the courts have consistently held that the Commission may exercise its license modification authority as part of a rulemaking proceeding, as we do here.

95. Commenters responding to the *Upper C-band NPRM* generally acknowledge the applicability of this framework, although they differ on what constitutes a permissible modification of incumbent space station operations in the current context. For example, SES and Eutelsat both anticipate that, as in the Lower C-band, transitions associated with reasonable relocation cost reimbursement and an appropriate incentive structure, which together enable them to maintain substantially the same service both during and after the transition, would align with the Commission's modification authority under section 316. They also acknowledge that clearing 160 megahertz would allow them to maintain one C-band transponder for critical services, and they indicate that they can otherwise provide their customers with substantially the same service by migrating them to a hybrid solution that, in part, uses the Ku-band, notwithstanding the Ku-band's greater susceptibility to rain fade. In keeping with the Lower C-band transition, both eligible space station operators who have commented seek to design and lead service transition efforts for their own and their customers' operations with a view towards addressing the additional complexities present with a potential migration of some services or links to the Ku-band.

96. SES and Eutelsat both specify that they will need to coordinate closely with customers to provide continuity of substantially the same service. SES proposes a number of specific measures

designed to ensure that any future services or links in the Ku-band would be substantially the same as existing ones in the C-band, such as: (1) the procurement and launch of new satellites to provide sufficient Ku-band downlink capacity that ensures similar link availability; (2) having optimized Ku-band beam designs in which the beam power can be concentrated; (3) cross-strapping the Ku-band downlink (11.7–12.2 GHz) with existing C-band uplink (5850–6425 MHz) to minimize the impact of rain fade on the uplink; (4) retrofitting existing C-band antennas with Ku-band feeds for added gain; and (5) implementation of a terrestrial recovery network to fill in lost packets due to any sort of fade or interference. Eutelsat similarly points to Ku-band satellite acquisition and launch, alternative terrestrial distribution technologies, and the reconfiguration of ground-based infrastructure, as elements it proposes to use in meeting the needs of its existing customers.

97. By contrast, media interests emphasize the ongoing use of FSS C-band services provided by the eligible space station operators for programming contribution and distribution, and raise concerns about the potential impacts on those operations as a result of any comprehensive reconfiguration of the Upper C-band. Content providers, broadcasters, multichannel video programming distributors (MVPDs), and other downstream customers of the eligible space station operators note Ku-band satellite coverage and differences in rain fade susceptibility, along with recent changes in the applicable Equivalent Power Flux Density (EPFD) limits, as diminishing the Ku-band's suitability as an alternative to existing FSS C-band satellite services, which they characterize as extremely reliable and affording a high quality of service. As such, some members of the media sector argue that any migration of existing FSS C-band services to the Ku-band is unlikely to result in “substantially the same service” and thus constitutes an impermissible fundamental license change.

98. We concur with SES and Eutelsat and find that an appropriately structured transition of existing FSS C-band services is achievable in the instant context to enable the eligible space station operators to continue providing “substantially the same” service during and after the transition. As set forth *infra*, we establish an FSS transition cost reimbursement program modeled on that from the Lower C-band transition to ensure that all reasonable and necessary steps to relocate existing FSS C-band operations from 4.0–4.16

GHz in the contiguous United States will be compensated for, in addition to setting forth an appropriate incentive structure in recognition of the eligible space station operators' role developing and managing comprehensive Transition Plans for the services used by their customers. SES and Eutelsat—the eligible space station operators responsible for the vast majority of existing FSS C-band operations—have also both indicated that with sufficient reserved capacity in the Upper C-band for essential services they will be able to offer their customer base “substantially the same” service both for repacked services in the C-band and migrated services and/or links in the Ku-band post-transition. To that end, and as proposed by SES, our reallocation of 160 megahertz for terrestrial wireless services will allow for the possibility of maintaining a residual transponder of FSS C-band service for each eligible space station operator.

99. While we acknowledge the concerns raised by various segments of the media industry about the potential migration to the Ku-band of many FSS services and links currently received in the C-band as part of a hybrid delivery approach, we ultimately disagree with the view that this proposed relocation would result in a fundamental license change. The relevant standard is “substantially the same” or “essentially the same,” not “exactly the same.” As such, post-transition services need only be comparable in nature to the pre-transition ones. While in the *2020 C-band R&O* we found that use of the upper 200 megahertz in the Upper C-band was sufficient to continue providing the same services previously provided over the entire 500 megahertz of C-band, that finding does not require us to follow precisely the same path based on present circumstances and the record before us today. Likewise, the D.C. Circuit's subsequent reference to the Commission's determination reflects its assessment that the Commission did not exceed its modification authority, given that it found essentially the same services could be delivered post-transition through different means. Contrary to the suggestion of some commenters, this does not mean that we must maintain 200 megahertz of C-band spectrum for FSS services (setting aside the congressional mandate that we reconfigure at least 100 megahertz). Indeed, since the *2020 C-band R&O* incumbent FSS uses of the C-band have continued to wane. While the record reflects that the media sector continues to make meaningful, albeit diminished,

use of FSS C-band services today, we find that these same content acquisition and distribution services can be delivered through different means as proposed by the eligible space station operators, namely a hybrid delivery approach that involves C-band, Ku-band, and a terrestrial recovery network in certain locations. We make the same finding with respect to other FSS C-band data and communications services that eligible space station operators also provide.

100. A key element of this hybrid delivery approach, as proposed by the eligible space station operators, involves migrating some existing FSS C-band services and/or links to the Ku-band with a terrestrial recovery network in relevant locations to mitigate any packet loss due to rain fade or other outages. Commenters underscore the viability of such a hybrid delivery approach, and emphasize that in the aggregate it addresses limitations with each individual transmission technology. Specifically, in detailing the various measures it is proposing as part of its hybrid approach, including a supplemental terrestrial recovery network, SES concludes that it “will be able to mitigate the inherent differences between C-band and Ku-band spectrum and provide its media customers with substantially the same level of service in Ku-band as they enjoy today in the Upper C-band. Data provided by NAB confirms that the various measures advanced by SES to bolster any Ku-band downlinks can offset any technical differences from C-band downlinks, except in the locations most susceptible to rain fade, which we believe a terrestrial recovery network can otherwise address. Given the multiple technical measures proposed by the eligible space station operators in this hybrid delivery approach, including the potential retention of certain uplink services in the C-band and use of a terrestrial recovery network in specific locations, we believe that the risk of rain fade or other signal disruption historically attributed to Ku-band service alone will be sufficiently offset to constitute “substantially the same service” in comparison with those services currently delivered in the C-band. We reiterate that these services need only be substantially the same in nature to meet the requirements of section 316, and that the Commission's technical and licensing rules do not guarantee any particular quality of service standard.

101. In this context, we also address concerns raised by commenters with respect to recent changes in the EPFD limits applicable to the Ku-band for

GSO links. The framework recently adopted by the Commission will ensure the protection of Ku-band systems by extending our time-tested good-faith coordination model that allows non-geostationary orbit (NGSO) and geostationary orbit (GSO) operators to negotiate for appropriate interference protections through voluntary, private agreements. As a backstop where coordination is not reached, the Commission adopted different metrics based on whether the GSO link uses Adaptive Coding and Modulation (ACM), among other protections. For video distribution satellite systems that typically do not employ ACM, we believe that the relevant interference-to-noise limit and the limitation on the absolute increase in link unavailability will address potential interference concerns, in addition to other measures that the GSOs could adopt, some of which have been identified by SES as part of its tentative transition proposal in the instant proceeding. We note that in developing more formal Transition Plans, the eligible space station operators also have the ability to plan for adequate spectrum to implement any necessary measures that may require additional spectrum, such as error detection and correction coding. We thus conclude that concerns about our recent EPFD changes with respect to the Ku-band are unavailing and will in no way diminish the Ku-band's suitability as part of a hybrid delivery system that will provide substantially the same service as existing FSS C-band service.

102. In sum, we find that modifying the authorizations of all incumbent space station operators to clear 4.0–4.16 GHz and confining their operations to 4.16–4.2 GHz in the contiguous United States is within the Commission's statutory authority, consistent with prior Commission practice, and will promote the public interest, convenience, and necessity by enabling the reconfiguration of the Upper C-band for expanded terrestrial wireless use as required by the OBBB Act. We also determine that the potential migration of certain incumbent FSS C-band satellite operations to a hybrid delivery approach involving the Ku-band will meet the “substantially the same” standard for permissible license modifications under section 316 of the Act. As detailed *infra*, we also establish an FSS transition cost reimbursement regime and appropriate incentives for the eligible space station operators consistent with our *Emerging Technologies* framework to facilitate the clearing and relocation process.

b. Clearing Earth Station Operations

103. Our rationale for clearing incumbent earth station operations from the Upper C-band mirrors that relating to incumbent space station operations. However, we reiterate that earth station registrants are not Commission licensees and thus have neither “transmission” authority nor any corresponding licensed spectrum usage rights. On this basis, past regulatory actions involving receive-only earth stations has been based on our Title I ancillary authority as part of “other regulatory responsibilities to maximize effective use of satellite communications” over which the Commission has express Title III authority. The Commission utilized this authority in the *2020 C-band R&O* to modify the frequencies on which earth station registrations received interference protection to comply with the broader Lower C-band reconfiguration. We take similar action here to limit those frequencies with interference protection to 4.16–4.20 GHz.

104. While a relatively small subset of earth stations in the C-band today are licensed to operate on other frequencies, they have no licensed spectrum usage rights in 4.0–4.2 GHz. Notwithstanding those licenses to transmit in other frequency bands, we continue to believe we have ample authority to modify their authorizations and interference protection rights in the Upper C-band once incumbent satellite operations are modified consistent with section 316. As with our clearing of incumbent space station operations, this proposed modification does not effect a fundamental change because incumbent earth stations will continue to receive and provide similar service (whether in 4.16–4.2 GHz or, as proposed, in the Ku-band) as before the modification of their registration or license. We emphasize that we are not modifying the transmit licensed spectrum usage rights of these entities. While certain holders of these transmit-receive authorizations cite limited availability of the paired uplink spectrum at 5850–6425 MHz, those issues fall outside the scope of the instant proceeding.

3. Transition Schedule

105. Consistent with the approach taken in the *2020 C-band R&O*, we once again believe that a mix of carrots and sticks will best facilitate a rapid and predictable transition of incumbent FSS services in the Upper C-band, subject to certain modifications reflecting the instant transition’s unique traits. We establish a Primary Transition Deadline of December 30, 2030, for the relocation

of all incumbent FSS operations in the top 75 PEAs in the contiguous United States that will align with the FAA’s first radio altimeter retrofit deadline. Our intent in aligning these two deadlines is to provide certainty to potential bidders in the forthcoming auction—and among them the eventual new Upper C-band terrestrial wireless licensees—of when they will be able to start operations across the full 160 megahertz of repurposed Upper C-band spectrum in markets representing approximately 70% of the United States population. To this end, we specify that Upper C-band terrestrial wireless operations may begin in those PEAs subject to the Primary Transition Deadline as of December 31, 2030. We also establish a Final Transition Deadline of June 30, 2031 for the entire 160 megahertz in all remaining PEAs in the contiguous United States. Terrestrial wireless operations may begin in PEAs subject to the Final Transition Deadline as of July 1, 2031 or once all eligible space station operators have had their Certifications of Completion for those PEAs validated and the associated incentive payments have been made by the Upper C-band wireless licensees, as discussed *infra*. We delegate broad authority to WTB to oversee this transition process, and take such measures as are necessary to ensure the timely and efficient transition of the Upper C-band.

106. From an incumbent FSS perspective, we note that both SES and Eutelsat have voluntarily indicated that, assuming cost reimbursement and an appropriate incentive structure, they will be able to clear all of their existing Upper C-band operations in the relevant markets by those dates. Specifically, SES believes it can clear all of its existing Upper C-band operations in accordance with this schedule while still providing substantially the same service. Eutelsat likewise indicates that it can migrate all 160 megahertz in a similar timeframe while meeting the needs of its customers. While we anticipate that the eligible space station operators will refine their planning and schedules through the formal Transition Plan process, we find that sufficient alignment exists in these projected timelines to establish these Transition Deadlines for purposes of the Upper C-band transition. We recognize that this differs from the structure employed in the Lower C-band transition, where the Commission established a final relocation deadline, and allowed eligible space station operators to elect to comply with two earlier accelerated relocation dates. On balance, we find

that the circumstances present in the instant transition are sufficiently distinct from those in the Lower C-band that the complexity of that earlier transition structure and schedule is unnecessary. For example, in light of the FAA’s parallel efforts to improve the performance of adjacent band radio altimeters, alignment between those efforts and the FSS transition is necessary to provide certainty to auction bidders on when wireless operations can commence in the Upper C-band. Further, we recognize that with fewer eligible space station operators remaining in the Upper C-band, a formal election process for acceleration is unnecessary given SES and Eutelsat’s voluntary statements and could be counterproductive in setting a timely and predictable transition timeline. For these reasons, we will authorize new Upper C-band terrestrial wireless licensees to commence operations and provide service to the vast majority of the United States population starting December 31, 2030, with all remaining markets to follow soon thereafter no later than July 1, 2031.

107. In terms of carrots and sticks, we establish *infra* an appropriate incentive structure that recognizes the primary role that the eligible space station operators will play in designing and leading service transition efforts for their and their customers’ operations, as well as the additional complexities present in the instant context (*e.g.*, a potential migration of some services or links to the Ku-band and alignment with the FAA’s first radio altimeter retrofit deadline). These equities differ from those involved in the Lower C-band transition, which involved the clearing of a larger amount of spectrum through an in-band repack, and the revised incentive structure we adopt herein accounts for those additional variables. We find that this revised incentive structure will best serve our policy goals and the public interest by incentivizing the eligible space station operators to make a substantial amount of Upper C-band spectrum available for terrestrial wireless use on a unified and predictable schedule while at the same time meeting the needs of their customers. To further reinforce this outcome, the relevant penalties for failure to meet the Final Transition Deadline will mirror those from the Lower C-band transition. Specifically, eligible space station operators will lose the right to transition cost reimbursement and incentives and be subject to potential penalties for any unauthorized transmissions in the 4.0–4.16 GHz band after the Final Transition

Deadline based on violations of section 301 of the Act.

4. Transition Cost Reimbursement

108. Pursuant to our *Emerging Technologies* framework, new Upper C-band terrestrial wireless licensees will be required to reimburse eligible incumbents for the reasonable and necessary costs of transitioning existing FSS C-band services out of 4.0–4.16 GHz in the contiguous United States. While we intend to follow our Lower C-band transition precedent where applicable, certain aspects of the Upper C-band transition cost reimbursement regime will necessarily differ in light of our clearing target and the specific transition steps that the eligible space station operators have proposed in this context. Below we detail our authority to require Upper C-band licensees to cover the reasonable and necessary transition costs of eligible FSS incumbents, provide general guidance on what will constitute a compensable transition cost for purposes of clearing existing FSS C-band services from 4.0–4.16 GHz in the contiguous United States, and identify our overall estimates for the FSS transition cost reimbursement program.

109. *Authority to Require Reimbursement Payments.* As with the Lower C-band transition, we will once again employ our broad spectrum management and licensing authority under section 303 of the Act to condition the grant of new terrestrial wireless licenses in the Upper C-band on the payment of all reasonable and necessary transition costs incurred by eligible space station and incumbent earth station operators to clear existing FSS C-band services from 4.0–4.16 GHz in the contiguous United States. The Commission specified in the Lower C-band context that it has “repeatedly used this authority to impose conditions on new licensees, including buildout conditions, public safety obligations, and obligations to facilitate the transition of incumbents out of the spectrum at issue before commencing operations.” Since 1992, the *Emerging Technologies* framework has formed the basis of different cost sharing mechanisms to enable new licensees in a band to facilitate the relocation of incumbents. Further, courts have upheld the Commission’s use of this authority. The record in the instant proceeding evidences widespread support for the application of the *Emerging Technologies* framework to the in-band transition of 4.0–4.16 GHz and, as such, we will structure the Upper C-band transition cost

reimbursement program with this authority and precedent in mind.

110. *Compensable Transition Costs.* Consistent with Commission precedent, eligible space station operators and incumbent earth station operators may seek reimbursement of reasonable transition costs involved in clearing existing FSS C-band services out of 4.0–4.16 GHz in the contiguous United States that are necessary for such operators to provide substantially the same service after the transition as they did before. These costs will include all reasonable engineering, equipment, site and FCC fees, as well as other reasonable and necessary additional costs that eligible space station operators and incumbent space station operators incur in connection with the transition of existing FSS C-band operations out of 4.0–4.16 GHz in the contiguous United States. We recognize that the specific transition activities that eligible incumbents undertake will differ depending on whether the relevant service and/or link is being repacked within 4.16–4.2 GHz or migrated to the Ku-band, and provide general guidance *infra* on the parameters of what constitutes a compensable transition cost in each scenario for purposes of the Upper C-band transition. We also establish an alternative lump sum reimbursement path for incumbent earth station operators that seek to opt out of the formal transition process led by the eligible space station operators. This lump sum mechanism will provide incumbent earth station operators the option to: (1) perform their own transition work to maintain FSS service; (2) migrate to an alternative distribution technology; or (3) discontinue service altogether.

111. For existing FSS C-band services being repacked within 4.16–4.2 GHz in the contiguous United States, the record reflects that no new C-band only satellites will be necessary. The eligible space station operators may nonetheless need to install compression and modulation equipment at their terrestrial facilities to make more efficient use of spectrum resources. For incumbent earth station operators, we again anticipate that earth station migration and filtering will be necessary. Our expectation remains that incumbents will obtain the equipment that most closely replaces their existing equipment or, as needed, provides the targeted technology upgrades necessary to clear 4.0–4.16 GHz, so long as those costs are reasonable. This may include, for example, video compression, modulation/coding, and HD to SD down-conversion at downlink locations

to the extent necessary to accomplish efficient clearing and so long as they are reasonable in cost.

112. In contrast, the migration of existing FSS C-band services and/or links to a hybrid delivery approach involving the Ku-band may require different transition tasks and thus incur compensable costs distinct from those involved in the Lower C-band transition which in this case may also vary from operator to operator. We reiterate that all such costs must be both reasonable and necessary to migrate existing FSS C-band services to a hybrid/Ku-band delivery approach for purposes of the Upper C-band transition in the contiguous United States, and recognize that each of the eligible space station operators, in coordination with their customers, may choose to implement this migration in different ways. For example, SES proposes to construct new hybrid satellites with “cross-strapped” C-band uplink (5850–6425 MHz) and optimized Ku-band downlink (11.7–12.2 GHz) designed to compensate for rain fade. SES also indicates that its customers may need to use lower modulation and coding schemes in Ku-band than in C-band to maintain quality and availability in all weather conditions. For its part, Eutelsat proposes that it would need to procure new Ku-band satellites. For incumbent earth stations, SES says that some existing C-band antennas could be retrofitted with Ku-band feeds, resulting in larger dishes with higher gain to further compensate for the effect of precipitation at higher frequencies. In other cases, SES notes that new Ku-band antennas may be appropriate where retrofit is not technically feasible, or to point at additional orbital locations to continue to receive the same programming. To re-transmit and recover any data potentially lost in transmission, SES further proposes to establish a terrestrial recovery network in parts of the United States with the most substantial risk of rain fade, which it says will require coordination with customers and involve developing new equipment. Eutelsat likewise suggests that it would need to migrate its customers, reconfigure ground-based infrastructure, and implement alternative terrestrial distribution technologies.

113. In order to accommodate the migration of existing C-band downlinks to the Ku-band, SES believes that certain existing Ku-band aeronautical and maritime customers may in turn need to be moved to the extended Ku-band to make room for the inbound C-band services. SES indicates that this would entail the addition of extended

Ku-band capacity on any newly launched Ku-band satellites, and new extended Ku-band gateway equipment for repacked existing Ku-band customers. Finally, SES says that it may also need to use extended C-band uplink spectrum (from 5850–5925 MHz) as part of its “cross strapped” approach which it suggests may require some feed modifications to enable existing uplink antennas to transmit in the lower frequencies.

114. We emphasize that our recitation of these preliminary proposals is not intended to prejudice the submission of formal Transition Plans by the eligible space station operators. Further, our description of these proposals is not meant to signal any pre-approval thereof in terms of the specific technology choices made, individual transition steps involved, or the compensability of certain costs. We also do not intend for this recitation to be interpreted as circumscribing the Upper C-band Clearinghouse’s ability to assess and determine the reasonableness and necessity of actual cost reimbursement claims in the first instance. We describe these proposed steps by the eligible space station operators to illustrate that the Upper C-band transition’s complexity will differ from that in the Lower C-band transition. As such, eligible incumbents may incur different compensable transition costs.

115. In this context, we note that the eligible space station operators will publicly file formal Transition Plans that articulate in detail their proposed transition steps, and will be subject to stakeholder input. We caution the eligible space station operators that they must describe with specificity any transition steps for which they intend to seek cost reimbursement in their Transition Plans, particularly those that diverge from transition actions taken in the Lower C-band. At the same time, we delegate authority to WTB to develop a Cost Catalog to provide guidance to both eligible FSS incumbents and potential auction bidders about a range of presumptively reasonable transition costs, as detailed *infra*, which will be expanded to include transition actions related to the migration of existing FSS C-band services and/or links to the Ku-band. As in the Lower C-band transition, the Upper C-band Cost Catalog will establish a range of estimated costs that may be presumed reasonable, but eligible incumbents will not be precluded from obtaining reimbursement for their actual costs that exceed the amounts in the Cost Catalog so long as such costs are reasonably necessary to the instant transition and incumbents provide justification to the

clearinghouse. We anticipate that the Transition Plan and Cost Catalog processes will afford stakeholders and the clearinghouse additional insights and guidance about proposed transition actions, compensable items, and presumptively reasonable cost ranges for purposes of the Upper C-band transition cost reimbursement program.

116. No matter what specific transition activities an eligible incumbent ultimately undertakes, we clarify that certain topline principles from the 2020 C-band R&O will continue to inform the Upper C-band transition cost reimbursement program. For example, the incremental costs of equipment upgrades beyond what is necessary to clear existing FSS C-band services from 4.0–4.16 GHz in the contiguous United States will be reasonably allocated to and borne by the incumbent operator. Incumbents may not “gold-plate” their systems and will not receive more reimbursement than is necessary and reasonable. If a particular expenditure is unreasonable, the incumbent will only be reimbursed for the reasonable costs it would have incurred had it made a more prudent decision. While we believe that so-called “soft costs,” which are legitimate and prudent transaction expenses directly attributable to the transition, should be reimbursable in some cases, we will set a rebuttable presumption cap of 2% of hard costs consistent with past Commission practice. We recognize concerns from stakeholders about the scope of soft costs during the Lower C-band transition, notably financing charges and interest, but do not believe a firm cap on soft costs affords sufficient flexibility as part of the claims review and true up process. We believe it is appropriate for the Upper C-band Clearinghouse to consider whether financing acquisition is part of the ordinary course of business in assessing soft costs that exceed the 2% rebuttable presumption cap, consistent with the approach in the Lower C-band transition.

117. In terms of cost-related issues raised during the Lower C-band transition, we reiterate that only existing incumbent earth stations that remain operational in the C-band in the contiguous United States will be considered eligible incumbents for the Upper C-band transition and its corresponding transition cost reimbursement program. That said, existing FSS C-band earth stations outside of the contiguous United States but within the United States may be eligible for reimbursement of transition costs where they “demonstrate that they were required to make the system

modifications for which they seek reimbursement as a direct result of the transition in the contiguous United States.” However, no FSS C-band facilities outside of the United States will be eligible for any reimbursement of transition costs, independent of any arguable relationship to the transition in the contiguous United States.

118. We also delineate broad categories that fall squarely outside the scope of permissible transition-related costs. Consistent with established Commission precedent, including the Lower C-band transition, we find that it would not serve the public interest to reimburse eligible incumbents for the speculative value of business opportunities that they claim will be lost as a result of the Upper C-band transition. Similarly, claims for “lost revenues” are not compensable as we find that the eligible space station operators will be able to continue providing substantially the same service to that which they provide today throughout and after the transition. We also decline to consider ongoing operational expenses as reimbursable transition-related costs, as they are routine business expenses for any distribution technology, including existing FSS C-band service for which eligible incumbents hold direct responsibility today, and thus are not “reasonably necessary to complete the transition in a timely manner.” Other recurring charges that eligible incumbents may potentially incur shall not be compensable past the Final Transition Deadline, given all relevant transition-related tasks must be completed by that date. Finally, in light of the multiple mitigation steps proposed by the eligible space station operators to offset rain fade and other differences between existing C-band and Ku-band service, which includes a terrestrial recovery system where needed, we find that the separate adoption of multiple distribution technologies or other redundancies (e.g., new internet or fiber connections) directly by incumbent earth station operators themselves would constitute an optional upgrade in excess of what would be considered a reasonable and necessary transition cost. While the goal of the in-band FSS transition cost reimbursement program is to enable eligible incumbents to provide substantially the same service during and after the transition, that service need not be exactly the same as it was pre-transition, nor does it guarantee a specific quality of service level. In keeping with our long standing precedent, eligible incumbents opting

for actual cost reimbursement will receive all necessary and reasonable FSS transition costs to clear 4.0–4.16 GHz, but will not be allowed to “gold-plate” and/or seek compensation beyond that threshold.

119. *Lump Sum Reimbursement Option.* Based on record support, we will once again give incumbent earth station operators flexibility to make efficient decisions to better accommodate their needs through a lump sum reimbursement option. This lump sum mechanism will afford incumbent earth station operators in the contiguous United States the option to: (1) perform their own transition work to maintain FSS service; (2) migrate to an alternative distribution technology such as an IP-delivered service; or (3) discontinue service altogether. While the decision to opt for the lump sum payment in lieu of actual cost reimbursement is again irrevocable, we will allow incumbent earth station operators to elect lump sum payments on a per site basis to enable operators with a mix of facilities in urban and rural areas to opt for the type of transition that best meets their long term needs. Any incumbent earth station operators electing the lump sum will be responsible for their own transition work for the relevant sites from that point forward, and must comply with the relevant Transition Deadline for the PEA where they are located.

120. We delegate to WTB the authority to determine the appropriate amounts and procedures for lump sum elections by various classes of incumbent earth station operations as part of its Cost Catalog process. Consistent with past practice, the lump sum amounts will be based on the average estimated, reasonable costs of transitioning existing FSS C-band service out of 4.0–4.16 GHz, but for purposes of the Upper C-band transition this shall include costs related to the potential migration of service or links to the Ku-band which we expect will be greater than those costs associated with a repack within the Upper C-band. This will ensure that lump sum electees receive ample compensation to transition to a comparable service, but not for any optional upgrades that would exceed those costs by an order of magnitude. Electees will need to make their irrevocable choice no later than 60 days after release of the Cost Catalog, and specify for each site whether it will be performing its own FSS transition work, migrating to a new distribution technology, or discontinuing service altogether.

121. *Estimated Cost of FSS Transition.* We recognize that providing

potential auction bidders with an estimate of their estimated transition cost reimbursement obligations associated with the Upper C-band transition is more challenging than in the Lower C-band context in light of the multiple ways in which eligible FSS C-band incumbents may opt to relocate their services. More granular transition cost information will be available in connection with the Transition Plan process. As an initial estimate, we anticipate total, aggregate FSS C-band transition clearing costs to range from \$4–\$5 billion. We again caution that this is an estimate only, and new terrestrial wireless licensees in the Upper C-band will be responsible for the entire allowed costs of relocation, including those costs that exceed this estimated range.

122. *Allocating Payment Obligations Among Upper C-Band Licensees.* As a general matter, we allocate the financial responsibilities that each Upper C-band licensee will incur as part of the FSS transition along the same lines as in the 2020 C-band R&O. Specifically, we find it is reasonable to base the share for each Upper C-band licensee on that licensee’s *pro rata* share of gross winning bids. For eligible space station operator transition and clearinghouse costs, and in the event WTB selects a Relocation Coordinator, Relocation Coordinator costs, the *pro rata* share for each Upper C-band licensee will be the sum of the final clock phase prices (P) for the set of all license blocks (I) that a bidder wins divided by the total final clock phase prices for all N license blocks sold in the auction. To determine a licensee’s reimbursement obligation (RO), that *pro rata* share would then be multiplied by the total eligible relocation costs (RC). Mathematically, this is represented as:

$$RO = \left(\frac{\sum_{i \in I} P_i}{\sum_{j=1}^N P_j} \right) \times RC$$

123. For incumbent earth station transition costs, an Upper C-band licensee’s *pro rata* share will be determined on a PEA-specific basis, based on the final clock phase prices for the license blocks it won in each PEA. To calculate the *pro rata* share for incumbent earth station transition costs in a given PEA, the same formula above will be used except now I will be the set of licenses a bidder won in the PEA, N will be the total blocks sold in the PEA, and RC will be the PEA-specific earth station relocation costs.

5. Incentives

124. Beyond establishing a transition cost reimbursement regime for all

eligible FSS incumbents, we believe that an appropriate incentive structure for eligible space station operators that is tailored to these specific circumstances will recognize their unique role in this process and align with our exercise of our license modification authority under section 316 of the Act. To this end, we will require new Upper C-band licensees to make incentive payments to eligible space station operators as a license condition in the event that those operators meet their clearing obligations by the relevant Transition Deadlines.

125. *Authority to Require Incentive Payments.* Our authority to require Upper C-band licensees to make incentive payments to eligible space station operators as a license condition derives from the *Emerging Technologies* framework and the same statutory underpinnings as our authority to require reimbursement payments. We previously found accelerated relocation payments to be in the public interest in connection with the Lower C-band transition, which was an outgrowth of earlier transitions where similar mechanisms were employed as an incentive to expedite clearing above and beyond transition cost reimbursements. As in the case of such reimbursements, there is also widespread record support for using the *Emerging Technologies* framework to incentivize eligible space station operators to expedite the clearing of existing FSS C-band services from 4.0–4.16 GHz in the contiguous United States. On this basis, we opt to utilize a modified incentive structure based on our Lower C-band precedent, but designed with the specific parameters of the Upper C-band transition in mind.

126. At the outset, we observe that the current record before us reflects general input on the scope of incentives suggesting that they be “appropriate” and modeled on our Lower C-band precedent. In specific, CTIA advocates for any incentives to be “relative to the amount of spectrum repurposed, any restrictions or limitations imposed on terrestrial wireless use of the band, and the speed with which the spectrum is made available for commercial terrestrial wireless use.” We agree in concept with these principles and, in recognition of the more streamlined transition structure we are adopting for the Upper C-band, modify the Commission’s earlier approach in the Lower C-band accordingly.

127. For purposes of the Lower C-band transition, the Commission adopted an ultimate transition deadline of 69 months from adoption of the 2020 C-band R&O, with the option for eligible space station operators to elect clearing

by two accelerated relocation deadlines which, if met, made them eligible for accelerated relocation payments. As noted *supra*, all five eligible space station operators at the time elected accelerated relocation, subsequently met the respective accelerated deadlines, and became eligible for the designated accelerated relocation payments. The Commission established the amount of those accelerated relocation payments based on several factors, including an estimate of the price that potential Lower C-band licensees would willingly pay for an earlier transition, assuming any free-rider and holdout problems could be overcome.

128. As discussed *supra*, a key distinguishing factor between the Lower and Upper C-band transitions is the need to align the instant FSS transition deadlines with the initial deadline established by the FAA for its radio altimeter retrofit requirements in order to provide certainty for Upper C-band wireless licensees on when they can commence service. We further recognize the voluntary statements by SES and Eutelsat in the record that with transition cost reimbursements and an appropriate incentive structure in place, they can clear FSS C-band operations from 4.0–4.16 GHz and maintain substantially the same service by the Transition Deadlines we establish herein. Absent those measures, both SES and Eutelsat indicate that it would take up to ten years to effectuate the clearing process. While we are not persuaded that a ten year baseline is an appropriate measure of the clearing efforts that the eligible space station operators have proposed to undertake, we recognize that the underlying record here reflects an expected higher level of complexity as compared with that experienced in the Lower C-band transition. We thus believe that absent an incentive structure, the Upper C-band transition would implicate at least a similar schedule to that established for Lower C-band (*i.e.*, 69 months after adoption of the *2020 C-band R&O*), if not longer. On this basis, we find that December 2032 (or 78 months after adoption of this *Report and Order*, *Order of Proposed Modification*, and *Order on Reconsideration*) is an appropriate baseline upon which to establish an incentive structure designed to expedite the FSS transition to align with the FAA's first radio altimeter retrofit deadline. While we do not establish December 2032 as a formal transition deadline in order to avoid the administrative complexities involved with the accelerated relocation election process used in the Lower C-band

transition, the incentive structure we set forth *infra* is based on the estimated value of earlier access to the cleared Upper C-band spectrum for winning bidders in the forthcoming auction, and takes into account the voluntary statements of SES and Eutelsat with respect to their ability to meet the Transition Deadlines.

129. In estimating the value of this earlier spectrum access, we use the Lower C-band auction results and an assumed 8.5% discount rate in order to calibrate a \$/MHz-pop auction price of \$.70 if the full 160 megahertz of reconfigured Upper C-band spectrum in the contiguous United States were not available until December 30, 2032. The resulting benefit of acceleration to the Transition Deadlines for bidders would be \$6.3 billion, of which 78% is attributable to the PEAs subject to the Primary Transition Deadline. We find that an incentive structure of \$6.3 billion is reasonable and would serve the public interest and that \$4.914 billion of this amount should be allocated to clearing the Primary Transition Deadline PEAs and the remaining \$1.386 billion should be allocated to the Final Transition Deadline PEAs.

130. As in the Lower C-band transition, we find it necessary to specify the amount of incentive payment for which each eligible space station operator may qualify, and again conclude that the most appropriate basis on which to allocate these payments is to estimate the relative contribution each eligible space station operator is likely to make towards transitioning the band to flexible use, assuming all other operators clear. In the *2020 C-band R&O*, the Commission estimated the relative contributions of each operator based on: (1) a private market agreement signed by the members of the C-band Alliance that determined the share of any proceeds that each C-Band Alliance member would receive as a result of the proceeding; (2) C-band transponder usage data; and (3) each eligible space station operator's coverage of the contiguous United States with its C-band satellites. However, other than C-band coverage of the contiguous United States, these measures are not available in the Upper C-band context, so we are unable to follow the previously adopted methodology to calculate relative contributions.

131. In this proceeding, Eutelsat and SES have both put forth various proposals for allocating the incentive payments, but we find that none of these provides an appropriate estimate of the likely relative contributions of each operator in transitioning the band

to flexible use. Eutelsat submits a report by Analysys Mason that evaluates three potential methodologies for allocating eligible space station operator incentive payments, each of which to differing degrees relies on a public data source that tracks the number of C-band video and radio channels of each operator. In so far as these proposals base their allocations on measures of utilization derived from that data, we reject them given they: (1) appear to treat television and radio services as equivalent, even though the latter occupy only a small fraction of the spectral capacity of the former; (2) do not account for non-media uses of FSS C-band spectrum, such as data services; (3) rely upon data that is not systematically collected or scientifically verified; and (4) lack sufficient detail to adequately assess how the calculated shares were achieved. One of Eutelsat's proposals is more specifically predicated on whether an operator has *any* services within each block of spectrum using this same data, a concept which we also reject as it is not an appropriate measure of the relative contribution of any single operator. SES similarly relies on the same public video channel data as one basis for its allocation proposals, which we likewise find unpersuasive. SES also proposes that the number of customers or earth stations transitioned in the Lower C-band proceeding could also serve as the basis for determining the split of incentive payments among eligible space station operators. However, we believe that this metric alone is more appropriately viewed as a proxy for the transition costs that will be incurred by each eligible space station operator in providing a turnkey transition plan for all its FSS C-band services, and not for the relative contribution each operator will provide in making spectrum available for flexible use.

132. To recognize the unique role of each eligible space station operator in making Upper C-band spectrum available for flexible use, we find that the most appropriate measure of each operator's relative contribution is the value of the spectrum an operator would encumber should it not coordinate timely clearing, assuming all other eligible space station operators do coordinate clearing in a timely manner. To construct our measure of the value of spectrum that each operator would encumber should it not transition expeditiously, we use the location of each incumbent earth station antenna claimed by or assigned to the eligible space station operators as identified by the Lower C-band Relocation

Coordinator. We further assume that should the incumbent earth station antenna not be cleared in the forthcoming transition, the relevant Upper C-band wireless licensee(s) would, on average, be unable to serve customers using the repurposed spectrum within an 8 km radius of each such incumbent earth station antenna in order to prevent any harmful interference. We then calculate the potential population encumbered within each PEA under this assumption. To estimate the value of the spectrum that would be encumbered in each case

assuming the other eligible space station operators transitioned all incumbent earth station antennas receiving their services, as well as the value of encumbered spectrum by all eligible space station operators combined, we use the dollar per MHz-pop Lower C-band final clock prices for the B and C blocks. To determine the appropriate shares attributable to Eutelsat and Telesat, we divide the value that each of these operators would hypothetically encumber by the value of the spectrum encumbered by all three eligible space station operators, and then use the share

attributable to each operator as the basis for their share of incentive payments. We then allocate the remaining share of incentive payments to SES. As shown in the table below, based on this methodology we find that an appropriate allocation of incentive payments based on the relative contribution of each operator in making spectrum available for flexible use is 89% to SES, 8% to Eutelsat, and 3% to Telesat, which more closely aligns with each operator's overall market share than other proposals in the instant record:

	Allocation of incentive pay- ments (%)	Total incentive payment amount	Primary deadline incentive amount	Final deadline incentive≤ amount
SES	89	\$5,607,000,000	\$4,373,460,000	\$1,233,540,000
Eutelsat	8	504,000,000	393,120,000	110,880,000
Telesat	3	189,000,000	147,420,000	41,580,000

133. Assuming the eligible space station operators meet each relevant Transition Deadline, they will be eligible for the incentive amounts set forth *supra*. However, in the event that

they do not meet the Primary Transition Deadline, we establish an incremental reduction plan for the Primary Deadline incentive payment based on that used in the Lower C-band transition to enable

the receipt of reduced incentive payments associated with that deadline based upon a sliding scale as set forth below:

Date of completion	Incremental reduction (%)	Incentive payment percentage
By Deadline	0	100
1–30 days late	7.5	92.5
31–60 days late	15	85
61–90 days late	22.5	77.5
91–120 days late	30	70
121–150 days late	37.5	62.5
151–180 days late	45	55
181+ days late	100	0

To the extent that an eligible space station operator fails to meet the Final Transition Deadline, they will not receive any Final Deadline incentive payment, and may be subject to any applicable reductions in the Primary Deadline incentive payment set forth *supra*, as well as the loss of further transition cost reimbursement and potential penalties for any unauthorized transmissions.

134. We model our certification procedures for incentive payments on those used in the Lower C-band transition. Each eligible space station operator's satisfaction of the Transition Deadlines and eligibility to receive incentives will be determined by the timely filing, no later than each Transition Deadline, of a Certification of Completion with the Commission demonstrating in good faith that the eligible space station operator has completed all necessary clearing actions

pursuant to its Transition Plan. We clarify that each eligible space station operator's satisfaction of the certification requirement and their clearing responsibilities will be determined on an individual basis. An eligible space station operator shall not be held responsible for transition delays due to circumstances beyond their control. We direct WTB to establish any necessary procedures or guidance for this certification process, which must include a public comment cycle to allow relevant stakeholders to challenge the validity of the certification. If credible challenges as to an eligible space station operator's satisfaction of the relevant Transition Deadline are made, WTB shall issue a public notice identifying such challenges and will render a final decision as to the validity of the certification no later than 60 days from its filing. Absent notice from WTB of any such deficiencies within 30 days

of filing of the certification, the Certification of Completion will be deemed validated.

135. An eligible space station operator that meets either of the Transition Deadlines and has its corresponding Certification of Completion subsequently validated may request the relevant incentives be disbursed. The Upper C-band Clearinghouse will collect and distribute the incentives after promptly notifying the Upper C-band wireless licensees of the certification validation. The Upper C-band wireless licensees shall pay the incentives to the clearinghouse within 60 days of the validation notification. The clearinghouse will in turn disburse the incentives to the relevant eligible space station operators within seven days of receipt from the Upper C-band wireless licensees. While no wireless operations may commence in the Upper C-band prior to the Primary Transition

Deadline, to the extent that all three eligible space station operators clear the entire 160 megahertz throughout the contiguous United States prior to the Final Transition Deadline and have their Certifications of Completion validated, the Upper C-band wireless licensees may start wireless operations following payment of any required incentive amounts.

6. Upper C-Band Clearinghouse

136. In light of the successful Lower C-band transition as well as the record received in response to the *Upper C-band NPRM*, we will again employ an independent, third-party clearinghouse to oversee the cost-related aspects of the in-band FSS transition. While we largely model the selection process and define the clearinghouse's duties along the lines of those in the *2020 C-band R&O*, we also modify certain aspects of those existing rules with a view towards greater efficiencies while maintaining protections to prevent fraud, waste, and abuse in the reimbursement program. The existence of an independent third party for this purpose, subject to the Commission's rules and oversight, is consistent with our past practice and will once again serve the public interest and ensure fairness and transparency in the handling of the in-band reimbursement obligations associated with the Upper C-band transition. We anticipate the same clearinghouse will also administer the adjacent band radio altimeter retrofit rebates and separately address that topic in section III.D *infra*.

a. Duties of the Clearinghouse

137. In the *Upper C-band NPRM*, we proposed that in keeping with the Lower C-band precedent, an independent, third-party clearinghouse would carry out four categories of essential duties in connection with overseeing the financial aspects of the forthcoming transition: claims processing, cost apportionment, dispute resolution, and reporting obligations. Stakeholders associated with the in-band FSS transition broadly support this structure and delineation of duties, although individual commenters advocate for various refinements designed to promote efficiency with claims processing, fiscal discipline in administrative costs, and greater transparency in terms of reporting and oversight. We concur that an independent, third-party clearinghouse is best suited to oversee the financial aspects of the Upper C-band transition and charge it with largely the same responsibilities as proposed in the *Upper C-band NPRM*, subject to specific modifications described in greater detail

infra, as well as the integration of specific selection committee criteria from the Lower C-band transition as affirmative duties of the Upper C-band Clearinghouse. We also agree that an updated Cost Catalog will provide both the clearinghouse and stakeholders with a list and estimated range of presumptively reasonable transition costs to help guide auction bidding strategy, transition planning, and the transition cost reimbursement program.

138. *Claims Processing.* As in the Lower C-band transition, and given broad stakeholder support in the record, the Upper C-band Clearinghouse will again be directly responsible for the initial receipt, review, and disposition of all reimbursement claims (whether actual cost or lump sum) based on their reasonableness as filed by eligible FSS incumbents. Claimants must justify and document all of their claims and, where relevant, any actual transition-related costs to the clearinghouse, make all relevant documentation available to the clearinghouse upon its request, cooperate with the clearinghouse during the claims submission and review process, and may be subject to audit in the clearinghouse's discretion. In order to provide clarity for all stakeholders, and in keeping with past practice from the Lower C-band transition, we direct the clearinghouse to establish, within six months of the Commission's approval of its selection, a public-facing website with information and resources to assist eligible FSS incumbents with claims submission and processing. These resources should include a claims processing handbook specifying the relevant registration and submission procedures, target timelines for the processing of complete claims, and examples of supporting materials and other information needed from eligible incumbents as part of their reimbursement claims. Claimants shall once again have a reasonable opportunity to supplement any claims that the clearinghouse finds deficient with additional information and documentation, and are directed to respond to requests for additional information from the clearinghouse in a timely manner. In the event that a claimant is not responsive to such requests in a timely manner, the clearinghouse may, consistent with earlier guidance provided during the Lower C-band transition, either process any related claims on the basis of information previously submitted by that claimant or, alternatively, dismiss the claim subject to any appropriate procedures or limits the clearinghouse

may establish in its claims processing handbook on the refiling of claims.

139. While we generally decline at this time to set firm deadlines or service-level requirements related to claimant registration, claims submission, or their subsequent disposition to avoid delays due to timing disputes, we again delegate to WTB broad oversight over the clearinghouse and its transition cost reimbursement program generally, as well as specific authority to establish those and any other deadlines, guidance, or policies that may be in WTB's judgement necessary to ensure the successful and efficient administration of the program. We will require enhanced transparency by the Upper C-band Clearinghouse both in terms of providing target timelines for the processing of complete claims in its claims processing handbook, and on the pendency of claims as part of its quarterly status reports discussed *infra*. However, we caution claimants that our expectation is they will submit all claims expeditiously and actual cost claims as soon as possible after they are incurred, constructively work with the clearinghouse as the initial decision maker on all claims and, along with the new terrestrial wireless licensees ultimately responsible for paying those claims, duly engage in the dispute resolution process established by the clearinghouse. This structured approach aligns with the clearinghouse's role as initial decision maker and the Commission's appellate role in the dispute resolution process; as such, we decline to establish a direct path for claimants to escalate pending claims or interpretative issues to another adjudicatory body. To ensure a timely conclusion to this program, however, we do establish a final and binding claims submission deadline for all FSS transition cost reimbursement claims (whether actual cost or lump sum) no later than six months after the Final Transition Deadline. This final claims submission deadline is intended to serve as an outward boundary for the claims submission process, and is without prejudice to any earlier deadlines that WTB may determine are necessary pursuant to its delegated authority.

140. With respect to various proposals to expedite the clearinghouse's processing of claims, we take a measured approach consistent with earlier guidance provided in the Lower C-band transition, as we do not wish to require specific process measures that may unnecessarily limit the clearinghouse in its duties and its responsibility to prevent fraud, waste,

and abuse. That said, we strongly encourage the Upper C-band Clearinghouse to voluntarily adopt streamlined processing practices where, in its discretion, such practices will appropriately expedite claims processing (or any given category thereof, such as low-value claims) without sacrificing the integrity of the transition cost reimbursement program. For example, these practices may include, as appropriate, batch processing, sampling, auditing, cost-averaging, and certifications. The clearinghouse may also, in coordination with the eligible space station operators and new Upper C-band wireless licensees, explore the viability of advance funding or partial approval of some or all of certain significant capital costs (e.g., new satellite milestone payments and launch-related items) to help minimize financing costs, with the proviso that any such arrangements must appropriately protect the cost reimbursement program from unforeseen contingencies such as a claimant's bankruptcy, balance the financial equities of new Upper C-band wireless licensees who must separately bear their own financing costs as part of the auction, and will require documentation supporting the reasonableness and necessity of the underlying claim, and be subject to a later true up. In order to reduce potential financing costs, the Commission encourages the clearinghouse to explore the feasibility of such arrangements in coordination with eligible space station operators and new Upper C-band wireless licensees, and at a minimum to process payments in an expedited fashion upon receipt of any necessary claims documentation from the relevant eligible space station operator.

141. In terms of substantive guidance that may inform the claims review process beyond the instant *Report and Order*, *Order of Proposed Modification*, and *Order on Reconsideration*, the clearinghouse is instructed to take notice of the Cost Catalog that will be developed and issued by WTB, as detailed *infra*. As with the Lower C-band transition, any claims that fall within the estimated range of costs for a given category shall be presumed reasonable. Also consistent with the Lower C-band transition, the Upper C-band Clearinghouse may consider the Transition Plans submitted by the eligible space station operators, as well as any public comments submitted in response thereto, as part of its review of the reasonableness and necessity of an actual cost reimbursement claim. While

we continue to believe that the eligible space station operators are best positioned to assume responsibility for their own space station transition process and the migration of incumbent earth stations belonging to customers who wish to continue satellite service, were the clearinghouse to defer entirely to eligible space station operators and their Transition Plans, it would undermine the clearinghouse's ability to make determinations about the reasonableness and necessity of actual cost reimbursement claims, and to prevent fraud, waste, and abuse. As such, we reiterate the Commission's earlier statement from the *2020 C-band R&O* that "we decline to make a finding that technology choices that space station operators include in their transition plans automatically will be deemed presumptively reasonable." Finally, we will not pre-emptively recognize previous claims decisions by the Lower C-band Clearinghouse as precedent in this context as such decisions are inherently fact-specific, may not be relevant to the instant transition, and in most cases, neither the underlying claims record nor the final decisional memoranda have been presented before the Commission. Claimants may, however, include any relevant final decisional memoranda from the Lower C-band Clearinghouse along with their claims submissions for the Upper C-band, and we clarify that the Upper C-band Clearinghouse will have discretion to consider those decisions to the extent they are relevant to any claims pending before it.

142. *Cost Apportionment*. In keeping with the Lower C-band precedent, and recognizing general support in the record to use that precedent as a model in the instant context, as proposed the Upper C-band Clearinghouse will again be tasked with apportioning costs among the new terrestrial wireless licensees in the band and distributing payments to claimants including eligible space station operators, incumbent earth station operators, and appropriate surrogates of those parties that incurred compensable costs. Each eligible space station operator will be responsible for payment of its own satellite transition costs and the administrative costs of the clearinghouse until the Commission has awarded licenses to the new Upper C-band wireless licensees, at which time those administrative costs will be repaid to those eligible space station operators.

143. After the forthcoming auction is complete, the clearinghouse shall calculate each new Upper C-band wireless licensee's estimated share of the eventual relocation costs, as well as

an estimate of total costs from before the auction through the first three months after its completion. The Upper C-band wireless licensees shall each pay their share of the initial cost estimate into the clearinghouse reimbursement fund shortly after the auction is complete and replenish the fund on a going-forward basis at three-month intervals until the reimbursement program is complete, and the clearinghouse will draw from that fund to reimburse approved, invoiced claims. The clearinghouse shall calculate the estimated total program costs for every three-month period until the transition is complete, notify the Upper C-band wireless licensees of their amounts owed to replenish the reimbursement fund at least 30 days before every three-month payment deadline, and reimburse approved claims within 30 days of invoice submission.

144. The clearinghouse is directed to include its own costs in its three-month estimates and invoice its actual, reasonable costs to the Upper C-band wireless licensees at appropriate intervals. The clearinghouse may withdraw and reimburse its costs from the reimbursement fund 30 days after each invoice submission, absent a timely objection filed by one of the Upper C-band wireless licensees pursuant to the clearinghouse's dispute resolution plan, discussed *infra*. The clearinghouse shall also include its costs in an annual financial audit of the program and its operations submitted to the Office of the Managing Director (OMD) and WTB.

145. *Dispute Resolution*. While only two formal disputes arose during the Lower C-band transition, and there are limited comments on this topic in the instant record, as proposed in the *Upper C-band NPRM*, we direct the clearinghouse to, as needed, act as a special master and either mediate disputes related to cost estimates or payments, or refer the parties to alternative dispute resolution fora. Parties disputing a cost estimate, invoice, payment, or sharing obligation will again be required to first file an objection with the clearinghouse. The Upper C-band Clearinghouse shall establish a path to refer disputing parties to expedited non-binding arbitration, with costs shared by those parties. As per past practice, these dispute resolution mechanisms and procedures shall be detailed in a written dispute resolution plan that the clearinghouse shall make publicly available at its website.

146. Once disputing parties have exhausted all avenues established in the clearinghouse dispute resolution plan,

they may seek *de novo* review in the first instance by WTB, with the opportunity for further *de novo* review on appeal to the Commission. In order to expedite resolution of the appeals process and ensure an orderly completion of the transition cost reimbursement program, going forward we will not designate such matters for an evidentiary hearing before an Administrative Law Judge. We direct WTB to again establish any necessary procedures governing such *de novo* appeals, which as per prior practice shall be considered restricted proceedings. We also reiterate guidance from the Lower C-band transition that appealing parties bear responsibility for their costs associated with an appeal, none of which will be reimbursable transition expenses.

147. *Reporting Obligations.* While commenters generally support reinstituting a quarterly information and progress reports requirement in order to ensure proper oversight of the clearinghouse program, some stakeholders seek additional detail in those reports, particularly on the number of claims awaiting disposition and the length of their pendency before the clearinghouse. As such, we require the Upper C-band Clearinghouse to file public quarterly status reports with the Commission, including an overview of pending claims awaiting disposition, information related to available funds for reimbursement, payments issued, amounts collected from licensees, incumbents' certifications, funds spent on the transition, and description of any disputes and their resolutions. This reporting obligation will start the first quarter after a clearinghouse selectee is confirmed by WTB to meet the selection criteria. Notwithstanding this enhanced transparency, these reports and any audit documentation, or additional information provided upon request to WTB and OMD, shall protect any commercially sensitive and security-related information.

148. *Cost Catalog.* In light of record support, we once again direct WTB to establish a Cost Catalog to provide guidance to both eligible FSS incumbents and potential auction bidders about a range of reasonable transition costs. The Cost Catalog shall also detail the process and relevant categories for incumbent earth station operators seeking a lump sum payment by choosing to opt out of the formal transition or otherwise transition to an alternative distribution technology. Consistent with this past approach, actual cost reimbursement claims that fall within the applicable range in the new Cost Catalog will be presumed

reasonable. We delegate to WTB broad discretion to formulate an appropriate Cost Catalog for the Upper C-band transition, including the ability to retain or adjust any portions of the Lower C-band Cost Catalog that remain relevant and/or develop any new categories as necessary for the Upper C-band transition. WTB is directed to seek public comment on its proposed Cost Catalog and finalize it no later than six months after release of this *Report and Order, Order of Proposed Modification, and Order on Reconsideration*.

b. Selecting the Clearinghouse

149. Based on the record received in response to the *Upper C-band NPRM*, we adopt our proposal to mirror the clearinghouse selection process used in the Lower C-band transition, with certain modifications detailed herein. As noted *supra*, commenters with equities in the in-band FSS transition broadly support repurposing the Lower C-band Clearinghouse model, with proposed changes to the selection process focused on the composition of the new selection committee and expanding its remit to include an ongoing oversight role. While we agree that the Lower C-band transition serves as a useful predicate and should include organizations with direct experience in that earlier framework on the selection committee, we decline to create an ongoing supervisory role for the committee that might conflict with the Upper C-band Clearinghouse's independence and the Commission's own oversight role over this cost reimbursement program. Instead, we will require the clearinghouse to brief key stakeholders at regular intervals with a view towards greater transparency about its claims processing status and operational costs.

150. The selection committee will include seven members chosen by six organizations reflecting the breadth of stakeholder equities in the Upper C-band transition: SES, Eutelsat, CTIA (2 members), CCA, NAB, and NCTA. By including organizations who can select individual committee members with direct experience with the Lower C-band Clearinghouse, our intent is for the committee as a whole to benefit from their insights. As proposed, the selection committee's membership will be balanced among in-band FSS transition stakeholders including eligible space station operators, current Lower C-band and potential Upper C-band terrestrial wireless licensees, and organizations with incumbent earth station operator members. We also include in the selection committee two aviation organizations—A4A and

Aircraft Owners and Pilots Association (AOPA)—who can each designate an individual member with equities in the separate adjacent band radio altimeter retrofit rebates, which will also be administered by the same clearinghouse. The nine-member total committee shall once again proceed by consensus. However, should a vote be required to select the clearinghouse, it shall be by a majority vote. To facilitate deliberations among the selection committee members and maintain a balance among the stakeholder interests involved, we decline to expand its membership further, but encourage other impacted stakeholders with an interest to engage with the clearinghouse once it is selected as part of its regular briefing of key stakeholders, as discussed *infra*.

151. In order to quickly identify a clearinghouse selectee and determine whether it meets the requisite selection criteria, we will require the selection committee to convene no later than 60 days after publication of this *Report and Order, Order of Proposed Modification, and Order on Reconsideration* in the **Federal Register**. As proposed in the *Upper C-band NPRM*, to further streamline the search process, the selection committee shall employ selection criteria based upon the clearinghouse's revised duties discussed *supra*. The selection committee shall notify the Commission of its detailed selection criteria no later than 30 days after its first meeting, after which WTB is directed to issue a public notice notifying the public of the criteria, outlining the submission requirements, and providing the closing dates for candidate submissions. The selection committee shall inform the Commission of its choice no later than December 15, 2026. Upon the selection of a clearinghouse, WTB is directed to issue a public notice seeking comment on whether that entity satisfies the selection criteria and to issue a final order announcing whether the selection criteria has been satisfied. After release of a final order by WTB confirming the clearinghouse's selection, the selection committee will be dissolved without further action by the Commission.

152. In the absence of feedback from commenters, we will utilize a modified, hybrid version of the various failsafe mechanisms established for the Lower C-band transition in the event the selection committee is unsuccessful in its task. In the event the selection committee fails to select a clearinghouse and notify the Commission by December 15, 2026, the selection committee must drop two members, as determined by a majority vote of the original members,

and the remaining members shall select a clearinghouse by majority vote by January 15, 2027. Should the selection committee subsequently fail to select a clearinghouse by January 15, 2027, the selection committee will be dissolved without further action by the Commission. In that event, OMD is directed to initiate a procurement process, and WTB is directed to take other necessary actions, in order to establish a clearinghouse for the Upper C-band transition.

153. Certain commenters advocate that the selection committee maintain a level of oversight over the clearinghouse's operations throughout the transition, including ongoing contractual or third-party beneficiary rights and the ability to select a new clearinghouse in the event the selected entity fails to satisfy its duties. We decline, as these proposals could conflict with the clearinghouse's independence and impinge on the Commission's own direct oversight role. As discussed *supra*, we delegate broad authority to WTB to oversee the clearinghouse and the transition cost reimbursement program and more generally direct WTB to take such measures as are necessary to ensure the timely and efficient transition of the Upper C-band, including but not limited to addressing any failures by the clearinghouse to fulfill its duties. To promote greater transparency about the clearinghouse's claims processing status and operational costs, we instead require the clearinghouse to brief key stakeholders—including key claimants and Upper C-band licensees underwriting the transition cost reimbursement program—at regular six-month intervals from the date the clearinghouse's satisfaction of the selection criteria is determined by WTB in its final order.

154. At the conclusion of the in-band FSS transition cost reimbursement program and radio altimeter retrofit rebates, WTB is specifically directed to issue a public notice upon receipt of a request from the clearinghouse to wind down and suspend operations. If no material issues are raised within 15 days of release of such public notice, WTB may grant the clearinghouse's request to suspend operations on a specific date. The Upper C-band terrestrial wireless licensees must complete payment of all their cost obligations prior to the date set forth in the public notice.

7. The Logistics of Relocation

155. In keeping with our Lower C-band precedent, we will structure the logistics of clearing FSS operations from 4.0–4.16 GHz around an eligible space

station operator-led process, which will be facilitated by a Relocation Coordinator. As detailed *infra*, and in light of record support, we adopt our proposals from the *Upper C-band NPRM* to require the eligible space station operators to prepare and submit formal Transition Plans by November 5, 2026, which will be subject to public review and input along with opportunities for eligible space station operators to periodically update the plans as necessary. These Transition Plans must address various topics relevant to the instant transition, with implementation progress to be documented through quarterly status reports publicly filed by the eligible space station operators. The Relocation Coordinator, upon its selection by a committee of relevant stakeholders, will utilize its expertise to track and supplement these transition efforts across all eligible space station operators to ensure a timely and coordinated relocation process.

156. *Transition Plans.* We believe that the Commission's previous finding that the eligible space station operators possess the technical and operational expertise required to facilitate the anticipated relocation of FSS services remains valid for purposes of the current transition. Each eligible space station operator shall be responsible for coordinating with its customers and determining all appropriate relocation tasks. Such relocation tasks include those applicable to all incumbent earth stations that currently receive the eligible space station operator's C-band services within the contiguous United States, apart from the incumbent earth station operators that elect the lump sum payment and thus assume responsibility for their own transitions. Each eligible space station operator shall publicly file a formal Transition Plan detailing all relocation steps and estimated costs necessary to clear 4.0–4.16 GHz. Each eligible space station operator must plan, coordinate, and perform (or contract for the performance of) all tasks identified in its Transition Plan to migrate any incumbent earth station that receives or sends signals to a space station owned by that operator, whether the eligible satellite service provider is in direct privity of contract with the incumbent earth station operator or indirectly through another entity. Should multiple eligible space station operators wish to file a joint Transition Plan, they may do so as long as it contains all required elements detailed herein regarding to each eligible space station operator.

157. All eligible space station operators must publicly file initial Transition Plans no later than November

5, 2026, after which interested stakeholders may review the plans and provide input. We direct WTB to establish a dedicated Electronic Comment Filing System (ECFS) docket for such purposes, and to issue a public notice seeking input on the initial Transition Plans shortly after their submission into such docket. As a general matter, each initial Transition Plan must specify which incumbent services are being retained and repacked within the C-band, as well as those services or links being migrated to the Ku-band. To the extent that an eligible space station operator determines that it must migrate any existing Ku-band services or links to the extended Ku-band (or any other service it provides) to accommodate the underlying migration of C-band services, it shall describe those plans with sufficient specificity to demonstrate both: (1) the necessity and reasonableness of such relocations in connection with the Upper C-band transition; and (2) how incumbent services that are moved to the extended Ku-band or other post-transition location will be protected.

158. Specifically, each initial Transition Plan shall also detail all necessary transition steps and estimated costs that the eligible space station operator proposes for the Upper C-band transition, including but not limited to: (1) descriptions of all existing space stations with operations that will need to be repacked; (2) the number of new satellites, if any, the operator will need to launch to maintain sufficient capacity after the transition and a detailed description of why they are necessary; (3) a specific grooming plan for migrating services into the new spectrum, including the pre- and post-transition frequencies that each customer will occupy; (4) any necessary technology upgrades or other solutions that the operator intends to implement; (5) the number and location of incumbent earth station antennas currently receiving the eligible space station operator's transmissions that would need to be transitioned; (6) an estimate of the number of incumbent earth station antennas that will require returning, repointing, or other modifications to receive content on new transponder frequencies after the transition; and (7) the specific timeline for implementing the actions described in (2) through (6). Estimated cost information shall be specified with appropriate itemization to allow reasonable review by potential auction bidders, the clearinghouse, and the Commission.

159. Following the public review and input period, the eligible space station

operators will have an opportunity to amend their Transition Plans in response to stakeholder input and in order to remove any incumbent earth station antennas registered to operators that have subsequently opted to elect a lump sum payment and will therefore not take part in the formal transition process. We clarify that once an incumbent earth station operator elects to take a lump sum payment as described *supra*, it has irrevocably decided to not take part in the formal transition process and the relevant eligible space station operator(s) shall no longer be responsible for transitioning said operator's facilities. That said, to the extent that a lump sum electee seeks to perform its own satellite-based transition work and is not discontinuing satellite service, it will be responsible from the point of election going forward for coordinating with the eligible space station operator(s) from which it receives service and complying with the Transition Deadlines set forth *supra*. WTB is further delegated authority to issue a public notice opening and establishing procedures for this amendment window, which shall close prior to the start of auction bidding, as well as any other amendment windows that may be appropriate throughout the transition process. We caution the eligible space station operators that, after this initial amendment window, their Transition Plans will be considered final as to any critical elements. Any subsequent amendments must be targeted in nature, such as to update the list of associated incumbent earth station antennas based upon new information received during the performance of transition related work. Further, we require that any such amendments are clearly summarized and explained.

160. While we believe that affording transparency for all stakeholders through these Transition Plans is important and will serve the public interest, particularly for potential auction bidders who will ultimately be responsible for related transition cost reimbursements, we do not agree with proposals for the Commission to formally approve these Transition Plans. As in the Lower C-band transition, we decline to find that technology choices made by the eligible space station operators and included in the Transition Plans are deemed presumptively reasonable. We do not wish to prejudice the public review and input process, nor do we seek to unnecessarily constrain the clearinghouse in its independent review of the reasonableness and

necessity of specific transition costs. As described *supra*, the Upper C-band Clearinghouse may nonetheless consider the Transition Plans submitted by the eligible space station operators, as well as any public comments submitted in response thereto, as part of its review of the reasonableness and necessity of an actual cost reimbursement claim.

161. *Status Reports.* In order to provide visibility into the progress of the eligible space station operators in implementing their Transition Plans, we will once again require them to file public quarterly status reports starting at the end of the first quarter of 2027. These reports shall be filed in the same dedicated docket created by WTB for the Transition Plans; we delegate to WTB the authority to establish any other necessary procedures to facilitate the submission of these reports. We also clarify that while the goal of these quarterly status reports is to provide transparency into the eligible space station operators' implementation progress, they are not a surrogate for any formal Transition Plan updates, which must occur during one of the amendment windows established by WTB.

162. *Relocation Coordinator.* Based on record support, and our public interest finding in the Lower C-band context, we opt once again to utilize a Relocation Coordinator to coordinate among the eligible space station operators and to help ensure that the formal FSS transition process is completed in a timely manner. Given that incumbent earth station operators electing the lump sum payment will be responsible for their own transition work and must independently comply with our Transition Deadlines—whether they opt to retain satellite service in some form, move to terrestrial delivery options, or discontinue service altogether—we find that it is unnecessary for the Relocation Coordinator to be a neutral third-party or to track the progress of lump sum electees once they have filed their election notice with the Commission. Instead, we believe that a Relocation Coordinator with similar qualifications and responsibilities to those established in the Lower C-band context will appropriately coordinate the transition activities of, and resolve any disputes among, the eligible space station operators and incumbent earth station operators, and serve as a liaison with the Commission and clearinghouse. That said, we emphasize that the Commission retains its oversight functions over the Relocation Coordinator and transition process overall, and thus direct: (1) WTB to

perform any functions needed to establish the selection process and ensure the eventual Relocation Coordinator meets its responsibilities to ensure a timely transition described *infra*; and (2) SB to update and maintain the accuracy of the Incumbent Earth Station List based on any findings that the Relocation Coordinator makes during the course of its work.

163. We recognize that in light of the different relocation activities involved in the Upper C-band transition, the duties and expertise required of the Relocation Coordinator may vary somewhat from those in the Lower C-band transition. As such, the Upper C-band Relocation Coordinator must be able to demonstrate that it has the requisite expertise to perform the duties required in this context, which broadly include: (1) coordinating the schedule for clearing the band; (2) performing engineering analysis, as necessary, to determine necessary earth station migration actions; (3) assigning obligations, as necessary, for earth station migrations; (4) coordinating with the Upper C-band licensees throughout the transition process; (5) assessing and tracking the completion of the transition in each PEA and determining the Upper C-band wireless licensees' ability to commence operations; and (6) mediating scheduling disputes. These duties selection criteria shall be used by a selection committee in evaluating potential Relocation Coordinator candidates.

164. Each eligible space station operator is eligible to identify one representative to take part in the selection committee, which will convene no later than October 1, 2026. The selection committee will work by consensus to the extent possible, or by majority vote to the extent consensus cannot be reached, to identify a selectee that meets these criteria. If a selectee is identified, then WTB shall issue a public notice seeking comment on whether such entity satisfies the selection criteria. Following the comment period, WTB shall issue a final order determining whether the selection criteria have been satisfied. If the selectee meets the criteria, each eligible space station operator will be responsible for paying the Relocation Coordinator's costs based on its *pro rata* share of the total amount of incentives detailed *supra*. In the event the selection criteria are not met, the selection committee will restart its evaluation process and identify a new proposed entity that will be subject to the same public comment and review process by WTB. Should the selection committee fail to identify a Relocation

Coordinator that meets the selection criteria by January 1, 2027, OMD is delegated authority to initiate a procurement process and WTB shall take all other necessary actions to meet the Transition Deadlines. In such case, the new Upper C-band licensees will be responsible for the Relocation Coordinator's reasonable costs, which shall be submitted to the clearinghouse for allocation on a *pro rata* basis in the same manner as the clearinghouse's own costs, as described *supra*.

165. Once selected, the Relocation Coordinator shall fulfill its duties through a broad range of responsibilities modeled on those involved in the Lower C-band transition. For example, the Relocation Coordinator may review the Transition Plans submitted by the eligible space station operators and recommend any changes that may be necessary to ensure a timely transition. To this end, it may also establish a timeline and take actions necessary to help migrate incumbent earth stations (other than those electing the lump sum payment) to ensure uninterrupted service during and following the transition. To the extent that an incumbent earth station is not accounted for in a Transition Plan, the Relocation Coordinator may assign responsibility for its transition to an eligible space station operator or ensure that migration steps and timelines are outlined in an individualized Earth Station Transition Plan as needed. We specify that all eligible space station operators and incumbent earth station operators must cooperate in good faith with the Relocation Coordinator, and vice versa, throughout the transition. The Relocation Coordinator will also be responsible for receiving notice from incumbent earth station operators or other satellite customers of any disputes related to the comparability of facilities, workmanship, or preservation of service during the transition and shall notify WTB of the dispute and provide recommendations for resolution.

166. To provide transparency about its transition efforts, the Relocation Coordinator shall file its own public quarterly status reports on the overall status of clearing efforts in light of information provided by the eligible space station operators, as well as based on its independent observations through the course of its work. This reporting obligation will start the first quarter after a Relocation Coordinator selectee is confirmed by WTB to meet the selection criteria. We clarify that the submission deadline for the Relocation Coordinator's reports shall be two weeks after the eligible space station operators submit their individual reports for each

quarter. The Relocation Coordinator shall also participate in regular status meetings to update WTB, SB, and other relevant Commission staff on its progress, and provide additional financial or other information requested by staff to satisfy the Commission's oversight responsibilities and/or reporting obligations, whether agency-specific or government-wide. Upon conclusion of the FSS transition, or at the earlier request of Commission staff, the Relocation Coordinator shall provide public written notice of its plans to discontinue its work on a date certain.

D. Coexistence With Adjacent Band Radio Altimeters

167. In the *Upper C-band NPRM*, the Commission recognized the importance of robust participation from interested stakeholders, as well as continued dialogue and close coordination with NTIA and FAA, among other federal partners, to promote a successful spectral co-existence environment supporting the rapid deployment of terrestrial wireless services in the Upper C-band. The Commission also noted the OBBB Act's direction to repurpose and auction Upper C-band spectrum, and its focus on improving safety in the national airspace. In furtherance of these goals, FAA subsequently issued its own proposed rule seeking to improve the performance of adjacent band radio altimeters in parallel with the instant Commission proceeding. The resulting discourse has reflected significant progress in achieving agreement on key issues, while some differences in perspective and approach remain. The record also contains certain gaps with respect to future equipment designs that remain subject to finalization and regulatory approvals, which impacts the precise analysis of certain elements of the anticipated operational environment. As a result, we recognize that certain decisions that we and our FAA colleagues must make at this juncture are necessarily premised on the best information available today and grounded in analysis and assumptions aligned with each agency's purview and statutory remit. We appreciate this inter-agency collaboration and believe it will enable stable spectral co-existence and a rapid deployment of terrestrial wireless services in the Upper C-band in furtherance of the OBBB Act's near-term requirements. At the same time, we anticipate that new technical data may become available in the future that could enable us to refine certain assumptions and analyses going forward. We thus welcome an open dialogue with both industry and federal

stakeholders as technology evolves in furtherance of the successful spectrum co-existence environment that we reinforce with today's action.

168. *Technical Issues.* Since the Lower C-band transition, government and industry stakeholders have engaged in significant technical work to ensure successful coexistence between wireless operations in the C-band and adjacent band radio altimeters. In conjunction with these efforts, the Commission sought comment in the *Upper C-band NPRM* on the current state of radio altimeter performance, the timing of future radio altimeter upgrades, and the expected level of the upgraded altimeters' performance. At the same time, the *FAA NPRM* sought to adopt an Interference Tolerance Mask (ITM) requirement for radio altimeters to enhance their signal rejection capabilities. The FAA has proposed that all aircraft with radio altimeters operating in the contiguous United States under part 121 (U.S.-registered air carriers), part 129 (foreign-registered air carriers), and part 91 (including aircraft operating under parts 125, 133, 135, 136, 137, and 194) must be retrofit to comply with this new capability by one of two different deadlines.

169. The technical rules that we adopt today are intended to align with FAA's independent safety-based decisions and promote a harmonious spectral environment between terrestrial wireless operations throughout the entire C-band and adjacent band radio altimeters. As discussed *supra*, the key technical provisions include: (1) modified OOB limits into the 4.2–4.4 GHz band; (2) a 450-foot antenna height limit; and (3) base station power limits. These rules will take effect as of our Primary Transition Deadline, which corresponds with FAA's first radio altimeter retrofit deadline on December 30, 2030. After this date, new terrestrial wireless operations may commence in the Upper C-band in the PEAs subject to the Primary Transition Date.

170. *Retrofit Timing.* The Commission solicited stakeholder input in the *Upper C-band NPRM* on the timing of the radio altimeter retrofit process, which is also the subject of the *FAA NPRM*. In specific, the Commission noted the OBBB Act's deadline to complete a system of competitive bidding for at least 100 megahertz of the Upper C-band by July 4, 2027, and the corresponding need to assure bidders as to when they will be able to use the spectrum they purchase at auction. The *FAA NPRM* estimated that the first group of radio altimeter upgrades (involving part 121 and larger part 129 aircraft) could be completed at some point between 2029

and 2032. The *FAA NPRM* proposed that part 129 aircraft with 30 or more passenger seats or a payload capacity of more than 7,500 pounds would be subject to this first FAA retrofit deadline, with any remaining part 129 aircraft subject to the second retrofit deadline. More recently, aviation interests jointly provided an updated timeline for those specific fleets. The updated timeline projects that in-service retrofits for the vast majority of these aircraft—which are performed as part of routine, overnight maintenance—could be complete in the last quarter of 2029 while a smaller number of regional aircraft that necessitate a new design transceiver could be done by the third quarter of 2030. Based on these revised projections, FAA's first retrofit deadline will be December 30, 2030. All other aircraft subject to the FAA's retrofit requirement would fall under its second deadline, October 31, 2034.

171. *Radio Altimeter Retrofit Rebates.* In addition to seeking more granular technical and operational information about future radio altimeter improvements in the *Upper C-band NPRM*, we also inquired about how compliance with the FAA's requirements could be facilitated. We specifically note that our *Emerging Technologies* framework has never been used to address adjacent band equities. The aviation sector strongly advocates for support for the retrofits, and offers various legal justifications and proposals for structuring such support, largely predicated on our *Emerging Technologies* precedent and the in-band relocation reimbursement program for FSS incumbents that was used in the Lower C-band transition. Wireless interests assert that the *Emerging Technologies* framework is unsuitable and impractical to apply to radio altimeter upgrades.

172. We believe that the radio altimeter retrofits mandated by FAA in its companion rulemaking will facilitate both a stable coexistence environment and the launch of Upper C-band wireless deployments on a predictable timeline. These efforts, which have been expedited in light of the OBBB Act's statutory deadline for an Upper C-band auction, will entail a substantial time and economic commitment by the aviation industry to further improve the signal rejection capability of radio altimeters by rapidly retrofitting a broad range of aircraft that fly in the contiguous United States, closely following on an earlier, more targeted retrofit process in 2023. In light of these factors, and the need to closely coordinate implementation efforts between the FAA and FCC and their

respective regulatees in order to carry out a successful and timely repurposing of the adjacent Upper C-band for terrestrial wireless use, we find that it is in the public interest given the unique circumstances present in this context to provide rebates to adjacent band stakeholders to support their efforts to comply with the FAA's radio altimeter retrofit deadlines.

173. We recognize that these rebates do not strictly fall within the *Emerging Technologies* framework, which centers on relocations of in-band incumbents whose licenses are being modified. Radio altimeters are in the adjacent band, are not being relocated, and their Commission authorizations are, contrary to the suggestion of some commenters, not being modified. We nonetheless believe that the same statutory authority underpinning the *Emerging Technologies* framework can be adapted here to suit the current circumstances.

174. We therefore rely on our broad Title III spectrum management and licensing authority to condition the grant of new terrestrial wireless licenses in the Upper C-band on providing rebates to defined classes of eligible aircraft owners and operators to facilitate their compliance with the FAA's radio altimeter retrofit requirements. We have frequently relied on this authority, including section 303 of the Act, to impose conditions on new wireless licensees and do so again here to ensure that our repurposing and subsequent auction of Upper C-band spectrum pursuant to the OBBB Act occurs on a certain and predictable timeframe in light of the unique adjacent band equities involving radio altimeters and the FAA's companion retrofit requirement. The record in the instant proceeding evidences general support for rebates to the aviation sector to support the FAA retrofit requirements.

175. In shaping an appropriate structure for these rebates, we consider the scope and scale of the FAA's retrofit requirement. The *FAA Final Rule* forecasts 43,562 aircraft with 62,810 radio altimeters across all categories that would be subject to its two proposed retrofit deadlines. The first retrofit deadline, after which terrestrial wireless operations in the Upper C-band could start from an FAA perspective, will in part cover all aircraft operating in the contiguous United States under part 121, or 8,662 aircraft with 18,423 radio altimeters. The scale and scope of overall rebates in this context would thus be significant and present meaningful administrative burdens and operational costs for any entity charged with its oversight. We are also mindful

that these rebates are being designed for adjacent band stakeholders that do not hold spectrum licenses for a service with an allocation in the band being repurposed. As such, they are in a distinct posture compared with in-band incumbents whose licenses are being modified and whose operations are being relocated. For this reason, and given the large scope of potential claims, we do not believe that an actual cost framework, for which some commenters advocate, is either appropriate or practicable in this instance. We instead opt for a rebate structure that will establish set amounts for different categories of aircraft based on the number of radio altimeters involved in each upgrade, the general level of efforts involved in each type of retrofit, and other reasonable and necessary factors involved in accomplishing each category of retrofit, including timing considerations such as the relevant deadline for compliance. In recognition of the multiple variables to consider in establishing rebates, we defer to the forthcoming public comment process in formulating the rebate categories and amounts. Aside from these rebates, we will not impose any additional conditions on winning auction bidders with respect to radio altimeter retrofits (such as actual cost reimbursement). Our intent in structuring the retrofit rebates in this way is to streamline the overall process to make support available more quickly for the retrofits, with targeted documentation requirements to prevent fraud, waste, or abuse. We anticipate this structure will minimize both the operational costs of the Upper C-band Clearinghouse in administering the rebates and the number of disputes that must be referred to, and adjudicated by, the Commission on appeal. While our expectation is that the Upper C-band Clearinghouse will process all rebate claims expeditiously upon receipt of complete claims and supporting documentation from eligible claimants, in recognition of the different FAA retrofit deadlines, the clearinghouse shall, as part of its rebate claims processing guidelines, prioritize the disposition of claims related to the first FAA retrofit deadline through June 30, 2031.

176. We thus delegate broad authority to WTB to determine the appropriate rebate categories, dollar amounts, documentation requirements, and any other relevant procedures that may be necessary for the Upper C-band Clearinghouse to administer the rebates in an equitable and expeditious manner. As in the case of reimbursement and

lump sum claims related to the in-band FSS transition, we also establish for the radio altimeter retrofit rebates final and binding claims submission deadlines for all rebate claims of no later than six months after the relevant FAA retrofit deadline established in either 14 CFR 91.220 or 14 CFR 121.326, meaning April 30, 2035, and June 30, 2031, respectively. WTB is directed to seek public comment on its draft proposals no later than October 6, 2026, and issue a public notice finalizing them as soon as feasible thereafter. In conjunction with this process, we specify that the eligible entities and aircraft for rebates related to the first FAA retrofit deadline will be aircraft operators that hold a U.S. air carrier or operating certificate under 14 CFR part 119 and aircraft with one or more radio altimeters installed and an original certificate of airworthiness or original export certificate of airworthiness issued before April 1, 2030, which operate in the contiguous United States pursuant to 14 CFR part 121 and that are subject to the first FAA retrofit deadline. The eligible entities and aircraft for rebates related to the second FAA retrofit deadline will be aircraft owners as determined by FAA's Aircraft Registry, and aircraft with one or more radio altimeters installed and an original certificate of airworthiness or original export certificate of airworthiness before July 1, 2031, which operate in the contiguous United States pursuant to 14 CFR part 91 (including aircraft operating under parts 125, 133, 135, 136, 137, and 194) and that are subject to the second FAA retrofit deadline. We also specify that the rebates apply only to the retrofit of radio altimeters already installed in eligible aircraft once the retrofit work is complete, and not to any spare inventory that aircraft operators or owners may opt to maintain as an elective practice, which is not required by FAA. We further find that it would not be in the public interest to offer rebates to foreign-registered aircraft operators and owners given the fluid and itinerant nature of their operations in the airspace of the contiguous United States. Relative to federal stakeholders, we noted in the *Upper C-band NPRM* that with respect to the in-band FSS transition, the Antideficiency Act and the Miscellaneous Receipts Act may limit federal entities from receiving reimbursements from third party, non-governmental entities. We anticipate similar limitations in the instant context, and have structured the radio altimeter retrofit rebate eligibility requirements described *supra* with these constraints in mind. We also

decline to extend eligibility for rebates to other entities in the aviation sector, including radio altimeter manufacturers, many of which will already benefit from the rebates indirectly through operation of the relevant supply chain. As a practical matter and from a timing perspective, we conclude that this is not feasible. Until an auction of Upper C-band licenses occurs, and winning bidders apply for and receive their Commission licenses subject to the conditions adopted herein, there will be no responsible entities who would be legally obligated to provide rebates in connection with the Upper C-band transition. That said, the establishment of these rebates is intended to facilitate compliance with the FAA's retrofit requirements through the entities that must undertake compliance efforts, namely the eligible aircraft owners and operators identified *supra*.

177. Based upon information supplied in response to both the *Upper C-band NPRM* and the *FAA NPRM*, we estimate the total rebate costs will be between \$3.83–\$5.71 billion, with approximately \$2.21 billion attributable to aircraft subject to the first FAA retrofit deadline, and a maximum of \$3.5 billion for those aircraft subject to the second FAA retrofit deadline. In recognition of the significantly larger universe of potential claimants subject to the second FAA retrofit deadline, we adopt a cap on the total amount of rebates available for this group in anticipation that the final amount will in practice be less. We note this cap is based on estimates set forth in the *FAA Final Rule*. Given the more finite universe of potential claimants subject to the first FAA retrofit deadline, we opt not to adopt a cap applicable to the total amount of rebates available for this group. As in the case of the in-band FSS transition cost reimbursement program, here we find it is reasonable to base the retrofit rebates share for each Upper C-band licensee on that licensee's *pro rata* share of gross winning bids. For each eligible aircraft operator's or owner's rebate amount, the *pro rata* share for each Upper C-band licensee will be the sum of the final clock phase prices (P) for the set of all license blocks (I) that a bidder wins divided by the total final clock phase prices for all N license blocks sold in the auction. To determine an Upper C-band licensee's reimbursement obligation (RO), that *pro rata* share would then be multiplied by the total eligible relocation costs (RC). Mathematically, this is represented as:

$$RO = \left(\frac{\sum_{i \in I} P_i}{\sum_{j=1}^N P_j} \right) \times RC$$

E. Next Steps

178. We intend that bidding in the Upper C-band auction will close by July 2027, pursuant to the OBBB Act's requirements. Before the auction begins, a number of actions will be taken on delegated authority by WTB, SB, and the Office of Economics and Analytics (OEA), modeled after our pre-auction processes in Lower C-band. Although these steps are noted throughout the instant item, we broadly summarize them here in the interest of transparency and accessibility for the benefit of interested parties. This summary is provided for the convenience of interested parties and is not intended to modify any of long-form discussions and decisions by the Commission detailed throughout the instant item. Relevant deadlines associated with these steps will be announced as the information becomes available and, in light of the tight timeline pre-auction, extensions will not be considered. Given our mandate to complete the auction expeditiously, interested parties are expected to stay apprised of relevant deadlines and developments prior to auction.

179. In terms of implementation, WTB will undertake several initiatives to provide prospective bidders a greater measure of certainty on the scope of any financial obligations, both in terms of FSS transition costs and radio altimeter retrofit rebates. These workstreams will also inform the Upper C-band Clearinghouse's work, and provide interested stakeholders with guidance on compensable FSS transition costs and rebate categories and amounts. As an initial matter, the clearinghouse selection committee must convene no later than 60 days after publication of the instant *Report and Order*, *Order of Proposed Modification*, and *Order on Reconsideration* in the **Federal Register** and notify the Commission of its detailed selection criteria no later than 30 days after its first meeting. Following public notice from WTB on this criteria, outlining the submission requirements, and providing the closing dates for candidate submissions, the selection committee shall inform the Commission of its choice no later than December 15, 2026. After seeking comment on whether the clearinghouse selectee satisfies the selection criteria, WTB will issue a final order announcing whether the selection criteria has been satisfied. While the Upper C-band Clearinghouse selection process is ongoing, a similar process will be undertaken for the Relocation Coordinator.

180. Meanwhile, as the clearinghouse and Relocation Coordinator selection

processes run, WTB will develop and issue the Cost Catalog, which will be finalized pre-auction. As in the Lower C-band transition, WTB will first solicit input on a preliminary Cost Catalog and Lump Sum public notice and finalize it no later than six months after release of the instant *Report and Order*, *Order of Proposed Modification*, and *Order on Reconsideration*. Once Lump Sum categories, amounts, and procedures are finalized, SB will open a 60-day election window via public notice for incumbent earth station operators who wish to opt out of the formal transition process. After review of those elections, SB will identify the relevant universe of electing operators and relevant sites in a final public notice. SB will also update the existing incumbent earth station list as necessary. Separately, WTB will open a docket to facilitate the filing of eligible space station operator Transition Plans on November 5, 2026, which will be subject to public input and a subsequent amendment window. In parallel with these FSS-transition related items, WTB will seek comment on radio altimeter retrofit rebate categories and amounts, documentation requirements, and any relevant procedures. WTB will release a public notice with its draft proposals no later than October 6, 2026, and issue a second public notice finalizing them as soon as feasible thereafter.

181. To prepare for the auction itself, OEA, in conjunction with WTB, will release a public notice on delegated authority seeking comment on proposed auction procedures, including auction format, minimum opening bids, and upfront payments. Final auction procedures will be adopted in a subsequent public notice, which will also announce dates for the short-form application window. The start-date of bidding in the Upper C-band auction will be announced in the public notice accompanying final auction procedures. As with the Lower C-band, we anticipate that OEA will issue various educational and informational materials prior to the action to assist prospective bidders in submitting applications and using the Commission's bidding system.

III. Order on Reconsideration

182. In connection with our harmonization of various rules across the entire C-band to create a unified 3.7 GHz Service to the greatest extent practicable, and the anticipated expiration of the Lower C-band voluntary commitments in December 2030, we seek to bring closure to all other outstanding matters from our earlier Lower C-band transition. Six petitions were filed after adoption of the *2020 C-band R&O* seeking

reconsideration, and in some cases clarification, of the Commission's determinations therein. On April 10, 2026, WTB released the *Record Refresh PN* to update the record on these petitions, especially with regard to technical proposals in the *Upper C-band NPRM* that correspond with similar ones raised in the petitions in the Lower C-band context on how to promote coexistence with radio altimeters in the 4.2–4.4 GHz band. In specific, the AIA Petition asks that the Commission take “appropriate mitigation measures . . . including limitations on technical parameters,” with regard to terrestrial wireless operations in the Lower C-band in recognition of radio altimeter operations in the 4.2–4.4 GHz band.

183. Certain of these petitions have already been addressed *supra* as part of our resolution of the *Upper C-band NPRM*. For example, we grant in part the AIA Petition through our adoption of harmonized OOB limits applicable to terrestrial wireless operations across the entire C-band that are tailored to ensure coexistence with radio altimeter operations in the 4.2–4.4 GHz band. We deny the requests in the Intelsat Petition and the ITSO Petition related to the protection timeframe of TT&C operations and the protection of international gateway operations throughout the C-band at the consolidated TT&C sites established after the *2020 C-band R&O*. For the reasons explained *supra*, TT&C operations will be protected—and international gateway operations may continue unprotected—at the consolidated sites until 2030.

184. Other petitions have either been rendered moot over time, or were previously addressed by the Commission in the *2020 C-band R&O*. For example, given the Lower C-band transition is complete, we dismiss as moot the requests in the Eutelsat Petition, Raytheon Petition, Intelsat Petition, and ITSO Petition that seek reconsideration or clarification of Commission determinations related to that transition, or of other deadlines that have since passed. The Charter Petition asks the Commission to reconsider requiring Lower C-band licensees to provide TDD synchronization with operations in the Citizens Broadband Radio Service in the 3.55–3.7 GHz band (3.5 GHz band). In the *2020 C-band R&O*, the Commission fully considered the coexistence implications for Lower C-band wireless operations and those at the upper end of the 3.5 GHz band and declined to impose coordination requirements of the sort that Charter requests. Instead, the Commission “encourage[d] parties to explore

synchronization of TDD operations to minimize interference between these adjacent services.” Because the Commission fully considered and rejected the arguments that Charter presents in its Petition, and in the absence of intervening developments necessitating TDD synchronization between Lower C-band and 3.5 GHz band operations, we deny the Charter Petition.

IV. Procedural Matters

185. *Paperwork Reduction Act of 1995 Analysis: This Report and Order, Order of Proposed Modification, and Order on Reconsideration* may contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. All such requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies will be invited to comment on any new or modified information collection requirements contained in this proceeding. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

186. *Regulatory Flexibility Act Analysis: The Regulatory Flexibility Act of 1980, as amended (RFA)* requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule and policy changes contained in this *Report and Order, Order of Proposed Modification, and Order on Reconsideration* on small entities.

187. *Congressional Review Act: The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order, Order of Proposed Modification, and Order on Reconsideration to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).*

V. Final Regulatory Flexibility Analysis

188. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Upper C-band (3.98 to 4.2 GHz) Notice of Proposed Rulemaking (NPRM)*, released in November 2025. The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. While no comments were filed in response to the *NPRM* specifically addressing the IRFA, comments were filed regarding potential impacts of the proposed rules on small entities. The comments received are addressed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Rules

189. With today's *Report and Order*, *Order of Proposed Modification*, and *Order on Reconsideration (Report and Order)*, the Commission adopts rules to expand next-generation wireless services in the 3.7–4.2 GHz band (C-band). As a means of furthering its objective of optimizing use of the C-band's versatile coverage, capacity, and propagation characteristics, the Commission in 2020 repurposed the 3.7–3.98 GHz portion of the band (Lower C-band) for flexible use in the contiguous United States. As a result of that effort, newly deployed operations brought wireless services to countless communities, including rural, remote, and underserved areas. Building on the Lower C-band transition, the *Report and Order* takes another step by putting vital mid-band spectrum to more intensive, flexible use that will support robust connectivity, spur economic growth, and advance American security interests, in furtherance of the One Big Beautiful Bill Act (OBBA Act).

190. The *Report and Order* adopts rules that will enable terrestrial wireless operations in the 3.98–4.14 GHz portion of the C-band (Upper C-band) in the contiguous United States and will generally apply the part 27 licensing and operating rules that presently govern wireless operations in the Lower C-band to new, full-power commercial operations in the Upper C-band. In July 2025, as part of the OBBA Act, Congress reinstituted the Commission's general authority to grant licenses through systems of competitive bidding through September 2034 and established a path forward for the eventual repurposing of 800 megahertz to be licensed through competitive bidding, including at least 500 megahertz for full-power

commercial licensed use cases. The OBBA Act also specifically directed the Commission to “grant licenses through systems of competitive bidding, before the expiration of the general auction authority[,] . . . for not less than 300 megahertz, including by completing a system of competitive bidding not later than 2 years after the date of enactment of this Act for not less than 100 megahertz in the band between 3.98 gigahertz and 4.2 gigahertz.”

191. Pursuant to this statutory directive, the *Report and Order* adopts rules that reconfigure 160 megahertz of the Upper C-band for terrestrial wireless uses and transitions in-band incumbent Fixed Satellite Service (FSS) operations in the contiguous United States. The *Report and Order* also takes into account ongoing technical advancements with adjacent band radio altimeters that will further enhance their signal rejection capabilities and bolster the existing successful spectral co-existence environment. We will generally apply the existing Lower C-band Service rules to any newly authorized terrestrial wireless operations, although we make certain modifications that are applicable across the entire C-band to reinforce a successful co-existence environment with adjacent band radio altimeters. As discussed in further detail below, any other rules and requirements, including those relating to the transition process, are modeled to the extent possible on those that applied to the Lower C-band transition, with some modifications to account for the unique characteristics of the Upper C-band.

192. Thus, the *Report and Order* will enable more intensive flexible use of key mid-band spectrum for small and other entities by retaining many elements of the successful Lower C-band transition, and, where appropriate, leveraging the lessons learned from that process by adopting an improved process for transitioning the Upper C-band.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

193. Comments regarding the impact of the *Report and Order* on small entities were filed by the Competitive Carriers Association (CCA) and WISPA—The Association for Broadband Without Boundaries (WISPA). CCA contends that the existing bidding credit thresholds and caps are outdated due to subsequent inflation and changed market conditions. WISPA similarly asks the Commission to increase the caps on bidding credits in order to account for inflation.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

194. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy, and also provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities To Which the Rules Will Apply

195. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

196. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and are not dominant in their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less

than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

197. The rules adopted in the *Report and Order* will apply to small entities in

the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in the

identified industry, we conclude that the adopted rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the identified industries below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	Small firms (%)
Wireless Telecommunications Carriers (except Satellite)	517112	1,500 employees ...	1,184	1,081	91.30
Satellite Telecommunications	517410	\$44 million	332	195	58.73

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)	SBA size standard (1500 employees)		
	Total # FCC Form 499A filers	Small firms	Small entities (%)
Affected entity			
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13
Wireless Telephony	326	247	75.77

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

198. The RFA directs agencies to describe the economic impact of adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

199. The rules adopted in the *Report and Order* may require small entities to hire attorneys, engineers, consultants, or other professionals to comply. Although the Commission cannot quantify the cost of compliance, we note that several of the adopted rules are consistent with and mirror existing policies and requirements used for other part 27 flexible-use licenses. Therefore, small entities with existing licenses in other bands may already be familiar with such policies and requirements and may already have the processes and procedures in place to facilitate compliance, resulting in minimal incremental costs to comply with our requirements for the Upper C-band. Below is an overview of areas discussed in the *Report and Order* that may lead to modified or additional compliance requirements for small entities.

200. *Reconfiguration and Allocation of the Upper C-band.* The *Report and Order* reconfigures 160 megahertz of the Upper C-band for terrestrial wireless uses in 3.98–4.14 GHz in the contiguous

United States. Correspondingly, the *Report and Order* reserves 40 megahertz of the Upper C-band for repacked FSS operations in 4.16–4.20 GHz, with a 20-megahertz guard band in 4.14–4.16 GHz. The *Report and Order* finds that making an additional 160 megahertz of Upper C-band spectrum available for terrestrial wireless use in the contiguous United States will satisfy our Congressional mandate, uphold the public interest, and meet the Commission’s policy goals for the efficient use of spectrum.

201. Additionally, the *Report and Order* adds a primary, non-Federal mobile, except aeronautical mobile, allocation to the reconfigured 4.0–4.16 GHz band in the contiguous United States. This approach harmonizes the allocations in the Upper C-band with those in 3.7–4.0 GHz and thus makes a wider band of contiguous mid-band spectrum available for next-generation wireless services. The *Report and Order* also retains exclusive non-Federal allocations for FSS and Fixed Service (FS) in the portion of the Upper C-band that is not repurposed for terrestrial commercial wireless use in the contiguous United States, recognizing that FS operations have been sunset in those areas, and preserves the status quo regarding FSS and FS allocations and operations outside of the contiguous United States. Our reconfiguration approach is also sensitive to the importance of coexistence between advanced wireless services in the Upper C-band and nearby radio altimeters operating in the 4.2–4.4 GHz band by providing meaningful spectral

separation between those operations. We therefore find that maintaining 60 megahertz of separation between new terrestrial wireless operations and the radio altimeter band will promote the efficient and predictable use of spectrum by supporting coexistence after the radio altimeter retrofit process is complete.

202. *Competitive Bidding Procedures.* The *Report and Order* will make 160 megahertz of spectrum available by conducting an auction of licenses in the Upper C-band in conformity with the general competitive bidding rules set forth in part 1, subpart Q, of the Commission’s rules. As we have in all recent previous Commission spectrum auctions, we will employ the part 1 rules governing competitive bidding design, designated entity preferences, unjust enrichment, application and certification procedures, payment procedures, reporting requirements, and the prohibition on certain communications between auction applicants. Should the Commission subsequently modify its part 1 general competitive bidding rules, those modifications would apply here, as well.

203. The *Report and Order* applies the two small business definitions with higher average gross revenue thresholds for bidding credit eligibility, as we have consistently done in all auctions of licenses likely to be used to provide 5G services in a variety of bands since the part 1 schedule of bidding credits was updated in 2015. We believe that this two-tiered approach, which has been

successful in the past, will provide small businesses with a simple, consistent, and predictable avenue for facilitating access to capital, thereby increasing participation and competition in an Upper C-band auction. Furthermore, this approach is consistent with our decision to align the Upper and Lower C-bands and consolidate them within a single, cohesive 3.7 GHz Service. Two commenters urge the Commission to adjust the gross revenue thresholds to account for inflation since their adoption in 2015. The *Report and Order* noted that those commenters do not provide a data-driven justification for why auctions of licenses for Upper C-band spectrum should be treated differently from other auctions for licenses likely to be used to provide 5G services. Based on the Commission's prior experience with bidding credits in spectrum auctions and the lack of sufficient justification in the record for using any proposed alternative approach, the *Report and Order* declined to adopt small business size standards for Upper C-band spectrum that differ from those used in auctions for other 5G-ready services. Further, the *Report and Order* will offer rural service providers a designated entity bidding credit for Upper C-band licenses. While we remain committed to exploring opportunities which promote connectivity in historically unserved or underserved areas including Tribal lands, we ultimately do not believe that a Tribal licensing window is viable in this context given how the Upper C-band differs from the 2.5 GHz band in several key respects, including the statutory deadline and licensing requirements in the OBBB Act, as well as the use here of the *Emerging Technologies* framework to facilitate the transition of incumbent FSS operations.

204. *The Transition of FSS Operations.* While the *Report and Order* adopts many of the Lower C-band transition framework elements for the Upper C-band transition of incumbent FSS operations, we also refine and tailor our approach based on input from stakeholders that were involved in the Lower C-band transition, as well as the specific Upper C-band transition proposals advanced in the instant record. First, the *Report and Order* finds that "incumbent space station operators" whose authorizations would be impacted will generally include all space station operators authorized to provide C-band service to any part of the contiguous United States pursuant to a Commission-issued license or grant of market access as of June 21, 2018.

The *Report and Order* also defines an "eligible space station operator" as an incumbent space station operator that, as of February 1, 2020, has demonstrated that it has an existing relationship to provide service via C-band satellite transmission to one or more incumbent earth stations in the contiguous United States. Today, the remaining entities that qualify under this definition and continue to provide service to one or more incumbent earth stations within the contiguous United States are: Eutelsat, SES, and Telesat. In addition, the *Report and Order* defines "incumbent earth stations" for the Upper C-band transition to include fixed and temporary fixed earth stations that were operational as of April 19, 2018, and that: (1) continue to be operational; (2) were licensed or registered in the IBFS (now ICFS) database on November 7, 2018; and (3) timely certified the accuracy of the information on file with the Commission by May 28, 2019.

205. A freeze on the filing of new or modified earth station applications throughout the entire C-band was issued on April 19, 2018—the qualifying date for incumbency—and the freeze remains in place. The vast majority of earth station operators successfully registered with the Commission and satisfied our requirements to qualify as eligible incumbents for purposes of the Lower C-band transition. Some earth station operators, whose C-band earth stations are unregistered or were otherwise previously found ineligible as incumbents for Lower C-band purposes, seek a lift of the freeze or other relief to qualify those facilities as incumbents for the Upper C-band transition. We find that the public interest benefits of continuity and administrative efficiency that result from restarting where the Lower C-band transition left off in terms of the relevant scope of incumbent earth stations outweighs any potential change in course at this point in time. We therefore find that reopening the list of eligible earth stations would be inconsistent with our statutory requirement to complete an Upper C-band auction less than a year from today and the myriad procedural steps that will be needed to give potential bidders in the forthcoming auction short-term clarity about the costs they will incur as a condition of their licenses pursuant to our *Emerging Technologies* precedent. In a similar vein, we also recognize that the three eligible space station operators involved in the Upper C-band transition need to quickly ascertain the scale and scope of any required work in order to finalize their Transition Plans. This

certainty can be most rapidly achieved by repurposing the Lower C-band definitional standard and incumbent earth station list for Upper C-band purposes, as any reopening of incumbent earth station eligibility would take time to adjudicate, and thus inject uncertainty into the auction and transition planning process. We will also maintain the earth station application freeze throughout the Upper C-band transition in order to maintain a stable spectrum environment.

206. The *Report and Order* also exercises our authority under section 316 of the Communications Act, as amended (Act) to modify, as needed, the existing licenses, market access authorizations, and registrations currently held by FSS C-band incumbents to clear 4.0–4.16 GHz. Specifically, we modify the authorizations of all C-band incumbent space station operators to limit FSS operations to 4.16–4.2 GHz in the contiguous United States. We find that modifying the authorizations of all C-band incumbent space station operators to clear 4.0–4.16 GHz and confining any FSS operations to 4.16–4.2 GHz within the contiguous United States is within the Commission's statutory authority, consistent with prior Commission practice, and will promote the public interest, convenience, and necessity. The *Report and Order's* decision aligns with the clearing approach that the Commission took in carrying out the Lower C-band transition.

207. Regarding the transition schedule, the *Report and Order* sets specific transition deadlines to ensure that all incumbent FSS operations are cleared in a timely manner to facilitate the introduction of terrestrial wireless services in the Upper C-band, and to provide potential auction bidders with some certainty as to when they will be able to obtain access to Upper C-band spectrum. Specifically, the *Report and Order* finds that a Primary Transition Deadline of December 30, 2030, for the relocation of all incumbent FSS operations in the top 75 PEAs in the contiguous United States—PEAs 1–41 and 43–76—that will align with the FAA's first radio altimeter retrofit deadline, is appropriate here. The *Report and Order* also deems appropriate a Final Transition Deadline of June 30, 2031, for all remaining PEAs in the contiguous United States—PEAs 77–211, 213–63, 265–97, 299–359, and 361–411.

208. As with the Lower C-band transition, the *Report and Order* requires new terrestrial wireless licensees in the Upper C-band to reimburse the reasonable transition

costs incurred by eligible FSS space station and incumbent earth station operators and to allocate the responsibility for those costs among the new terrestrial wireless licensees on a pro rata basis. As with the Lower C-band transition, we will once again employ our broad spectrum management and licensing authority under section 303 of the Act to condition the grant of new terrestrial wireless licenses in the Upper C-band on the payment of all reasonable and necessary transition costs incurred by eligible space station and incumbent earth station operators to clear existing FSS C-band services from 4.0–4.16 GHz in the contiguous United States. We again offer incumbent earth station operators the choice of either accepting reimbursement for their actual reasonable transition costs or accepting a lump sum reimbursement for all of their incumbent earth stations based on the average, estimated cost of transitioning those facilities. This lump sum mechanism will provide incumbent space station operators the option to either: (1) perform their own transition work to maintain FSS service; (2) migrate to an alternative distribution technology; or (3) discontinue service altogether. Any incumbent earth station operators electing the lump sum will be responsible for their own transition work for the relevant sites from that point forward, and must comply with the relevant Transition Deadline for the PEA where they are located.

209. Consistent with the Lower C-band approach, the *Report and Order* requires all actual transition costs needed to clear existing Upper C-band operations in the contiguous United States to be both reasonable and necessary in order to qualify for reimbursement, and we will not permit reimbursement for equipment upgrades beyond what is necessary to clear the band. Incumbents may not “gold-plate” their systems and will not receive more reimbursement than is necessary and reasonable. The *Report and Order* also states that incumbents will not be reimbursed for the speculative value of any business opportunities they claim they would lose as a result of the transition. Similarly, claims for “lost revenues” are not compensable, as we find that the eligible space station operators will be able to continue providing substantially the same service to that which they provide today throughout and after the transition. The *Report and Order* also finds that any “soft costs” (e.g., transactional expenses directly attributable to relocation) would again be subject to a rebuttable

presumption for a cap of 2% of the hard costs involved in the transition, consistent with past Commission practice. We do not believe a firm cap on soft costs affords sufficient flexibility as part of the claims review and true up process. We therefore believe it is appropriate for the clearinghouse that will administer the financial aspects of the transition to consider whether financing acquisition is part of the ordinary course of business in assessing soft costs that exceed the 2% rebuttable presumption cap, consistent with the approach in the Lower C-band transition.

210. To allocate the transition-related financial responsibilities of new Upper C-band wireless licensees, the *Report and Order* again generally bases the share for each Upper C-band wireless licensee on that licensee’s pro rata share of gross winning bids in the underlying auction, with specific allocation formulas governing each type of payment obligation. The *Report and Order* also adopts a modified incentive structure that is based on our Lower C-band precedent to facilitate expeditious clearing of the Upper C-band, but tailored to suit the specific parameters of the Upper C-band transition. The modified incentive structure is based on the estimated value of earlier access to the cleared Upper C-band spectrum for winning bidders in the forthcoming auction, and takes into account space station operators’ voluntary statements with respect to their ability to meet the Transition Deadlines. In the event that eligible space station operators do not meet the Primary Transition Deadline, we establish an incremental reduction plan based on that used in the Lower C-band transition to enable the receipt of reduced incentive payments associated with that deadline based upon a sliding scale. To the extent that an eligible space station operator fails to meet the Final Transition Deadline, they will not receive any incentive payment associated with that deadline and may be subject to penalties. Each eligible space station operator’s satisfaction of the Transition Deadlines and eligibility to receive incentives will be determined by the timely filing with the Commission, no later than each Transition Deadline, of a Certification of Completion demonstrating in good faith that the eligible space station operator has completed all necessary clearing actions pursuant to its Transition Plan. These certification procedures are modeled on those used in the Lower C-band transition.

211. In order to carry out a successful and timely repurposing of the Upper C-band for terrestrial wireless use, the

Report and Order finds that it is in the public interest, given the unique circumstances present here, to provide rebates to adjacent band stakeholders to support their efforts to comply with the FAA’s radio altimeter retrofit deadlines. Specifically, we rely on our broad Title III spectrum management and licensing authority to condition the grant of new terrestrial wireless licenses in the Upper C-band on providing rebates to defined classes of eligible aircraft owners and operators to facilitate their compliance with the FAA’s radio altimeter retrofit requirements. The *Report and Order* delegates broad authority to the Wireless Telecommunications Bureau (WTB) to determine the appropriate rebate categories, dollar amounts, documentation requirements, and any other relevant procedures that may be necessary to administer the rebates.

212. In light of the successful Lower C-band transition, as well as the record received in response to the *Upper C-band NPRM*, the Commission will once again employ an independent, third-party clearinghouse to oversee the cost-related aspects of the in-band FSS transition, using a similar selection process and imposing the same broad responsibilities as in the Lower C-band transition. While we largely model the selection process and define the clearinghouse’s duties along the lines of those in the Lower C-band transition, we also modify certain aspects of those existing rules with a view towards greater efficiencies while maintaining protections to prevent fraud, waste, and abuse in the reimbursement program. The *Report and Order* establishes a search committee that will use selection criteria based upon the clearinghouse’s duties, rather than asking the committee to establish those criteria itself. For the Upper C-band transition, we also adopt a process broadly similar to that used to select the clearinghouse for the Lower C-band transition, with some modifications. Additionally, we will again use an updated Cost Catalog to establish ranges of presumptively reasonable transition costs. We again delegate to the WTB broad oversight over the clearinghouse and its transition cost reimbursement program generally, as well as specific authority to establish those and any other deadlines, guidance, or policies that may be, in WTB’s judgment, necessary to ensure the successful and efficient administration of the program. We will also require enhanced transparency by the Upper C-band Clearinghouse both in terms of providing target timelines for the processing of complete claims in its claims processing handbook, and on the

pendency of claims as part of its quarterly status reports

213. In order to relocate incumbent FSS operations out of the reconfigured portion of the Upper C-band, the *Report and Order* adopts requirements similar to those that governed the transition of FSS operations out of the Lower C-band. These requirements include that eligible space station operators must prepare and submit their own Transition Plans by a set deadline and also submit quarterly status reports on their efforts. While we believe that affording transparency for all stakeholders through these Transition Plans is important and will serve the public interest, particularly for potential auction bidders who will ultimately be responsible for related transition cost reimbursements, we do not agree with proposals for the Commission to formally approve these Transition Plans. As in the Lower C-band transition, we decline to find that technology choices made by the eligible space station operators and included in the Transition Plans are deemed presumptively reasonable. We do not wish to prejudge the public review and input process, nor do we seek to unnecessarily constrain the clearinghouse in its independent review of the reasonableness and necessity of specific transition costs. We will again establish a Relocation Coordinator to oversee the FSS transition and utilize its expertise to track and supplement these transition efforts across all eligible space station operators to ensure a timely and coordinated relocation process.

214. The *Report and Order's* treatment of the FSS transition may impact a second class of small Satellite Telecommunications entities (NAICS 517410) in addition to eligible space station operators and incumbent earth station operators meeting the definitions set forth above. The second class comprises earth station operators with facilities that receive C-band downlink frequencies in the contiguous United States but do not meet the definition of "incumbent earth station." These include operators whose earth stations were not operational as of April 19, 2018, were not licensed or registered in the IBFS (now ICFS) database as of November 7, 2018, or did not timely certify the accuracy of their on-file information by May 28, 2019. Some of these operators may hold a related license for uplink transmissions in another band. These operators are not eligible for reimbursement. However, they must relocate those C-band downlinks by the applicable Transition Deadline once eligible space station operators are no longer authorized to

transmit on those frequencies. Although the eligible space station operators performed the relevant transition work and directly incurred many of the applicable relocation costs on behalf of unregistered earth stations during the earlier Lower C-band transition, the Commission acknowledges that some earth station operators in this second class may incur costs to relocate their downlinks as part of the Upper C-band transition, which may represent a net economic impact on the small entities among them.

215. The Commission observes that all C-band earth station operators had prior opportunities to establish their eligibility for incumbent status and the associated reimbursement program during the Lower C-band incumbent earth station registration and certification process that concluded in 2019. They were also on notice from the Commission's 2018 freeze on new and modified C-band earth station applications and subsequent actions that continued use of C-band downlink frequencies were not protected against repurposing for flexible terrestrial wireless use. The earth station application freeze, which the Commission has maintained throughout the Lower C-band transition and Upper C-band proceeding, further placed operators on notice that new or expanded earth stations using C-band downlinks did not have and would not receive incumbent status.

216. The Commission finds that the number of these operators that qualify as small entities cannot be reliably estimated, as most of these entities operate without a registration. That number is likely some fraction of the 195 small Satellite Telecommunications firms identified in Table 1 above.

217. The per-station cost of relocating these downlinks cannot be determined and is likely to be highly variable based on the individual operator and the number and type of C-band earth stations in use. However, the Commission notes several factors that mitigate any potential impact. Any relocation obligation is not immediate, as eligible space station operators have until the applicable Transition Deadline, December 30, 2030 for PEAs 1–41 and 43–76, and June 30, 2031 for the remaining PEAs, to complete their transition work. Small non-incumbent earth station operators are thus afforded a multi-year period to plan, budget for, and effectuate any necessary changes and to seek ways to mitigate the costs of the broader FSS transition. The reconfiguration also preserves 40 megahertz of C-band downlink spectrum at 4.16–4.20 GHz, into which

some affected operations may be repacked, and the availability of a coordinated transition managed by the eligible space station operators may reduce per-earth station costs through standardization and economies of scale.

218. *Band Plan.* As with the Lower C-band, the *Report and Order* will license the Upper C-band in 20-megahertz blocks using an unpaired spectrum block configuration, and on an exclusive, Partial Economic Area (PEA) basis. We will license the Upper C-band only within the contiguous United States and the District of Columbia, consistent with our approach in the Lower C-band.

219. *Licensing and Operating Rules.* The *Report and Order* adopts licensing and operating rules that largely align new licenses in the Upper C-band with existing licenses in the Lower C-band, which are already governed by part 27 of the Commission's rules. We find that this approach will harmonize terrestrial wireless operations across the entire C-band to create a single 3.7 GHz Service and help facilitate rapid deployment of advanced wireless services nationwide. Specifically, we extend to the Upper C-band rules that are applicable to all part 27 services, including those relating to the assignment of licenses by competitive bidding, flexible use, regulatory status, foreign ownership reporting, compliance with construction notification requirements, renewal criteria, permanent discontinuance of operations, partitioning and disaggregation, and spectrum leasing. We likewise generally extend service-specific rules that already apply to terrestrial wireless operations in the Lower C-band, including eligibility, license term, and other licensing and operating rules, to the Upper C-band. With respect to performance requirements, we adopt a more forward-leaning approach consistent with the accelerated timelines for all stakeholders involved in the Upper C-band transition. We adopt a 15-year license term for Upper C-band and find that a 15-year license term will, given the clearing and relocation that must occur before terrestrial wireless operations can commence, promote investment in the Upper C-band.

220. In addition, the *Report and Order* adopts an open eligibility standard for Upper C-band licenses. We find—as in the Lower C-band and other services—that open eligibility appropriately relies on market forces and will help to ensure efficient use of this spectrum. The open eligibility standard that we adopt does not affect citizenship, character, or other generally applicable qualifications that may apply, under our rules, to licenses

for flexible use of the Upper C-band. Further, any person who has been, for reasons of national security, barred by any agency of the federal government from bidding on a contract, participating in an auction, or receiving a grant is ineligible to hold a license in the Upper C-band.

221. Regarding mobile spectrum holding policies, the *Report and Order* finds that it is in the public interest to apply a post-auction, case-by-case review of mobile spectrum holdings we make available through auction in the Upper C-band when applications for initial licenses are filed with the Commission. We will incorporate into the spectrum screen the 160 megahertz of spectrum that we make available in the Upper C-band and will perform post-auction, case-by-case review of the long-form license applications filed as a result of the auction. We find that it is not in the public interest to impose a pre-auction bright-line limit on acquisitions of spectrum in the Upper C-band.

222. *Performance Requirements.* The *Report and Order* concludes that Upper C-band licensees must provide reliable signal coverage and offer service to at least: (1) 45% of the population in each license area no later than two years after the relevant Transition Deadline; and (2) 80% of the population in each license area no later than six years after the relevant Transition Deadline. These population-based coverage metrics match the Lower C-band's requirements for mobile and point-to-multipoint services. While the performance deadlines we adopt differ from those adopted for the Lower C-band and proposed in the *Upper C-band NPRM*, the Lower C-band performance deadlines ran from license grant and were designed to anticipate a lengthy transition to clear incumbent FSS operations before terrestrial wireless operations could commence. We observe that in practice the rapid speed of Lower C-band deployments reflects that a different, more forward-leaning approach is merited here. For the Upper C-band, the relevant performance timeframe will start at the relevant Transition Deadline, which is when Upper C-band licensees are able to access the reconfigured and cleared spectrum in a given PEA. In light of the transition timeline prior to those dates, there is no need for a lengthy lead time prior to the interim deadline. Given the expected desirability of Upper C-band spectrum, we nonetheless anticipate that new Upper C-band licensees will begin deploying facilities and constructing their networks in advance during the transition process, as was the

case during the Lower C-band transition, so that they can commence operations as soon as possible after the relevant Transition Deadline.

223. We expect robust and meaningful utilization of the Upper C-band that is commensurate with significant efforts by the U.S. government, aviation industry, and FSS stakeholders to repurpose the spectrum, and consistent with the Commission's ongoing efforts to ensure that spectrum is deployed promptly for the benefit of American consumers. In the Lower C-band context, carrier deployments have largely focused on the provision of 5G and other advanced mobile broadband services to consumers and enterprises. For these reasons, for the Upper C-band, the *Report and Order* declines to adopt alternative performance requirements for Internet of Things or fixed point-to-point operations, nor will we consider private internal operations in demonstrating buildout compliance. Under our flexible-use policies, licensees may still conduct these types of operations in the Upper C-band, but they will not be options for meeting a licensee's performance requirements, as they were in the 2020 C-band R&O. We find that the performance requirements we adopt herein will provide certainty for licensees, ensure investment, and encourage timely deployment of services that best serve the public interest, in furtherance of the United States' wireless policy goals.

224. Regarding penalties for failure to meet performance requirements, we adopt a rule requiring that, in the event a licensee fails to meet the first performance benchmark (i.e., providing reliable signal coverage and offering service to at least 45% of the population in the license area no later than two years after the relevant Transition Deadline), its second performance benchmark will be accelerated by one year. In the event a licensee fails to meet the second performance benchmark (i.e., providing reliable signal coverage and offering service to at least 80% of the population in the license area no later than six years after the relevant Transition Deadline) in any license area, its authorization for that particular license area will terminate automatically without Commission action. Although the penalty for missing the first performance benchmark differs from what the Commission adopted in the 2020 C-band R&O and proposed in the *Upper C-band NPRM*, we reiterate that the performance requirement deadlines are tied to the relevant Transition Deadline. We therefore expect that Upper C-band licensees will work and plan in advance to commence

their operations as soon as possible after the transition, and the penalties we adopt reflect that expectation.

225. *Compliance Procedures.* In addition to the compliance procedures applicable to all part 27 licensees, including the filing of electronic coverage maps and supporting documentation, the *Report and Order* requires that the electronic coverage maps must accurately depict: (1) the boundaries of each license area and the coverage boundaries of the actual areas to which the licensee provides service; and (2) if a licensee does not provide reliable signal coverage to its entire license area, the boundaries of the area(s) within each license area not being served. Supporting documentation must include the assumptions used to create the coverage maps, including the propagation model and signal strength necessary to provide reliable coverage and offer service with the licensee's technology. We find that these compliance procedures will encourage timely, robust deployment of Upper C-band spectrum, consistent with our goals in this proceeding.

226. *License Renewal and Renewal Term Construction Obligations.* We will apply the general renewal requirements applicable to all Wireless Radio Services (WRS) licensees to licensees in the Upper C-band. In applying our general part 27 renewal requirements, each Upper C-band licensee will be required to comply with § 1.949 of our rules by demonstrating that, over the course of its license term, it provided and continues to provide service to the public. Licensees can demonstrate compliance either through the renewal showing in § 1.949(f) or the relevant safe harbor in § 1.949(e)(2). We find that applying these part 27 requirements to the Upper C-band will promote consistency across the Upper and Lower C-band as well as other WRS and help promote the continued deployment of next-generation wireless technologies.

227. *Technical Rules.* The *Report and Order* finds that the technical rules we adopt will encourage maximum potential use of the Upper C-band for next-generation wireless technologies, encourage efficient use of spectrum resources, and promote investment in the Upper C-band while protecting any residual incumbent users in the band and promoting coexistence with operations in adjacent bands. We adopt technical rules that are generally aligned with the rules applicable to the Lower C-band with a view towards creation of a single 3.7 GHz Service, although we make certain modifications that are applicable across the entire C-band to reinforce a successful co-existence

environment with adjacent band radio altimeters. We believe that this approach will produce significant economies of scale, improve affordability for consumers, encourage rapid operational expansion, and facilitate deployment of high-powered terrestrial wireless networks in the band. As described in greater detail below, we deviated from this approach only with regard to antenna height limits due to specific technical and operational considerations unique to the Upper C-band.

228. The *Report and Order* permits fixed and base stations in non-rural areas to operate at power levels up to 1640 watts per megahertz EIRP and base stations in rural areas to operate at power limits up to 3280 watts per megahertz EIRP. The *Report and Order* will therefore apply § 27.50(j)(1)–(2) and (4)–(5) of the Commission's rules to both fixed and base stations operating in the Upper C-band. The *Report and Order* also adopts a 2 Watt EIRP power limit for mobile and portable devices. To create consistency between the Lower and Upper C-bands, we apply this limit to the Lower C-band so that the same power limits apply throughout the 3.7–4.14 GHz band.

229. For base station out-of-band emissions (OOBE), the *Report and Order* requires fixed and base stations to suppress their emissions beyond the edge of their authorization to wireless licensees in both the Lower and Upper C-band to comply with an OOBE limit into the 4.2–4.4 GHz band of either an EIRP level of -28.4 dBm/MHz or a conducted power level of -46 dBm/MHz. As with our technical rules generally, this “either or” framework for OOBE compliance reflects close coordination with complementary decisions adopted by FAA, and aligns with assumptions made in the FAA's safety analysis for adjacent band radio altimeter operations. The relevant OOBE limit into other spectrum bands will remain at a conducted power level of -13 dBm/MHz. For mobile and portable units, the *Report and Order* requires that operators suppress their conducted emissions to no more than -13 dBm/MHz outside their authorized frequency band, *i.e.*, at the authorized channel edge as measured at the antenna terminals. This requirement is consistent with the mobile OOBE limit that governs the Lower C-band, as is the requirement to adopt a relaxation of the emission limit within the first five megahertz of the channel edge by varying the resolution bandwidth used when measuring the emission. For emissions within 1 megahertz from the channel edge, the minimum resolution

bandwidth would be either one percent of the emission bandwidth of the fundamental emission of the transmitter or 350 kilohertz. In the bands between one and five megahertz removed from the licensee's authorized frequency block, the minimum resolution bandwidth would be 500 kilohertz. Finally, the *Report and Order* adopts our proposal to otherwise model our approach to OOBE issues based on that used in the Lower C-band transition, subject to the adopted OOBE emissions limits, and to extend § 27.53(i) to the Upper C-band, which provides that the Commission may, in its discretion, require greater attenuation than specified in the rules if an emission outside of the authorized bandwidth causes harmful interference. We find that this approach will further harmonize wireless operations across the entire C-band.

230. Based on the record received, the *Report and Order* adopts an antenna height limit for 3.98–4.14 GHz wireless operations of no greater than 450 feet above ground level. To foster coexistence between radio altimeters operating at 4.2–4.4 GHz and terrestrial wireless operations in the Upper C-band, aviation and wireless industry stakeholders report reaching cross-industry consensus on this antenna height limit for wireless operations. As with the Lower C-band, the *Report and Order* also adopts a -76 dBm/m²/MHz power flux density (PFD) limit at a height of 1.5 meters above ground at the border of the licensees' service area boundaries.

231. In addition, the *Report and Order* will apply § 27.57(c) of the Commission's rules to terrestrial licensees in the Upper C-band; this rule requires all part 27 operations to comply with international agreements for operations near the Mexican and Canadian borders. Consistent with our Lower C-band approach, the *Report and Order* also adopts several additional technical rules that apply to all part 27 services, including § 27.51 (Equipment authorization), and part 1, subpart BB, of the Commission's rules (Disturbance of AM Broadcast Station Antenna Patterns) for new terrestrial commercial wireless operations in the Upper C-band.

232. As the Commission has done for other part 27 services since 2014, we also require that new client devices be capable of operating across the entire C-band. Specifically, we extend § 27.75 to include 3.98–4.14 GHz, which requires mobile and portable stations operating in certain AWS–3 bands, the 600 MHz band, the Lower C-band, and 3.45 GHz band to be capable of operating across

each relevant band using the same air interfaces that the equipment uses on any frequency in the relevant band. This requirement does not require licensees to use any particular industry standard. This requirement will be prospective in nature, and Lower C-band mobile and portable stations that have received equipment authorization prior to December 31, 2030, but that cannot be upgraded to operate in the 3.98–4.14 GHz band will be permitted to remain in service for the remainder of their useful life without a requirement to operate in the 3.98–4.14 GHz band. Thus, starting December 31, 2030, all new mobile and portable stations (other than pre-December 31, 2030, devices that cannot be upgraded) must be interoperable across the entire band.

233. To safeguard incumbent FSS earth stations that remain in 4.16–4.2 GHz post-transition, the *Report and Order* adopts a PFD limit of -124 dBW/m²/MHz in 4.16–4.2 GHz, as measured at the incumbent earth station antenna; this PFD limit is consistent with the Lower C-band and would apply to all emissions within the earth station's authorized band of operation from fixed stations, base stations, and mobile and portable stations. To protect incumbent earth stations from receiver blocking, we will require a PFD limit of -16 dBW/m²/MHz to emissions within 3.98–4.14 GHz, as measured at the registered incumbent earth station antenna. Finally, the *Report and Order* states that once the instant transition is complete, all remaining incumbent earth stations will operate above 4.16 GHz, and we will allow full band/full arc use of their authorized band of operation.

234. Based on the record, we see no reason to modify the Commission's earlier decisions with respect to unprotected gateway and other fixed earth stations at the consolidated Telemetry, Tracking, and Command (TT&C) sites, particularly given their remote locations, or to extend the TT&C protection timeline. We accordingly find once again that coordination and negotiation between the relevant FSS operators and wireless licensees best serves the public interest for potential operations beyond the 2030 timeframe. We also decline to adopt new protections for teleport or gateway sites in locations apart from the consolidated TT&C locations, which would disrupt existing and future wireless deployments and run counter to the Commission's earlier decision to consolidate TT&C sites and limit protections to those necessary to facilitate the Lower C-band transition. In order to protect TT&C operations against co-channel interference, the *Report and*

Order requires new terrestrial licensees to ensure that the aggregated power from their operations meet an interference-to-noise ratio (I/N) of -6 dB as received by the TT&C earth station, and that they coordinate their co-channel operations within 70 km of TT&C earth stations that continue to operate in the Upper C-band. The *Report and Order* also extends protections against adjacent channel interference, including: (1) aggregated power from adjacent 3.7 GHz Service operations must meet a -6 dB I/N ratio, and the limit applies to all emissions removed from the TT&C's center frequency by more than 150% of the TT&C's necessary emission bandwidth; (2) we do not require prior coordination between adjacent operations, but new terrestrial wireless licensees and TT&C earth station operators are expected to cooperate in good faith and make reasonable efforts to anticipate and resolve technical problems that may inhibit effective and efficient use of the spectrum; and (3) TT&C operators are expected to make available pertinent technical information about their systems upon request by the new terrestrial wireless licensees, and licensees of stations suffering or causing harmful interference are expected to cooperate and resolve the problem by mutually satisfactory arrangements. In addition, we require a PFD limit of -16 dBW/m²/MHz, as measured at the TT&C earth station antenna, to protect against potential receiver overload. This blocking limit applies to all emissions within the new terrestrial wireless licensee's authorized band of operation. All TT&C earth stations will be protected based on the assumption that robust filters have been installed at the facilities, like other incumbent FSS earth stations. TT&C filter quality must provide a minimum of 60 dB of rejection, and the frequency at which the filter must meet this 60 dB of rejection will vary with the bandwidth. TT&C filters must meet 60 dB of rejection for all frequencies removed from the center frequency by more than 150% of the TT&C's emission bandwidth, both above and below the channel, and the filter must provide 70 dB of rejection for all frequencies removed from the TT&C's center frequency by more than 250% of the TT&C's emission bandwidth, both above and below the channel.

F. Discussion of Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

235. The RFA requires an agency to provide "a description of the steps the

agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."

236. In the *Report and Order*, the Commission broadly reconfigures the Upper C-band for more intensive, next-generation wireless use by generally deploying the procedures used in—and the lessons learned from—the successful, similar transition of the Lower C-band. Throughout that proceeding, the Commission contemplated how its adopted rules would uniquely affect small entities and calibrated its determinations accordingly. The approach taken towards considering the effect of our rules on small entities in that proceeding largely informs our process in this one. For example, we considered the potential economic hardship or compliance burdens on small entities with respect to the information collection, such as whether they would require certain accommodations or additional time to comply. We also considered whether small entities face any special or unique concerns regarding this issue, such as disparate economic hardship in relation to their larger counterparts. Similarly, in adopting its proposals, the Commission considered the effect of making modifications to our rules regarding administrative processes that would reduce the economic impacts of adopted rules on small entities. In addition, the Commission also considered the approach that would be most cost-effective and minimize the economic impact on small entities while also fulfilling the Commission's statutory mandate.

237. Specifically, the *Report and Order* adopts 15-year license terms for new licenses in the Upper C-band. Such terms provide small entities with the benefit of long-term operational certainty as well as a longer period to develop and deploy innovative wireless services. The *Report and Order* also anticipates potential issues that small entities might encounter in meeting the performance requirements for new Upper C-band licensees. To that end, similar to its approach to information collection, the *Report and Order* considered whether our coverage and service benchmarks might necessitate that we grant small entities certain accommodations or additional time to comply. Similarly, the *Report and Order*

considered offering small entities additional time to fulfill compliance procedures. Finally, the competitive bidding procedures implement familiar designated entity preferences in an auction of Upper C-band licenses. The *Report and Order* adopts bidding credits for small and very small businesses, as well as a rural service provider credit. This approach will potentially benefit small entities by providing such entities with meaningful opportunities to participate in spectrum auctions and promote competition in the provisioning of various wireless services.

238. The Commission finds an overriding public interest in encouraging investment in wireless networks, facilitating access to scarce spectrum resources, and promoting the rapid development of mobile services to Americans. All licensees, including small entities, play a crucial role in achieving these goals. Therefore, the *Report and Order* considered alternative obligations, timing for implementation, and other measures that would accommodate the needs and resources of small entities. The Commission carefully considered the effects of its proposals on small entities before adopting final rules in this proceeding.

G. Report to Congress

239. The Commission will send a copy of the *Report and Order*, including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order*, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for the SBA Office of Advocacy and will publish a copy of the *Report and Order*, and this Final Regulatory Flexibility Analysis (or summaries thereof) in the **Federal Register**.

VI. Ordering Clauses

240. *It is ordered*, pursuant to sections 1, 2, 4(i), 301, 302(a), 303, 304, 307, 309, 316, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 301, 302a(a), 303, 304, 307, 309, 316 and 403, and by section 40002 of the OBBB Act, that this *Report and Order*, *Order of Proposed Modification*, and *Order on Reconsideration* Is hereby adopted.

241. *It is further ordered* that the rules and requirements as adopted herein are adopted, effective sixty (60) days after publication in the **Federal Register**, and that the *Order of Proposed Modification* is effective as of the date of publication in the **Federal Register**; provided, however, that §§ 25.138(a)–(b);

25.147(a)–(c); 27.14(x)(3); 27.1412(b)–(c); 27.1412(e); 27.1412(g); 27.1413(a)(3); 27.1413(c)(1); 27.1413(c)(9); 27.1413(e)–(f); 27.1414(e); 27.1415; 27.1416; 27.1417; 27.1419; 27.1421; 27.1422(c); 27.1424 of the Commission's rules, which contain new or modified information collection requirements that require review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, will not become effective until the effective date for those information collections is announced in a document published in the **Federal Register** after the Commission receives OMB approval. The Commission directs the Bureau to issue such document and to cause §§ 25.138(a) and (b); 25.147(a) through (c); 27.14(x)(3); 27.1412(b) and (c); 27.1412(e); 27.1412(g); 27.1413(a)(3); 27.1413(c)(1); 27.1413(c)(9); 27.1413(e)–(f); 27.1414(e); 27.1415; 27.1416; 27.1417; 27.1419; 27.1421; 27.1422(c); 27.1424 to be revised accordingly.

242. *It is further ordered* that, pursuant to sections 309 and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 309 and 316, in the *Order of Proposed Modification* the Commission proposes that the licenses and authorizations of all 4.0–4.2 GHz FSS licensees and market access holders and all transmit-receive earth station licenses will be modified pursuant to the conditions specified in this *Report and Order, Order of Proposed Modification, and Order on Reconsideration* at paragraphs 97–110, these modification conditions will be effective 60 days after publication of this *Report and Order, Order of Proposed Modification, and Order on Reconsideration* in the **Federal Register**, provided, however, that in the event any FSS licensee, transmit-receive licensee, or any other licensee or permittee who believes that its license or permit would be modified by this proposed action, seeks to protest this proposed modification and its accompanying timetable, the proposed license modifications specified in this *Report and Order, Order of Proposed Modification, and Order on Reconsideration* and contested by the licensee or permittee shall not be made final as to such licensee or permittee unless and until the Commission orders otherwise. Pursuant to section 316(a)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 316(a)(1), publication of this *Report and Order, Order of Proposed Modification, and Order on Reconsideration* shall constitute notification in writing of our *Order of Proposed Modification* proposing the modification of the 4.0–4.2 GHz FCC licenses and transmit-

receive earth station licenses, and of the grounds and reasons therefore, and those licensees and any other party seeking to file a protest pursuant to section 316 shall have 30 days from the date of such publication to protest such *Order of Proposed Modification*.

243. *It is further ordered*, pursuant to sections 309 and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 309 and 316, that following the final modification of each FSS license and transmit-receive earth station license, the Space Bureau shall further modify such licenses as are necessary in order to implement the specific band reconfiguration in the manner specified in this *Report and Order, Order of Proposed Modification, and Order on Reconsideration*.

244. *It is further ordered* that the Petition for Partial Reconsideration filed by the Aerospace Industries Association et al. with respect to the *2020 C-band R&O* in GN Docket No. 18–122 is *Granted* as indicated herein, and the Petitions for Reconsideration filed by Eutelsat S.A., Intelsat License LLC, the International Telecommunications Satellite Organization, Charter Communications, Inc., and Raytheon Technologies Corporation with respect to the *2020 C-band R&O* in GN Docket No. 18–122 are *Dismissed* or *Denied*, as indicated herein.

245. *It is further ordered* that the Commission's Office of the Secretary, shall send a copy of this *Report and Order, Order of Proposed Modification, and Order on Reconsideration*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

246. *It is further ordered* that the Office of the Managing Director, Performance Program Management, Shall Send a copy of this *Report and Order, Order of Proposed Modification, and Order on Reconsideration* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

247. It is our intention in adopting these rules that, if any provision of the *Report and Order, Order of Proposed Modification, and Order on Reconsideration* or the rules, or the application thereof to any person or circumstance, is held to be unlawful, the remaining portions of such *Report and Order, Order of Proposed Modification, and Order on Reconsideration* and the rules not deemed unlawful, and the application of the *Report and Order, Order of Proposed Modification, and Order on*

Reconsideration and the rules to other persons or circumstances, shall remain in effect to the fullest extent permitted by law.

List of Subjects

47 CFR Part 1

Communications; Reporting and recordkeeping requirements; Telecommunications.

47 CFR Part 25

Administrative practice and procedure; Satellites.

47 CFR Part 27

Communications common carriers; Communications requirements; Radio; Reporting and recordkeeping requirements; Telecommunications.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 2, 25, and 27 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, 47 U.S.C. 1754, unless otherwise noted.

- 2. Section 1.9005 is amended by revising paragraph (mm) to read as follows:

§ 1.9005 Included services.

* * * * *

(mm) The 3.7 GHz Service in the 3.7–4.14 GHz band.

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

- 3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

- 4. Section 2.106 is amended by:

- a. Revising page 41 of the Table of Frequency Allocations;
- b. Revising paragraphs (d)(182)(i), (ii), and (iii)(A) and (C), and (d)(457)(i).

The revision read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

BILLING CODE 6712–01–P

Table of Frequency Allocations				3600-5460 MHz (SHF)		United States Table		FCC Rule Part(s)	Page 4
Region 1 Table		Region 2 Table		Region 3 Table		Federal Table	Non-Federal Table		
3400-3600 MHz: see previous page		3500-3600 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.431B Radiolocation 5.433	3500-3600 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.433A Radiolocation 5.433	3500-3550 RADIOLOCATION G59 AERONAUTICAL RADIONAVIGATION (ground-based) G110 US103 US431B 3550-3650 RADIOLOCATION G59 AERONAUTICAL RADIONAVIGATION (ground-based) G110		3500-3600 MHz: see previous page			
3600-4200 FIXED FIXED-SATELLITE (space-to-Earth) Mobile		3600-3700 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.434 Radiolocation 5.433	3600-3700 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile Radiolocation	3600-3700 FIXED FIXED-SATELLITE (space-to-Earth) US107 US245 NG169 MOBILE except aeronautical mobile		3600-3700 FIXED FIXED-SATELLITE (space-to-Earth) US107 US245 NG169 MOBILE except aeronautical mobile		Satellite Communications (25) Citizens Broadband (96)	
		3700-4200 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile	5.435	US105 US107 US245 US433 3650-3700		US105 US109 US349 US433			
4200-4400 AERONAUTICAL MOBILE (R) 5.436 AERONAUTICAL RADIONAVIGATION 5.438 5.437 5.439 5.440				4200-4400 AERONAUTICAL RADIONAVIGATION		3700-4160 FIXED MOBILE except aeronautical mobile NG182 NG457A 4160-4200 FIXED FIXED-SATELLITE (space-to-Earth) NG457A NG182		Wireless Communications (27)	
4400-4500 FIXED MOBILE 5.440A				4400-4940 FIXED MOBILE		4400-4500			
4500-4800 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 MOBILE 5.440A						4500-4800 FIXED-SATELLITE (space-to-Earth) 5.441 US245			
4800-4990 FIXED MOBILE 5.440A 5.441A 5.441B 5.442 Radio astronomy				US113 US245 US342 4940-4990		4800-4940 US113 US342 4940-4990 FIXED MOBILE except aeronautical mobile			Public Safety Land Mobile (90Y)
5.149 5.339 5.443 4990-5000 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY Space research (passive) 5.149				5.339 US342 US385 G122 4990-5000 RADIO ASTRONOMY US74 Space research (passive)		5.339 US342 US385			
				US246					

currently authorized space stations serving the contiguous United States may continue to operate on a primary basis, but no applications for new space station authorizations or new petitions for market access shall be accepted for filing after June 21, 2018. Applications for extension, cancellation, replacement, or modification of existing space station authorizations in the band will continue to be accepted and processed normally.

(ii) In areas outside the contiguous United States, the band 3700–4160 MHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis.

(iii) * * *

(A) Incumbent use of the fixed-satellite service (space-to-Earth) in the band 3700–4160 MHz is subject to the provisions of §§ 25.138, 25.147, 25.203(n) and part 27, subpart O of this chapter.

* * * * *

(C) In the band 4140–4160 MHz, no new fixed or mobile operations will be permitted until specified by Commission rule, order, or notice.

* * * * *

(457) * * *

(i) In the band 3700–4200 MHz, ESVs may be authorized to receive FSS signals from geostationary satellites. ESVs in motion are subject to the condition that these earth stations may not claim protection from transmissions of non-Federal stations in the fixed and mobile except aeronautical mobile services. While docked, ESVs receiving in the band 4160–4200 MHz may be coordinated for up to 180 days, renewable. Paragraph d(182) of this section applies to incumbent licensees that provide service to ESVs in the band 3700–4160 MHz.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

■ 5. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

■ 6. Section 25.138 is revised to read as follows:

§ 25.138 Earth Stations in the 3.7–4.2 GHz band.

(a) [Reserved].

(b) [Reserved].

(c) Fixed and temporary fixed earth stations operating in the 3.7–4.16 GHz portion of the band within CONUS will

be protected from interference by licensees in the 3.7 GHz Service subject to the deadlines set forth in § 27.1412 of this chapter and are eligible for transition so long as they:

(1) Were operational as of April 19, 2018 and continue to be operational;

(2) Were licensed or registered (or had a pending application for license or registration) in the IBFS (now ICFS) database on November 7, 2018; and

(3) Timely certified the accuracy of the information on file with the Commission by May 28, 2019.

(d) Fixed and temporary earth station licenses and registrations that meet the criteria in paragraph (c) of this section may be renewed or modified to maintain operations in the 4.16–4.2 GHz band.

(e) Applications for new, modified, or renewed licenses and registrations for earth stations outside CONUS operating in the 3.7–4.2 GHz band will continue to be accepted.

■ 7. Delayed indefinitely, amend § 25.138 by adding paragraphs (a) and (b) to read as follows:

§ 25.138 Earth Stations in the 3.7–4.2 GHz band.

(a) Applications for new, modified, or renewed earth station licenses and registrations in the 3.7–4.16 GHz portion of the band in CONUS are no longer accepted.

(b) Applications for new earth station licenses or registrations within CONUS in the 4.16–4.2 GHz portion of the band will not be accepted until the transition of the 4.0–4.16 GHz portion of the band is completed and upon announcement by the Space Bureau via Public Notice that applications may be filed.

* * * * *

■ 8. Delayed indefinitely § 25.147 is revised to read as follows:

§ 25.147 Space Stations in the 3.7–4.2 GHz band.

The 4.0–4.16 GHz portion of the band is being transitioned in CONUS from FSS GSO (space-to-Earth) to the 3.7 GHz Service.

(a) New applications for space station licenses and petitions for market access concerning space-to-Earth operations in the 3.7–4.16 GHz portion of the band within CONUS will no longer be accepted.

(b) Applications for new or modified space station licenses or petitions for market access in the 4.16–4.2 GHz portion of the band within CONUS will not be accepted during the transition

except by existing operators in the band to implement an efficient transition.

(c) Applications for new or modified space station licenses or petitions for market access for space-to-Earth operations in the 3.7–4.2 GHz band outside CONUS will continue to be accepted.

■ 9. Section 25.203 is amended by revising paragraph (n) to read as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(n) From December 5, 2021, until December 5, 2030, consolidated telemetry, tracking, and control (TT&C) operations at no more than four locations may be authorized on a primary basis to support space station operations, and no other TT&C operations shall be entitled to interference protection in the 3.7–4.16 GHz band.

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 10. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

■ 11. Section 27.4 is amended by revising the definition for “3.7 GHz Service” to read as follows:

§ 27.4 Terms and definitions.

* * * * *

3.7 GHz Service. A radiocommunication service licensed under this part for the frequency bands specified in § 27.5(m) (3700–4140 MHz band).

* * * * *

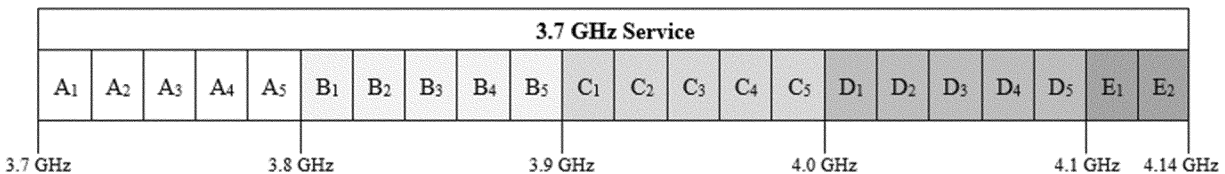
■ 12. Section 27.5 is amended by revising paragraph (m) to read as follows:

§ 27.5 Frequencies.

* * * * *

(m) **3700–4140 MHz band.** The 3.7 GHz Service is comprised of Block A (3700–3800 MHz); Block B (3800–3900 MHz); Block C (3900–4000 MHz); Block D (4000–4100 MHz); and Block E (4100–4140 MHz). These blocks are licensed as 22 individual 20-megahertz sub-blocks available for assignment in the contiguous United States on a Partial Economic Area basis, *see* § 27.6(m), as follows:

Figure 1 to Paragraph (m)



* * * * *

■ 13. Section 27.6 is amended by revising paragraph (m) to read as follows:

§ 27.6 Service areas.

* * * * *

(m) *3700–4140 MHz Band.* Service areas in the 3.7 GHz Service are based on Partial Economic Areas (PEAs) as defined by appendix A to this subpart (see *Wireless Telecommunications Bureau Provides Details About Partial Economic Areas*, DA 14–759, Public Notice, released June 2, 2014, for more information). The 3.7 GHz Service will be licensed in the contiguous United States, *i.e.*, the contiguous 48 states and the District of Columbia as defined by Partial Economic Areas Nos. 1–41, 43–211, 213–263, 265–297, 299–359, and 361–411. The service areas of PEAs that border the U.S. coastline of the Gulf of Mexico extend 12 nautical miles from the U.S. Gulf coastline. The 3.7 GHz Service will not be licensed for the following PEAs:

TABLE 3 TO PARAGRAPH (m)

PEA No.	PEA name
42	Honolulu, HI.
212	Anchorage, AK.
264	Kodiak, AK.
298	Fairbanks, AK.
360	Juneau, AK.
412	Puerto Rico.
413	Guam-Northern Mariana Islands.
414	US Virgin Islands.
415	American Samoa.

■ 14. Section 27.11 is amended by revising paragraph (l) to read as follows:

§ 27.11 Initial authorization.

* * * * *

(l) *3700–4140 MHz band.* Authorizations for licenses in the 3.7 GHz Service will be based on Partial Economic Areas (PEAs), as specified in § 27.6(m), and the frequency sub-blocks specified in § 27.5(m).

* * * * *

■ 15. Section 27.13 is amended by revising paragraph (m) to read as follows:

§ 27.13 License period.

* * * * *

(m) *3700–4140 MHz band.* Authorizations for licenses in the 3.7

GHz Service in the 3700–4140 MHz band will have a term not to exceed 15 years from the date of issuance or renewal.

* * * * *

■ 16. Section 27.14 is amended by revising the first sentence of paragraph (a) and by adding paragraph (x) to read as follows:

§ 27.14 Construction requirements.

(a) AWS and WCS licensees, with the exception of WCS licensees holding authorizations for the 600 MHz band, Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Block C, C1 or C2 in the 746–757 MHz and 776–787 MHz bands, Block A in the 2305–2310 MHz and 2350–2355 MHz bands, Block B in the 2310–2315 MHz and 2355–2360 MHz bands, Block C in the 2315–2320 MHz band, Block D in the 2345–2350 MHz band, in the 3450–3550 MHz band, and in the 3700–4140 MHz band, and with the exception of licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands, the 2000–2020 MHz and 2180–2200 MHz bands, or 1695–1710 MHz, 1755–1780 MHz and 2155–2180 MHz bands, must, as a performance requirement, make a showing of “substantial service” in their license area within the prescribed license term set forth in § 27.13. * * *

* * * * *

(x) The following provisions apply to any WCS licensee holding an authorization in the 3980–4140 MHz band:

(1) Licensee shall provide reliable signal coverage and offer service within two (2) years from the relevant Transition Deadline as specified in § 27.1412(a), to at least forty-five (45) percent of the population in each of its license areas (“First Buildout Requirement”). Licensees shall provide reliable signal coverage and offer service within six (6) years from the relevant Transition Deadline as specified in § 27.1412(a), to at least eighty (80) percent of the population in each of its license areas (“Second Buildout Requirement”).

(2) If a licensee fails to establish that it meets the First Buildout Requirement for a particular license area, the deadline for its Second Buildout

Requirement shall be accelerated by one year.

(3) [Reserved]

(4) To demonstrate compliance with the First Buildout Requirement and Second Buildout Requirement, licensees shall use the most recently available decennial U.S. Census Data at the time of measurement and shall base their measurements of population served on areas no larger than the Census Tract level. The population within a specific Census Tract (or other acceptable identifier) will be deemed served by the licensee only if it provides reliable signal coverage to and offers service within the specific Census Tract (or other acceptable identifier). To the extent the Census Tract (or other acceptable identifier) extends beyond the boundaries of a license area, a licensee with authorizations for such areas may include only the population within the Census Tract (or other acceptable identifier) towards meeting the performance requirement of a single, individual license. If a licensee does not provide reliable signal coverage to an entire license area, the license must provide a map that accurately depicts the boundaries of the area or areas within each license area not being served. Each licensee also must file supporting documentation certifying the type of service it is providing for each licensed area within its service territory and the type of technology used to provide such service. Supporting documentation must include the assumptions used to create the coverage maps, including the propagation model and the signal strength necessary to provide reliable service with the licensee’s technology.

■ 17. Delayed indefinitely, amend § 27.14 by adding paragraph (x)(3) to read as follows:

§ 27.14 Construction requirements.

* * * * *

(x) * * *

(3) If a licensee fails to establish that it meets the Second Buildout Requirement for a particular license area, its authorization for each license area in which it fails to meet the Second Buildout Requirement shall terminate automatically without Commission action, and the licensee will be ineligible to regain it if the Commission

makes the license available at a later date

* * * * *

■ 18. Section 27.50 is amended by revising the introductory text of paragraph (j) and paragraphs (j)(1) through (3) to read as follows:

§ 27.50 Power limits and duty cycle.

* * * * *

(j) The following power requirements apply to stations transmitting in the 3700–4140 MHz band:

(1) The power of each fixed or base station transmitting in the 3700–4140 MHz band and located in any county with a population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, is limited to an equivalent isotropically radiated power (EIRP) of 3280 Watts/MHz. This limit applies to the aggregate power of all antenna elements in any given sector of a base station.

(2) The power of each fixed or base station transmitting in the 3700–4140 MHz band and situated in any geographic location other than that described in paragraph (j)(1) of this section is limited to an EIRP of 1640 Watts/MHz. This limit applies to the aggregate power of all antenna elements in any given sector of a base station.

(3) Mobile and portable stations transmitting in the 3700–4140 MHz band are limited to 2 Watts EIRP. Mobile and portable stations operating in this band must employ a means for limiting power to the minimum necessary for successful communications.

* * * * *

■ 19. Section 27.53 is amended by revising paragraph (l) to read as follows:

§ 27.53 Emission limits.

* * * * *

(l) *3.7 GHz Service.* The following emission limits apply to stations transmitting in the 3700–4140 MHz band:

(1) For any fixed and base station operations in the 3700–4140 MHz band, either the conducted power of any emission into the 4200–4400 MHz band shall not exceed –46 dBm/MHz, or the equivalent isotropically radiated power (EIRP) of any emission into the 4200–4400 MHz band shall not exceed –28.4 dBm/MHz. The conducted power of all other emissions outside of the licensee's authorized bandwidth shall not exceed –13 dBm/MHz. Compliance with this paragraph (l)(1) is based on the use of measurement instrumentation employing a resolution bandwidth of 1

megahertz or greater. However, in the 1 megahertz bands immediately outside and adjacent to the licensee's frequency block, a resolution bandwidth of at least one percent of the emission bandwidth of the fundamental emission of the transmitter may be employed. The emission bandwidth is defined as the width of the signal between two points, one below the carrier center frequency and one above the carrier center frequency, outside of which all emissions are attenuated at least 26 dB below the transmitter power.

(2) For any mobile or portable operations in the 3700–4140 MHz band, the conducted power of any emission outside the licensee's authorized bandwidth shall not exceed –13 dBm/MHz. Compliance with this paragraph (l)(2) is based on the use of measurement instrumentation employing a resolution bandwidth of 1 megahertz or greater. However, in the 1 megahertz band immediately outside and adjacent to the licensee's frequency block, the minimum resolution bandwidth for the measurement shall be either one percent of the emission bandwidth of the fundamental emission of the transmitter or 350 kHz. In the bands between 1 and 5 MHz removed from the licensee's frequency block, the minimum resolution bandwidth for the measurement shall be 500 kHz. The emission bandwidth is defined as the width of the signal between two points, one below the carrier center frequency and one above the carrier center frequency, outside of which all emissions are attenuated at least 26 dB below the transmitter power.

(3) For any fixed and base stations operating in the 3980–4140 MHz band, the height of the transmitting antenna must not exceed 450 feet above ground level.

* * * * *

■ 20. Section 27.55 is amended by revising paragraph (d) to read as follows:

§ 27.55 Power strength limits.

* * * * *

(d) *Power flux density for stations operating in the 3700–4140 MHz band.* For fixed and base stations operating in the 3700–4140 MHz band in accordance with the provisions of § 27.50(j), the power flux density (PFD) at any location on the geographical border of a licensee's service area shall not exceed –76 dBm/m²/MHz. This power flux density will be measured at 1.5 meters above ground. Licensees in adjacent geographic areas may voluntarily agree

to operate under a higher PFD at their common boundary.

* * * * *

■ 21. Section 27.57 is amended by revising paragraph (c) to read as follows:

§ 27.57 International coordination.

* * * * *

(c) Operation in the 1695–1710 MHz, 1710–1755 MHz, 1755–1780 MHz, 1915–1920 MHz, 1995–2000 MHz, 2000–2020 MHz, 2110–2155 MHz, 2155–2180 MHz, 2180–2200 MHz, 3450–3550 MHz, and 3700–4140 MHz bands is subject to international agreements with Mexico and Canada.

■ 22. Section 27.75 is amended by revising paragraph (a)(3) to read as follows:

§ 27.75 Basic interoperability requirement.

(a) * * *

(3) 3700–4140 MHz band.

(i) Prior to December 31, 2030, mobile and portable stations that operate on any portion of frequencies in the 3700–3980 MHz band must be capable of operating on all frequencies in the 3700–3980 MHz band using the same air interfaces that the equipment utilizes on any frequencies in the 3700–3980 MHz band.

(ii) Starting December 31, 2030, mobile and portable stations that operate on any portion of frequencies in the 3700–4140 MHz band must be capable of operating on all frequencies in the 3700–4140 MHz band using the same air interfaces that the equipment utilizes on any frequencies in the 3700–4140 MHz band.

(iii) Mobile and portable stations that receive equipment authorization before December 31, 2030, and operate on any portion of frequencies in the 3700–3980 MHz band but cannot be upgraded to be capable of operating on all frequencies in the 3700–4140 MHz band using the same air interfaces that the equipment utilizes on any frequencies in the 3700–4140 MHz band can remain in service for the remainder of their useful life.

* * * * *

■ 23. Revise the heading for subpart O to read as follows:

Subpart O—3.7 GHz Service (3700–4140 MHz)

■ 24. Section 27.1411 is revised to read as follows:

§ 27.1411 Transition of the 3980–4160 MHz band.

(a) *Transition of the 3980–4160 MHz Band.* The 3980–4140 MHz band is being transitioned in the lower 48 contiguous states and the District of Columbia to the 3.7 GHz Service. The

4140–4160 MHz band is being transitioned in the lower 48 contiguous states and the District of Columbia to a guard band.

(b) *Definitions*—(1) *Incumbent space station operator*. An incumbent space station operator is defined as a space station operator authorized to provide C-band service to any part of the contiguous United States pursuant to an FCC-issued license or grant of market access as of June 21, 2018.

(2) *Eligible space station operator*. An eligible space station operator may receive reimbursement for relocation costs incurred as a result of the transition of FSS operations out of the 4000–4160 MHz band. An eligible space station operator is defined as an incumbent space station operator that has demonstrated as of February 1, 2020, that it has an existing relationship to provide service via C-band satellite transmission to one or more incumbent earth stations in the contiguous United States. Such existing relationships may be directly with the incumbent earth station, or indirectly through content distributors or other entities, so long as the relationship requires the provision of C-band satellite services to one or more specific incumbent earth stations in the contiguous United States.

(3) *Incumbent earth station*. An incumbent earth station for this subpart O is defined as an earth station that is entitled to interference protection pursuant to § 25.138(c) of this chapter. An incumbent earth station must transition out of the 4000–4160 MHz band pursuant to this subpart O. An incumbent earth station will be able to continue receiving uninterrupted service both during and after the transition.

(4) *Earth station migration and filtering*. Earth station migration includes any necessary changes that allow the uninterrupted reception of service by an incumbent earth station migrating out of the 4000–4160 MHz band. For any incumbent earth station remaining in the 4160–4200 MHz band, a passband filter must be installed at the site at the same time or after it has been migrated to new frequencies to block signals from adjacent channels and to prevent harmful interference from licensees in the 3.7 GHz Service, so long as all affected incumbent earth stations in a given Partial Economic Area and surrounding areas are filtered prior to the relevant transition deadline pursuant to § 27.1412(a).

(5) *Eligible Aircraft*. For purposes of the adjacent band radio altimeter retrofit rebates, an Eligible Aircraft is defined as:

(i) An aircraft with one or more radio altimeters installed and an original certificate of airworthiness issued before April 1, 2030, which operates in the contiguous United States pursuant to 14 CFR part 121, and is required by the Federal Aviation Administration to retrofit such altimeters by December 30, 2030; or

(ii) An aircraft with one or more radio altimeters installed and an original certificate of airworthiness issued before July 1, 2031, and registered in the United States pursuant to 14 CFR part 47, which operates in the contiguous United States pursuant to 14 CFR part 91 and is required by the Federal Aviation Administration to retrofit such altimeters by October 31, 2034.

(6) *Eligible Aircraft Owner or Operator*. For purposes of the adjacent band radio altimeter retrofit rebates, an eligible entity is defined as:

(i) An eligible aircraft operator that holds a U.S. air carrier or operating certificate under 14 CFR part 119 and operates an Eligible Aircraft; or

(ii) An eligible aircraft owner that is identified on the Federal Aviation Administration's Aircraft Registry and owns an Eligible Aircraft.

(7) *Contiguous United States* (CONUS). For the purposes of the rules established in this subpart O, contiguous United States consists of the contiguous 48 states and the District of Columbia as defined by Partial Economic Areas Nos. 1–41, 43–211, 213–263, 265–297, 299–359, and 361–411, which includes areas within 12 nautical miles of the U.S. Gulf coastline (see § 27.6(m)). In this context, the rest of the United States includes the Honolulu, Anchorage, Kodiak, Fairbanks, Juneau, Puerto Rico, Guam-Northern Mariana Islands, U.S. Virgin Islands, American Samoa, and the Gulf of Mexico PEAs.

(8) *Upper C-band Clearinghouse*. An Upper C-band Clearinghouse is a neutral, independent third-party to administer the cost management for the transition of the 3980–4160 MHz band and the adjacent band radio altimeter retrofit rebates.

(9) *Relocation Coordinator*. A Relocation Coordinator is a third party that will ensure that all incumbent space station operators are relocating in a timely matter, and that is selected consistent with § 27.1413. The Relocation Coordinator will have technical experience and an understanding of transition work to be performed on earth stations.

■ 25. Revise § 27.1412 to read as follows:

§ 27.1412 Transition plan.

(a) *Transition deadlines*. Eligible space station operators are responsible for all necessary actions to clear their transponders from the 4000–4160 MHz band and to migrate the existing services of incumbent earth stations in CONUS out of the 4000–4160 MHz band (unless the incumbent earth station opts out of the formal relocation process, per paragraph (f) of this section), in Partial Economic Areas 1–41 and 43–76 as of the Primary Transition Deadline, which is December 30, 2030. Terrestrial wireless operations may commence in the Partial Economic Areas subject to the Primary Transition Deadline as of December 31, 2030. For Partial Economic Areas 77–211, 213–263, 265–297, 299–359, and 361–411, the relevant transition deadline for eligible space station operators to clear their transponders from the 4000–4160 MHz band and to migrate the existing services of incumbent earth stations in CONUS out of the 4000–4160 MHz band (unless the incumbent earth station opts out of the formal relocation process, per paragraph (f) of this section) is the Final Transition Deadline, which is June 30, 2031. Terrestrial wireless operations may commence in the Partial Economic Areas subject to the Final Transition Deadline as of July 1, 2031, or as of the date that all eligible space station operators have had Certifications of Completion for the Final Transition Deadline validated and related incentive payments are made by the 3.7 GHz Service licensees in the 3980–4140 MHz band, whichever is sooner. Eligible space station operators that fail to clear by the Final Transition Deadline will be in violation of the conditions of their license authorization and potentially subject to forfeitures and other sanctions.

(b) [Reserved]

(c) [Reserved]

(d) *Responsibility for meeting Transition Deadlines*. An eligible space station operator's satisfaction of the relevant Transition Deadline shall be determined on an individual basis.

(e) [Reserved]

(f) *Incumbent earth station opt-out*. An incumbent earth station within the contiguous United States may opt out of the formal relocation process and accept a lump sum payment equal to the average estimated, reasonable costs of transitioning existing FSS C-band service out of 4000–4160 MHz, as determined by the Wireless Telecommunications Bureau, in lieu of actual relocation costs. An incumbent earth station that accepts a lump sum payment is responsible for coordinating with the relevant space station

operator(s) as necessary and performing all relocation actions on its own, including switching to a new distribution technology. An incumbent earth station that accepts a lump sum payment will not receive further reimbursement for any costs exceeding the lump sum payment.

(g) [Reserved]

(h) *Delegated authority.* The Wireless Telecommunications Bureau is delegated the role of providing clarifications or interpretations to eligible space station operators and other transition stakeholders of the Commission's orders for all aspects of the transition, overseeing the Upper C-band Clearinghouse and the FSS transition cost reimbursement program and radio altimeter rebates, and taking such measures as are necessary to ensure the timely and efficient transition of the Upper C-band.

■ 26. Delayed indefinitely, amend 27.1412 by adding paragraphs (b), (c), (e), and (g) to read as follows:

§ 27.1412 Transition plan.

* * * * *

(b) *Incentive payments.* An eligible space station operator shall qualify for an incentive payment if it clears its transponders from the 4000–4160 MHz band and migrates all associated incumbent earth stations in CONUS no later than the relevant Transition Deadline. Each eligible space station operator must file a timely Certification of Completion that certifies it has completed the necessary clearing actions to satisfy the relevant Transition Deadline. The certification must be filed once the eligible space station operator completes its obligations but no later than the relevant Transition Deadline referenced in paragraph (a) of this section. The Wireless Telecommunication Bureau will prescribe the form of such certification.

(1) The Wireless Telecommunications Bureau, Upper C-band Clearinghouse, and relevant stakeholders will have the opportunity to review the Certification of Completion and identify potential deficiencies. The Wireless Telecommunications Bureau will prescribe the form of any challenges by relevant stakeholders as to the validity of the certification.

(2) If credible challenges as to the eligible space station operator's satisfaction of the relevant Transition Deadline are made, the Wireless Telecommunications Bureau will issue a public notice identifying such challenges and render a final decision as to the validity of the Certification of Completion no later than 60 days from its filing. Absent notice from the

Wireless Telecommunications Bureau of any such deficiencies within 30 days of the filing of the Certification of Completion, the Certification of Completion will be deemed validated.

(c) *Transition delays.* An eligible space station operator shall not be held responsible for transition delays due to circumstances beyond its control. An eligible space station operator must submit a notice of any incumbent earth station transition delays to the Wireless Telecommunications Bureau within seven days of discovering an inability to accomplish the assigned earth station transition task. Such a request must include supporting documentation to allow for resolution as soon as practicable and must be submitted before the relevant Transition Deadline.

* * * * *

(e) *Transition Plan.* Eligible space station operators must publicly file with the Commission no later than November 5, 2026, a Transition Plan that describes the actions that must be taken to clear 4000–4160 MHz and to migrate associated earth stations. Eligible space station operators shall have an opportunity to make any necessary updates or resolve any deficiencies in their individual Transition Plans.

(1) The Transition Plan must detail the eligible space station operator's individual timeline and necessary actions for clearing 4000–4160 MHz, including:

(i) All existing space stations with operations that will need to be repacked;

(ii) The number of new satellites, if any, that the space station operator will need to launch to maintain sufficient capacity post-transition, including detailed descriptions of why such new satellites are necessary;

(iii) The specific grooming plan for migrating existing services into new spectrum, including the pre- and post-transition frequencies that each customer will occupy;

(iv) Any necessary technology upgrades or other solutions that the space station operator intends to implement;

(v) The number and location of incumbent earth station antennas currently receiving the eligible space station operator's transmissions that will need to be transitioned;

(vi) An estimate of the number of incumbent earth station antennas that will require retuning, repointing, or other modifications to receive content on new transponder frequencies post-transition; and

(vii) The specific timeline by which the space station operator will

implement the actions described in its plan.

(2) To the extent that incumbent earth stations are not accounted for in eligible space station operators' Transition Plans, the Relocation Coordinator may assign responsibility for their transition to an eligible space station operator or ensure that migration steps and timelines are outlined in an individualized Earth Station Transition Plan as needed.

* * * * *

(g) *Space station status reports.* On a quarterly basis, beginning March 31, 2027: Each eligible space station operator must provide a status report of its clearing efforts. Eligible space station operators may file joint status reports.

* * * * *

■ 27. Section 27.1413 is revised to read as follows:

§ 27.1413 Relocation Coordinator.

(a) *Selection committee and selection process.* Each eligible space station operator shall be eligible to appoint one member to a selection committee that will seek proposals for a third party with technical experience in understanding and working on earth stations to serve as a Relocation Coordinator and to manage the transition of incumbent earth stations.

(1) The selection committee should proceed by consensus; however, if a vote on selection of a Relocation Coordinator is required, it shall be by a majority.

(i) The selection committee shall notify the Commission of its choice of Relocation Coordinator.

(ii) The Wireless Telecommunications Bureau shall issue a Public Notice inviting comment on whether the entity selected satisfies the selection criteria established in paragraph (b) of this section and issue a final order announcing whether the selection criteria has been satisfied;

(iii) Should the Wireless Telecommunications Bureau be unable to find that the selection criteria have been satisfied, the search process will start over and the selection committee will submit a new proposed entity.

(2) In the event that the selection committee fails to select a Relocation Coordinator and to notify the Commission by January 1, 2027:

(i) The selection committee will be dissolved without further action by the Commission.

(ii) The Commission will initiate a procurement of a Relocation Coordinator to facilitate the transition. Specifically, the Office of the Managing Director will initiate the procurement,

and the Wireless Telecommunications Bureau will take all other necessary actions to meet the relocation deadline.

(3) [Reserved]

(b) *Relocation Coordinator selection criteria.* The Relocation Coordinator must be able to demonstrate that it has the requisite expertise to perform the duties required, per paragraph (c) of this section.

(c) *Relocation Coordinator duties.* The Relocation Coordinator shall:

(1) [Reserved]

(2) Assign responsibility to an eligible space station operator, or include incumbent earth stations in individualized Transition Plans, to the extent that such incumbent earth stations are not accounted for in the eligible space station operators' Transition Plans.

(3) Coordinate the schedule for clearing the 4000–4160 MHz band;

(4) Perform engineering analysis, as necessary, to determine necessary earth station migration actions;

(5) Assign obligations, as necessary, for earth station migrations;

(6) Coordinate with the Upper C-band licensees throughout the transition process;

(7) Assess and track the completion of the transition in each PEA and determine the Upper C-band wireless licensees' ability to commence operations;

(8) Mediate scheduling disputes;

(9) [Reserved]

(10) Disclose in real time the content of, timing of, and parties to any communications from or to applicants to participate in the competitive bidding, as defined by § 1.2105(c)(5)(i) of this chapter whenever the prohibition in § 1.2105(c) of this chapter applies to competitive bidding for licenses in the 3.7 GHz Service.

(d) *Cooperation with the Relocation Coordinator.* Eligible space station operators and incumbent earth station operators must cooperate in good faith with the Relocation Coordinator and vice versa throughout the transition.

■ 28. Delayed indefinitely, amend 27.1413 by adding paragraphs (a)(3), (c)(1) and (9), to read as follows:

§ 27.1413 Relocation Coordinator.

(a) * * *

(3) If the eligible space station operators select a Relocation Coordinator, they shall be responsible for paying its costs on a pro rata basis based on the total amount of incentives detailed in § 27.1422(b). In the case that the Wireless Telecommunications Bureau selects the Relocation Coordinator via procurement, the 3.7 GHz Service licensees in the 3980–4140

MHz band will, collectively, pay for the reasonable costs of the Relocation Coordinator and its staff. The Relocation Coordinator shall submit its own reasonable costs to the Relocation Payment Clearinghouse, who will then collect payments from the 3.7 GHz Service licensees in the 3980–4140 MHz band. The Relocation Coordinator shall also provide additional financial information as requested by the Wireless Telecommunications Bureau to satisfy the Commission's oversight responsibilities and/or agency specific/government-wide reporting obligations.

* * * * *

(c)

(1) Review the Transition Plans filed by all eligible space station operators and recommend any changes to those plans to the Commission to the extent needed to ensure a timely transition;

* * * * *

(9) Be responsible for receiving notice from earth station operators or other satellite customers of any disputes related to the comparability of facilities, workmanship, or preservation of service during the transition, for subsequently notifying the Wireless Telecommunications Bureau of the dispute, and for providing recommendations for resolution; and

* * * * *

(e) *Status reports.* On a quarterly basis, beginning after its selection is confirmed by the Wireless Telecommunications Bureau, the Relocation Coordinator must provide a report on the overall status of clearing efforts.

(f) *Information requests.* The Relocation Coordinator shall provide to the Wireless Telecommunications Bureau additional information upon request.

■ 29. Section 27.1414 is revised to read as follows:

§ 27.1414 Upper C-band Clearinghouse.

(a) *Selection committee and selection process.* Representatives of the following seven entities shall be eligible to appoint one member to a selection committee for the Upper C-band Clearinghouse: Airlines for America, Aircraft Owners and Pilots Association, Competitive Carriers Association, Eutelsat, National Association of Broadcasters, NCTA, and SES. Representatives of CTIA shall be eligible to appoint two members to a selection committee for the Upper C-band Clearinghouse. The selection committee will seek proposals for a third-party clearinghouse to administer the cost-related aspects of the Upper C-band transition and the adjacent band radio

altimeter retrofit rebates in a fair, transparent manner, pursuant to Commission rules and oversight, to mitigate financial disputes among stakeholders, and to collect and distribute payments in a timely manner.

(1) The selection committee shall convene no later than September 29, 2026 and shall notify the Commission of the specific selection process and criteria it has established no later than 30 days after the date of the selection committee's first meeting. The selection criteria must be consistent with that established in paragraph (b) of this section. The Wireless

Telecommunications Bureau is directed, on delegated authority, to issue a Public Notice notifying the public that the selection committee has established a selection process and criteria, outlining submission requirements, and providing the closing dates for the submission of applications and the source (*i.e.*, web page).

(2) The selection committee should proceed by consensus; however, if a vote on selection of a Upper C-band Clearinghouse is required, it shall be by a majority.

(i) The selection committee shall notify the Commission of its choice of Upper C-band Clearinghouse.

(ii) The Wireless Telecommunications Bureau shall issue a Public Notice inviting comment on whether the entity selected satisfies the selection criteria in paragraph (b) of this section and issue a final order announcing whether the selection criteria have been satisfied.

(iii) Should the Wireless Telecommunications Bureau be unable to find that the selection criteria have been satisfied, the search process will start over, and the search committee will submit a new proposed entity.

(3) In the event that the selection committee fails to select an Upper C-band Clearinghouse and to notify the Commission by December 15, 2026:

(i) The selection committee must drop two members, as determined by a majority vote of the original members, and the remaining members shall select a Clearinghouse by majority vote by January 17, 2027.

(ii) Should the selection committee subsequently fail to select a Clearinghouse and to notify the Commission by January 17, 2027, the search committee will be dissolved without further action by the Commission.

(iii) The Commission will then initiate a procurement of an Upper C-band Clearinghouse to facilitate the transition. Specifically, the Office of the Managing Director will initiate the procurement, and the Wireless

Telecommunications Bureau will take all other necessary actions to meet the relocation deadline.

(iv) During the course of the Upper C-band Clearinghouse's tenure, the Commission will take such measures as are necessary to ensure the Upper C-band Clearinghouse's timely compliance with its duties, including, should it become necessary, issuing subsequent public notices to select a new Upper C-band Clearinghouse(s).

(4) The costs of the Upper C-band Clearinghouse shall be allocated pursuant to § 27.1418.

(b) *Upper C-band Clearinghouse selection criteria.* The Upper C-band Clearinghouse must be able to demonstrate that it has the requisite expertise to perform the duties required, per paragraph (c) of this section.

(c) *Upper C-band Clearinghouse duties.* The Upper C-band Clearinghouse shall:

(1) Be a neutral, independent entity with no conflicts of interest (organizational or personal) on the part of the organization or its offices, directors, employees, contractors, or significant subcontractors.

(i) Organizational conflicts of interest means that because of other activities or relationships with other entities, the Upper C-band Clearinghouse, its contractors, or significant subcontractors are unable or potentially unable to render impartial services, assistance, or advice; the Upper C-band Clearinghouse's objectivity in performing its functions is or might be otherwise impaired; or the Upper C-band Clearinghouse might gain an unfair competitive advantage.

(ii) Personal conflicts of interest means a situation in which an employee, officer, or director of the Upper C-band Clearinghouse, the Upper C-band Clearinghouse's contractors or significant subcontractors has a financial interest, personal activity, or relationship that could impair that person's ability to act impartially and in the best interest of the transition when performing their assigned role, or is engaged in self-dealing.

(2) Have the requisite expertise to perform the duties required, which will include: determining reimbursable costs; processing reimbursement, lump sum, and rebate claims; administering reimbursement and rebate funds; collecting and distributing all required payment obligations as well as auditing incoming and outgoing estimates; mitigating cost disputes among parties; and generally acting as a clearinghouse.

(3) Meet relevant best practices and standards in its operations to ensure an

effective and efficient transition. In administering the transition, it shall:

(i) Engage in strategic planning and adopt goals and metrics to evaluate its performance;

(ii) Adopt internal controls for its operations;

(iii) Utilize enterprise risk management practices;

(iv) Use best practices to protect against improper payments and to prevent fraud, waste, and abuse in its handling of funds; and

(v) Create written procedures for its operations, using the Government Accountability Office's Green Book to serve as a guide in satisfying such requirements.

(4) Adopt robust privacy and data security best practices in its operations, given that it will receive and process information critical to ensuring a successful and expeditious transition, including:

(i) When the prohibition in § 1.2105(c) of this chapter applies to competitive bidding for licenses in the 3.7 GHz Service, the Upper C-band Clearinghouse must disclose in real time the content of, timing of, and the parties to and communications from or to applicants to participate in the competitive bidding, as defined by § 1.2105(c)(5)(i) of this chapter.

(ii) The Upper C-band Clearinghouse shall comply with, on an ongoing basis, all applicable laws and Federal Government guidance on privacy and information security requirements such as relevant provisions in the Federal Information Security Management Act, National Institute of Standards and Technology publications, and Office of Management and Budget guidance.

(iii) The Upper C-band Clearinghouse must hire a third-party firm to independently audit and verify, on an annual basis, the Upper C-band Clearinghouse's compliance with privacy and information security requirements, to provide recommendations based on any audit findings, to correct any negative audit findings, and to adopt any additional practices suggested by the auditor.

(d) *Cooperation with the Upper C-band Clearinghouse.* Claimants seeking payments from the Upper C-band Clearinghouse must comply with § 27.1415 and cooperate in good faith with the Upper C-band Clearinghouse during the claims submission and review process.

■ 30. Delayed indefinitely amend § 27.1414 by adding paragraph (e) to read as follows:

§ 27.1414 Upper C-band Clearinghouse.

* * * * *

(e) *Reports and information requests.*

(1) The Upper C-band Clearinghouse must provide quarterly reports that detail the status of reimbursement funds available for clearing obligations, the relocation payments issued, and the amounts collected from the 3.7 GHz Service licensees in the 3980–4140 MHz band. Such reports shall also detail similar information for the adjacent band radio altimeter retrofit rebates. The reports must account for all funds spent in both contexts, including the Upper C-band Clearinghouse's own expenses, e.g., salaries and fees paid to law firms, accounting firms, and other consultants. The reports shall include descriptions of any disputes and the manner in which they were resolved.

(2) The Upper C-band Clearinghouse shall provide to the Office of the Managing Director and Wireless Telecommunications Bureau, by March 1 of each year, an audited statement of funds expended to date, including salaries and expenses of the Upper C-band Clearinghouse.

(3) The Upper C-band Clearinghouse shall report the results of the annual third-party information security audit required in paragraph (c)(4)(iii) of this section to the Wireless Telecommunications Bureau.

(4) The Upper C-band Clearinghouse shall provide to the Wireless Telecommunications Bureau additional information upon request.

■ 31. Delayed indefinitely, § 27.1415 is revised to read as follows:

§ 27.1415 Documentation of claims and expenses.

Parties submitting reimbursement, lump sum, or rebate claims to the Upper C-band Clearinghouse must document their claims, including where appropriate actual expenses, and the Upper C-band Clearinghouse, or a third-party on behalf of the Upper C-band Clearinghouse, may conduct audits related to such claims. Entities submitting claims must make available all relevant documentation upon request from the Upper C-band clearinghouse or its contractor.

■ 32. Delayed indefinitely, § 27.1416 is revised to read as follows:

§ 27.1416 Claims processing and payment procedures.

(a) *Processing actual cost claims and determining reimbursable costs.* The Upper C-band Clearinghouse shall review actual cost reimbursement claims related to the clearing of the 3980–4160 MHz band to determine whether they are reasonable and to ensure they comply with the requirements adopted in this sub-part O.

Reimbursement claims that fall within the estimated range of costs in the cost catalog schedule issued by the Wireless Telecommunications Bureau shall be presumed reasonable. If the Upper C-band Clearinghouse determines that the amount sought for reimbursement is unreasonable, it shall notify the party of the amount it deems eligible for reimbursement. The Wireless Telecommunications Bureau shall make further determinations related to reimbursable costs, as necessary, throughout the transition process. All actual cost reimbursement claims must be submitted to the Upper C-band Clearinghouse no later than six months after the Final Transition Deadline, unless otherwise established by the Wireless Telecommunications Bureau.

(b) *Processing lump sum claims.* The Upper C-band Clearinghouse shall review lump sum claims related to the clearing of the 3980–4160 MHz band made by incumbent earth station operators that elect the lump sum to determine whether such claims comply with the requirements adopted in this sub-part O and the cost catalog schedule issued by the Wireless Telecommunications Bureau. All lump sum claims must be submitted to the Upper C-band Clearinghouse no later than six months after the Final Transition Deadline, unless otherwise established by the Wireless Telecommunications Bureau.

(c) *Processing radio altimeter retrofit rebate claims.* The Upper C-band Clearinghouse shall review rebate claims related to the retrofits of radio altimeters in the 4200–4400 MHz band made by eligible entities to determine whether such claims comply with the requirements adopted in this sub-part O and the public notice on rebates issued by the Wireless Telecommunications Bureau. All rebate claims must be submitted to the Upper C-band Clearinghouse no later than six months after the relevant deadline established in either 14 CFR 91.220 or 14 CFR 121.326, unless otherwise established by the Wireless Telecommunications Bureau.

(d) *Payment procedures.* Following a determination on a reimbursement, lump sum, or rebate claim, the Upper C-band Clearinghouse shall incorporate approved claims into invoices, which it shall issue to each relevant licensee in the 3980–4140 GHz portion of the 3.7 GHz Service. The Upper C-band Clearinghouse shall pay approved claims within 30 days of invoice submission. The Upper C-band Clearinghouse shall also include its own reasonable costs in invoices to licensees in the 3980–4140 GHz portion of the 3.7

GHz Service indicating the amount to be paid.

■ 33. Delayed indefinitely, § 27.1417 is revised to read as follows:

§ 27.1417 Reimbursement and rebate funds.

After an auction for licenses in the 3980–4140 MHz portion of the 3.7 GHz Service concludes, the Upper C-band Clearinghouse will establish and administer separate accounts to fund both the in-band transition of incumbent services out of the 3980–4160 MHz band and the adjacent band radio altimeter retrofit rebates. Licensees in the 3980–4140 MHz portion of the 3.7 GHz Service shall pay their *pro rata* share of three months' worth of estimated costs into each account administered by the Upper C-band Clearinghouse shortly after grant of their licenses and then every three months until completion of the reimbursements and rebates. The Upper C-band Clearinghouse shall draw from each account to pay approved, invoiced claims consistent with § 27.1416. If either account does not have sufficient funds to pay approved claims before a three-month replenishment, the Upper C-band Clearinghouse shall provide licensees in the 3980–4140 MHz portion of the 3.7 GHz Service with 30 days' notice of the additional *pro rata* shares they must contribute. At the end of the reimbursements and rebates, the Upper C-band Clearinghouse shall refund any unused amounts in each fund to licensees in the 3980–4140 MHz portion of the 3.7 GHz Service according to their *pro rata* share.

■ 34. Section 27.1418 is revised to read as follows:

§ 27.1418 Payment obligations.

(a) Each eligible space station operator is responsible for the payment of its own satellite transition costs until the auction winners have been announced.

(b) Pursuant to the cost sharing formulas in § 27.1420, licensees in the 3980–4140 GHz portion of the 3.7 GHz Service shall pay their *pro rata* share of:

(1) The reasonable costs of the Upper C-band Clearinghouse and, in the event the Wireless Telecommunications Bureau selects the Relocation Coordinator, the services of the Relocation Coordinator and its staff;

(2) The actual relocation costs, provided that they are not unreasonable, for eligible space station operators; and the actual transition costs, provided they are not unreasonable, associated with the necessary migration of incumbent earth stations;

(3) Any lump sum payments, if elected by incumbent earth station

operators in lieu of actual relocation costs;

(4) Any adjacent band radio altimeter retrofit rebates for Eligible Aircraft to Eligible Aircraft Owners or Operators; and

(5) Specified incentive payments for space station operators that clear by the Transition Deadlines in § 27.1412(a).

(c) If a license in the 3980–4140 MHz portion of the 3.7 GHz Service is relinquished to the Commission prior to all relocation cost reimbursements, lump sums, rebate claims, and incentive payments being paid, the remaining payments will be distributed among other similarly situated licensees in 3980–4140 MHz portion of the 3.7 GHz Service. If a new license is issued for the previously relinquished rights prior to final payments becoming due, the new licensee in the 3980–4140 MHz portion of 3.7 GHz Service will be responsible for the same *pro rata* share of relocation costs, lump sums, rebate claims, and incentive payments as the initial licensee in the 3980–4140 MHz portion of 3.7 GHz Service. If a licensee in the 3980–4140 MHz portion of 3.7 GHz Service sells its rights on the secondary market, the new licensee in the 3980–4140 MHz portion of 3.7 GHz Service will be obligated to fulfill all payment obligations associated with the license.

■ 35. Delayed indefinitely, § 27.1419 is revised to read as follows:

§ 27.1419 Lump sum payment for incumbent earth station opt out.

The Wireless Telecommunications Bureau shall announce a lump sum that will be available per each incumbent earth station that elects to opt out from the formal relocation process as well as the process for electing lump sum payments. Incumbent earth station owners must make the lump sum payment election no later than 60 days after the Bureau announces the lump sum payment amounts, and must indicate whether each incumbent earth station for which it elects the lump sum payment will retain fixed satellite services or will discontinue such services.

■ 36. Section 27.1420 is revised to read as follows:

§ 27.1420 Cost-sharing formula.

(a) For eligible space station transition and Upper C-band Clearinghouse costs, eligible space station operator incentive payments, adjacent band radio altimeter retrofit rebates, and in the event the Wireless Telecommunications Bureau selects a Relocation Coordinator pursuant to § 27.1413(a), Relocation Coordinator costs, the *pro rata* share of each flexible-use licensee will be the

sum of the final clock phase prices (P) for the set of all license blocks that a bidder wins divided by the total final clock phase prices for all N license blocks sold in the auction. To determine a licensee's reimbursement obligation (RO), that *pro rata* share would then be multiplied by the total eligible reimbursement costs (RC).

Mathematically, this is represented as:

Equation 1 to Paragraph (a)

$$RO = \left(\frac{\sum_{i \in I} P_i}{\sum_{j=1}^N P_j} \right) \times RC$$

(b) For incumbent earth station transition costs, a flexible-use licensee's *pro rata* share will be determined on a PEA-specific basis, based on the final clock phase prices for the license blocks it won in each PEA. To calculate the *pro rata* share for incumbent earth station transition costs in a given PEA, the same formula identified in paragraph (a) of this section will be used, except I is the set of licenses a bidder won in the PEA, N is the total blocks sold in the PEA and RC is the PEA-specific earth station and fixed service relocation costs.

■ 37. Delayed indefinitely, § 27.1421 is revised to read as follows:

§ 27.1421 Disputes over costs and cost-sharing.

(a) Parties disputing a cost estimate, approved claim invoice, or payment or cost-sharing obligation, including with respect to the Upper C-band Clearinghouse's own costs, must file an

objection with the Upper C-band Clearinghouse.

(b) The Upper C-band Clearinghouse shall establish procedures for the resolution of such objections. The Upper C-band Clearinghouse may mediate any third-party disputes regarding cost estimates or approved claim invoices, or refer the disputant parties to alternative dispute resolution fora.

(1) Any dispute submitted to the Upper C-band Clearinghouse, or other mediator, shall be decided within 30 days after the Upper C-band Clearinghouse has received a submission by one party and a response from the other party.

(2) Thereafter, any party may seek expedited non-binding arbitration, which must be completed within 30 days of the recommended decision or advice of the Upper C-band Clearinghouse or other mediator.

(3) The parties will share the cost of the non-binding arbitration if it is before the Upper C-band Clearinghouse.

(c) Should any issues still remain unresolved, they may be referred to the Wireless Telecommunications Bureau within ten days of the recommended decision or advice of the Upper C-band Clearinghouse or other mediator and any decision of the Upper C-band Clearinghouse can be appealed to the Chief of the Wireless Telecommunications Bureau.

(1) When referring an unresolved issue to the Wireless Telecommunications Bureau, the Upper C-band Clearinghouse shall forward the

entire record on any disputed issues, including such dispositions thereof that the Upper C-band Clearinghouse has considered.

(2) Upon receipt of such record and advice, the Wireless Telecommunications Bureau will decide the disputed issues based on the record submitted. Any party to the dispute wishing to appeal the Wireless Telecommunications Bureau decision may do so by filing with the Commission, within ten days of the effective date of the initial decision, a petition for *de novo* review.

(3) Parties seeking *de novo* review of a decision by the Wireless Telecommunications Bureau are advised that the Commission may require complete documentation relevant to any disputed matters and, where necessary, require expert engineering, economic or other reports or testimony. Parties may therefore wish to consider possibly less burdensome and expensive resolution of their disputes through means of alternative dispute resolution.

■ 38. Section 27.1422 is revised to read as follows:

§ 27.1422 Incentive payments.

(a) Eligible space station operators that meet the Transition Deadlines in § 27.1412(a), as confirmed in their Certifications of Completion set forth in § 27.1412(b), will be eligible for their respective incentive payments.

(b) The Upper C-band Clearinghouse will distribute the incentive payments accordingly:

TABLE 1 TO PARAGRAPH (b)

	Allocation of incentive payments (%)	Total incentive payment amount	Primary deadline incentive amount	Final deadline incentive amount
SES	89	\$5,607,000,000	\$4,373,460,000	\$1,233,540,000
Eutelsat	8	504,000,000	393,120,000	110,880,000
Telesat	3	189,000,000	147,420,000	41,580,000

(c) [Reserved].

(d) For eligible space station operators that fail to meet the Primary Transition

Deadline in § 27.1412(a), the incentive will be reduced according to the following schedule of declining

incentives for the six months following the Primary Transition Deadline:

TABLE 1 TO PARAGRAPH (d)

Date of completion	Incremental reduction (%)	Incentive payment percentage
By Deadline	0	100
1–30 days late	7.5	92.5
31–60 days late	15	85
61–90 days late	22.5	77.5
91–120 days late	30	70
121–150 days late	37.55	62.5

TABLE 1 TO PARAGRAPH (d)—Continued

Date of completion	Incremental reduction (%)	Incentive payment percentage
151–180 days late	45	55
181+ days late	100	0

■ 39. Delayed indefinitely, amend § 27.1422 by adding paragraph (c) to read as follows:

§ 27.1422 Incentive payments.
* * * * *

(c) The Upper C-band Clearinghouse shall promptly notify licensees in the 3980–4140 GHz portion of the 3.7 GHz Service following validation of the Certification of Completion as set forth in § 27.1412(b). Licensees in the 3980–4140 GHz portion of the 3.7 GHz Service shall pay the incentive payments to the Clearinghouse within 60 days of the notice that eligible space station operators have met their clearing benchmark. The Clearinghouse shall disburse incentive payments to relevant space station operators within seven days of receiving the payment from the licensees in the 3980–4140 GHz portion of the 3.7 GHz Service.
* * * * *

■ 40. Section 27.1423 is amended by revising paragraphs (a), (b), and (e) to read as follows:

§ 27.1423 Protection of incumbent operations.

- (a) To protect incumbent earth stations from out-of-band emissions from fixed stations, base stations, and mobile and portable stations, the power flux density (PFD) of any emissions within the 4160–4200 MHz band must not exceed –124 dBW/m²/MHz as measured at the earth station antenna.
- (b) To protect incumbent earth stations from blocking, the power flux density (PFD) of any emissions within the 3700–4140 MHz band must not exceed –16 dBW/m²/MHz as measured at the earth station antenna.
* * * * *
- (e) To protect incumbent TT&C earth stations from blocking, the power flux density (PFD) of any emissions within

the 3700–4140 MHz band must not exceed –16 dBW/m²/MHz as measured at the TT&C earth station antenna.

■ 41. Delayed indefinitely, § 27.1424 is revised to read as follows:

§ 27.1424 Agreements between 3.7 GHz Service licensees and C-Band earth station operators.

The PFD limits in § 27.1423 may be modified by the private agreement of licensees of the 3.7 GHz Service and entities operating earth stations in the 4160–4200 MHz band or TT&C operations in the 3700–4140 MHz band. A licensee of the 3.7 GHz Service who is a party to such an agreement must maintain a copy of the agreement in its station files and disclose it, upon request, to prospective license assignees, transferees, or spectrum lessees, and to the Commission.



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July 31, 2026

Part VI

The President

Notice of July 29, 2026—Continuation of the National Emergency With Respect to Lebanon

Presidential Documents

Title 3—

Notice of July 29, 2026

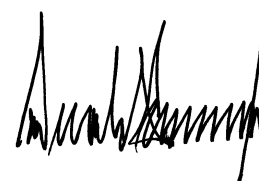
The President

Continuation of the National Emergency With Respect to Lebanon

On August 1, 2007, by Executive Order 13441, the President declared a national emergency with respect to Lebanon pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions of certain persons to undermine Lebanon's legitimate and democratically elected government or democratic institutions; to contribute to the deliberate breakdown in the rule of law in Lebanon, including through politically motivated violence and intimidation; or to infringe upon or undermine Lebanese sovereignty. Such actions contribute to political and economic instability in that country and the region.

Certain ongoing activities, such as Iran's continuing arms transfers to Hizballah—which include increasingly sophisticated weapons systems—and Iran's funding of and influence over Hizballah, serve to undermine Lebanese sovereignty, contribute to political and economic instability in the region, and continue to constitute an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared in Executive Order 13441 of August 1, 2007, must continue in effect beyond August 1, 2026. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Lebanon declared in Executive Order 13441.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
July 29, 2026.

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